



Agenda

--- REVISED COUNCIL AGENDA

METROPOLITAN SERVICE DISTRICT 527 S.W. HALL ST., PORTLAND, OREGON 97201 503 221-1646
Providing Zoo, Transportation, Solid Waste and other Regional Services

Date: JULY 5, 1984

Day: THURSDAY

Time: 5:30 P.M. -- INFORMAL COUNCIL MEETING
7:30 P.M. -- REGULAR COUNCIL MEETING

Place: COUNCIL CHAMBER

INFORMAL MEETING

Approx.
Time

Presented By

5:30 CALL TO ORDER

A. Landfill and Transfer Chapters of Solid Waste
Management Plan Update.

Solid Waste
Staff

B. General Fund Financing.

Gustafson

7:00 ADJOURN

REGULAR MEETING

Approx.
Time

Presented By

7:30 CALL TO ORDER
ROLL CALL

1. Introductions.

2. Councilor Communications.

3. Executive Officer Communications
o 1984-85 Priorities & Objectives
o Washington County Transfer Station

4. Written Communications to Council on Non-Agenda Items.

5. Citizen Communications to Council on Non-Agenda Items.

6. RESOLUTION

8:00 6.1 Resolution No. 84-478, for the purpose of restructuring
Council meetings and reorganizing Committees of the
Metropolitan Service District.

Bonner/
Barker

(over)

<u>Approx. Time</u>		<u>Presented By</u>
	7. ORDINANCES	
8:10	7.1 <u>Ordinance No. 84-174</u> , amending Section 3.01.040 of the Code of the Metropolitan Service District. (Clarifying the Code relating to Urban Growth Boundary Locational Adjustment Standards) (Second Reading)	Kafoury/ Siegel
8:20	7.2 <u>Ordinance No. 84-175</u> , relating to Public Contract Procedures and amending Code Sections 2.04.001, 002, 003, 005, 010, 015, 020, 030, 035, 040, and 045. (Second Reading)	Bonner/ Sims
8:30	8. OTHER BUSINESS	
	8.1 Consideration of waiver of Personnel Rules.	Sims
8:40	9. COMMITTEE REPORTS	
8:45	ADJOURN	

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE AMENDING SECTION)
3.01.040 OF THE CODE OF THE)
METROPOLITAN SERVICE DISTRICT)

ORDINANCE NO. 84-174

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. The Code of the Metropolitan Service District (Metro) is amended as follows (language to be removed is bracketed; language to be added is underlined):

3.01.040(a)

(4) Retention of agricultural land. When a petition includes land with Class I-IV soils that is not irrevocably committed to non-farm use, the petition shall not be approved unless it is factually demonstrated that: [the existing location of the UGB is found to have severe negative impacts on service or land use efficiencies in the adjacent urban area and it is found to be impractical to ameliorate those negative impacts except by means of the particular adjustment requested.]

- Retention of the agricultural land would preclude urbanization of an adjacent area already inside the UGB, or
- Retention of the agricultural land would prevent the efficient and economical provision of urban services to an adjacent area inside the UGB.

3.01.040(c)

(3) The land proposed to be added is more suitable for urbanization than the land to be removed, based on a consideration of each of factors (1), (2), (3) and (5) of Section [5.07.040(a)] 3.01.040(a).

Section 2. In support of the amendment in Section 1 of this Ordinance, the Council hereby adopts the Findings in Exhibit "A" of this Ordinance which is incorporated by this reference.

Section 3. Persons who participated orally or in writing in the proceedings leading to adoption of this amendment may appeal this

Ordinance under the provisions of ORS 197.830 to 197.845.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1984.

Presiding Officer

ATTEST:

Clerk of the Council

SS/MB/gl
1270C/382
06/14/84

EXHIBIT "A"

FINDINGS AND CONCLUSIONS

Amending Section 3.01.040 of the Code of
the Metropolitan Service District.

1. Metro's UGB Locational Adjustment Procedures were acknowledged by the Land Conservation and Development Commission (LCDC) in October 1981.
2. The UGB Locational Adjustment Procedures are intended for use in cases dealing with net changes in the UGB of 50 acres or less.
3. Recent experience has shown a certain lack of clarity with regard to that portion of the petition approval standards relating to the Retention of Agricultural Land; specifically use of the phrase "...severe negative impact on service...."
4. Goal 14 requires, in part, with regard to urban growth boundaries that the "...change of the boundaries shall be based upon consideration of the following factors: ...(6) Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI the lowest priority...."

The amendment to the standard includes consideration of the retention of agricultural land and specifies certain circumstances under which rural land could be converted to urban uses. Under this standard, agricultural land will be retained unless it can be shown that the conversion is necessary for the urbanization of land already inside the UGB or the efficient delivery of services.

5. Goal 3 requires that the conversion of agricultural land to urbanizable land shall be based upon the five factors contained in the goal.

The five factors contained in Goal 3 were addressed in the Findings attached to Metro Ordinance No. 81-105 which was previously acknowledged. Those findings are incorporated by this reference, and are deemed to be unaltered by this amendment.

6. The procedures and requirements contained in Goal 2 must be followed in the review and revision of plans and implementing ordinances.

Local governments and interested parties were given the opportunity to participate in the process of amending this standard. This process included the circulation of a questionnaire on March 15, 1984, review of a draft of the proposed amendment on April 13 and May 17, 1984, and the opportunity for public comment at meetings on May 7 and June 11, 1984.

Conclusion

This amendment provides clarification of the retention of agricultural land standard, and specifies the circumstances under which an amendment to the UGB may be approved. This amendment is responsive to and in keeping with the applicable statewide planning goals.

MB/srb
1270C/373
05/17/84

CONSIDERATION OF RESOLUTION NO. 84-478 FOR THE
PURPOSE OF RESTRUCTURING COUNCIL MEETINGS AND
REORGANIZING COMMITTEES OF THE METROPOLITAN
SERVICE DISTRICT

Date: June 19, 1984

Presented by: Ray Barker

FACTUAL BACKGROUND AND ANALYSIS

The Metropolitan Service District Council has discussed for several months the restructuring of Council meetings and reorganization of committees to improve Council participation in policy review and development, focus on specific issues through the creation of task forces, and to reduce the number of meetings Councilors must attend.

After conducting a series of workshops regarding Metro's mission, goals, objectives and organization, and after review by the Council Coordinating Committee, Resolution No. 84-478 is recommended to the Council. The Resolution includes the following changes:

1. Two regular Council meetings each month: (second Thursday at 5:30 p.m. and fourth Thursday at 5:30 p.m.).
2. The elimination of the following standing committees: Council Coordinating Committee, Regional Development Committee and Regional Services Committee.
3. Retain the Joint Policy Advisory Committee on Transportation (JPACT) and the Bi-State Policy Advisory Committee. Review the future roles of SWPAC and the Rate Review Committee.
4. Establish a Council Management Committee.
5. Instruct Council Assistant to prepare amendments to Metro Code to reflect changes set forth in Resolution No. 84-478, and prepare amendments regarding Council rules.

COUNCIL MANAGEMENT COMMITTEE

The purpose of the Council Management Committee is to provide or review the following:

1. Planning (agendas, work programs, workshops)
2. Fiscal and Management Oversight
 - Contract Review
 - Audits
 - Investments
 - Quarterly Financial Reports
 - Personnel Rules
3. Task Forces (assist Council in establishing task forces when requested)
4. Other Matters

The Committee could consider any item referred to it by Council.

All other matters not listed above shall be directly introduced to the full Council for consideration and action.

Procedures

1. Meetings shall be held on the third Thursday of each month at 5:30 p.m.
2. Agenda items may be sent to the Committee by the Metro Council, individual Councilors, the Committee itself and by staff.

Organization

The Council Management Committee shall consist of a chair and four Councilors appointed annually by the Presiding Officer and ratified by the Council.

For further details of Council Management Committee see Exhibit "A" of Resolution No. 84-478.

It should be noted that the Council Coordinating Committee made two amendments to the Resolution as follows: 1) under Planning, "It 'would' plan agendas...." was changed to "It 'may' plan agendas...."; 2) under Task Forces, "The Committee would assist the Council by reviewing and recommending action on 'all' requests for Council task forces" now reads "The Committee would assist the Council by reviewing and recommending action on requests for Council task forces."

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 84-478.

COMMITTEE CONSIDERATION AND RECOMMENDATION

The Council Coordinating Committee voted 3 to 1, June 18, 1984, to recommend to Council adoption of Resolution No. 84-478 as amended.

RB/gl
1252C/382
06/20/84

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF RESTRUCTURING) RESOLUTION NO. 84-478
COUNCIL MEETINGS AND REORGANIZING)
COMMITTEES OF THE METROPOLITAN) Introduced by the Council
SERVICE DISTRICT) Coordinating Committee

WHEREAS, The Metropolitan Service District Council recognizes the need to restructure Council meetings so the full Council can participate in policy development; provide an opportunity for informal discussion of policy, agenda items and an exchange of information; and provide a formal meeting for policy decision-making and public testimony; and

WHEREAS, The Metro Council recognizes the need to reduce the number of meetings Councilors must attend; focus on specific issues through the creation of task forces; provide a more effective mechanism for policy review and development; continue advisory committees which have been effective; and

WHEREAS, The Metro Council has conducted a series of workshops regarding Metro's mission, goals, objectives and organization; and the Council Coordinating Committee has reviewed Council and Committee structure; now, therefore,

BE IT RESOLVED,

1. That there shall be two regular Council meetings each month:

Second Thursday

5:30 p.m. Regular Meeting

Fourth Thursday

5:30 p.m. Regular Meeting

2. That the following standing committees be eliminated: Council Coordinating Committee, Regional Development Committee and Regional Services Committee.

3. That the Joint Policy Advisory Committee on Transportation (JPACT) and the Bi-State Policy Advisory Committee be retained. The Solid Waste Policy Alternatives Committee (SWPAC) and the Rate Review Committee shall be reviewed as to their future role.

4. That a Council Management Committee be established with the responsibilities indicated in Exhibit "A."

5. That upon adoption of this Resolution, the Council Assistant be instructed to prepare for Council consideration amendments to the Metro Code which will implement the policy set forth in this Resolution, and amendments to the Metro Code regarding Council rules of procedure which will enable the Council to conduct its business more expeditiously and effectively.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1984.

Presiding Officer

RB/srb
1252C/382
05/22/84

EXHIBIT "A"

PURPOSE AND ORGANIZATION OF PROPOSED
COUNCIL MANAGEMENT COMMITTEE

Purpose

The purpose of the Council Management Committee is to provide or review the following:

1. Planning

The Committee would be the principal planning arm of the Council. It may plan agendas for both formal and informal Council meetings. It would review work programs and plan workshops when requested by the Council (such as the workshops on Robert's Rules of Order and the Metro Mission, Goals and Objectives). The Committee would also plan any other special activities requested by the Council.

2. Fiscal and Management Oversight

The Committee would consolidate the activities of several existing Council committees.

- a. Contract Review Committee. The Management Committee would review contracts over \$10,000, but less than \$50,000 and amendments to contracts which exceed \$10,000.
- b. Audit Committee. The Management Committee would periodically meet with the independent auditor regarding fiscal management and report its findings to the Council.
- c. Investment Committee. The Management Committee, along with three citizens expert in financial and investment matters (current appointees to the Investment Committee), would review existing investment practices and make recommendations to the Council.

It would review with staff the quarterly financial reports.

In addition to the above financial matters, the Management Committee would be responsible for Personnel Rules review including consideration of proposed amendments for recommendation to Council. In addition, the Committee would be responsible for the ratification of waivers of the Personnel Rules by the Executive Officer.

3. Task Forces

Part of the proposed reorganization is to use task forces to address policy issues of more substantial nature. The Committee would assist the Council by reviewing and

recommending action on requests for Council task forces. Recommendations for establishing a task force would be in the form of a resolution which would include a scope of work and time frame for completion of the task. The Committee could also recommend members for such task forces.

4. Other Matters

The Committee could be available to consider any item referred to it by the Council. The Council may, from time to time, need further consideration of a policy or procedural matter, but may not want to establish a task force. The Committee could be requested by Council to address such matters.

It should be noted again that with the exception of the items listed above all other matters shall be directly introduced to the full Council for consideration and action.

Procedures

1. Meetings shall be held on the third Thursday of each month at 5:30 p.m.
2. Agenda items germane to the Committee may be sent to it by the Metro Council, individual Councilors, the Committee itself and by staff.

Organization

The Council Management Committee would consist of a chair and four Councilors appointed annually by the Presiding Officer and ratified by the Council.

RB/gl
1252C/382
06/20/84

CONSIDERATION OF ORDINANCE NO. 84-174 FOR THE
PURPOSE OF CLARIFYING A PORTION OF THE CODE OF
THE METROPOLITAN SERVICE DISTRICT, SECTION
3.01.040 - URBAN GROWTH BOUNDARY LOCATIONAL
ADJUSTMENT STANDARDS

Date: May 23, 1984

Presented by: Steve Siegel

FACTUAL BACKGROUND AND ANALYSIS

Recent Urban Growth Boundary (UGB) cases have brought to light a certain lack of clarity with regard to use of the phrase "...severe negative impacts on service...", as it is used in the standards for petition approval. In order to remedy this situation, Metro staff is proposing the attached amendment to Section 3.01.040(a)(4) of the Metropolitan Service District Code.

Drafts of this proposal have been previously reviewed by the local jurisdictions and recent participants to the locational adjustment process. The attached proposal incorporates the comments received during that process.

As a housekeeping matter, the citation at 3.01.040(c)(3) which reads "...of section 5.07.040(a)" should be changed to read "...of section 3.01.040(a)."

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval.

COMMITTEE CONSIDERATION AND RECOMMENDATION

The Regional Development Committee recommended approval of the Ordinance with the following amendments:

1. Bullet #2 under Section 3.01.040(a),
 - The efficient provision of urban services to an area inside the UGB would be impractical without making the subject change.

be substituted with
 - Retention of the agricultural land would prevent the efficient and economical provision of urban services to an adjacent area inside the UGB.

2. Under Section 3.01.040(a)(4) add "it is factually demonstrated that" following "unless."

SS/MB/gl
1270C/382
06/14/84

AUCTION FOR EDUCATION

SEPT. 19 SALEM



PLEASE BRING AT
LEAST ONE ITEM
TO HELP O.A.M.R.'S
EDUCATION PROGRAM.
THIS PROGRAM EN-
COURAGES OUR
MUNICIPAL RECORDERS
TO CONTINUE TO MAIN-
TAIN THEIR EDUCATIONAL
AND PROFESSIONAL
ACTIVITIES THROUGH-
OUT THEIR CAREERS.



OREGON Association of Municipal Recordors

Conference
SEPT. 18~20



Feb 5, 1954
Carr Center

STAFF REPORT

Agenda Item No. 6.2

Meeting Date July 5, 1984

CONSIDERATION OF ORDINANCE NO. 84-175 RELATING TO
PUBLIC CONTRACT PROCEDURES AND AMENDING CODE
SECTIONS 2.04.001, 002, 003, 005, 010, 015, 020,
030, 035, 040 and 045.

Date: June 19, 1984

Presented by: Donald E. Carlson

FACTUAL BACKGROUND AND ANALYSIS

Metro currently has contract procedures which establish the manner in which Metro will choose its contractors and the actions that must take place before Metro binds itself to a contract. Ordinance No. 84-175 amends the Code sections applicable to the contract procedures for primarily "housekeeping" purposes. The amendments provide for changes as reflected in Attachment A.

Ordinance No. 84-175 reflects no change in the current policy or procedure.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 84-175.

COMMITTEE CONSIDERATION AND RECOMMENDATION

On June 18, 1984, the Council Coordinating Committee unanimously recommended adoption of Ordinance No. 84-175.

SK/srb
1344C/382
06/19/84



Memo

METROPOLITAN SERVICE DISTRICT 527 S.W. HALL ST., PORTLAND, OREGON 97201 503 221-1646
Providing Zoo, Transportation, Solid Waste and other Regional Services

Date: June 12, 1984
To: Donald E. Carlson, Deputy Executive Officer
From: Sue Klobertanz, Management Analyst *Sue*
Regarding: Changes in Contract Procedure as Reflected by
Contract Ordinance No. 84-175

As per your request, I have listed below the changes reflected in Proposed Ordinance No. 84-175. The changes have been listed by type or effect.

1. Changes required to put contract procedures into code format. These changes include addition of section numbers, titles and appropriate headings.
2. Clarification of ORS numbers or references.
3. Deletion of the words "Metro" or "Metropolitan Service District" used unnecessarily in conjunction with references to the Council or Contract Review Board.
4. Additions/Deletions of sections to combine, rewrite or move to a more appropriate area. For example, Section 2.04.011 Requirement of Competitive Bidding, Exemptions is a rewrite of deleted Section (g) on p. 7. In this particular case, the policy for competitive bids remains the same while being rewritten to be more specific with reference to the new Code sections.
5. Name, title or word changes to reflect existing position titles, organizational structure or current program language. For example, contract types have been revised to be consistent with Metro's current Disadvantaged Business Program.
6. Changes to clarify the administrative use of contract amounts. Specifically, the existing contract procedures refer to contracts of "under \$2,500" or "up to \$10,000." The proposed change allows for contract amounts of "\$2,500 or under" or "\$10,000 or under." This change allows for a rounded dollar amount to be used in determining approval/review required.

Memorandum
June 12, 1984
Page 2

7. Clarification of items to be reviewed by the Council. In the past, some confusion has existed over approval of amendments for \$50,000 or more. The proposed ordinance states specifically that "initial contracts, individual amendments, or purchase orders, with a contract price of more than \$50,000 shall be approved by the Council prior to execution."
8. Deletion of contracts previously approved as part of annual work programs from exemption to competitive bidding. It was felt that all contracts, regardless of status in an annual work program, should be subject to competitive bid. This change is consistent with current administrative policy.
9. Changes to reflect current administrative procedures and department responsibilities in competitive bidding procedures.

As I have indicated earlier, none of the changes are substantial in nature nor do they reflect changes in current policy or procedure.

SK/srb
1422C/D3

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE RELATING TO PUBLIC) ORDINANCE NO. 84-175
CONTRACT PROCEDURES AND AMENDING)
CODE SECTIONS 2.04.001, 002, 003,)
005, 010, 015, 020, 030, 035,)
040 and 045.)

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Code section 2.04.001 is hereby amended to read as follows:

2.04.001 Public Contract Review Board: Creation: Pursuant to [1979 Or. Laws, ch. 804,] ORS 279.055 the Council is designated and created as the Metropolitan Service District [(Metro)] Contract Review Board.

Section 2. Code section 2.04.002 is hereby amended to read as follows:

2.04.002 Powers of Board: The [Metro] Contract Review Board shall have all the powers in the award of District contracts [that the Oregon State Public Contract Review Board may exercise in the state at-large under ORS ch. 279 and OAR Chapter 127,] allowed under ORS 279.011 to 279.061 including such revisions and additions to those [chapters] statutes as may later be adopted.

Section 3. Code section 2.04.003 is hereby amended to read as follows:

2.04.003 Rules: The [Metro] Contract Review Board may adopt rules relating to the award of District contracts. [Such rules shall prevail when in conflict with the rules of the Oregon State Contract Review Board at OAR Chapter 127.] Such rules of the [Metro] Contract Review Board shall be adopted by ordinance.

Section 4. Code section 2.04.005 is hereby amended to read as follows:

2.04.005 Contract Review Board Meetings:

(a) The meetings of the [Metropolitan Service District] Contract Review Board shall normally, but need not, be conducted at the same time as, and as a part of, the regular meetings of the Metropolitan Service District Council.

(b) The rules of procedure adopted by the [Metropolitan Service District] Council for its proceedings shall also govern proceedings of the [Metropolitan Service District] Contract Review Board unless they conflict with rules adopted by the Board.

[(c) Subsections (a) and (b) of this section supersede the rules adopted by the Public Contract Board at OAR Chapter 127, Divisions 80 and 90.]

Section 5. Code section 2.04.010 is hereby rescinded:

Section 6. The following provisions shall be added to Code Chapter 2.04:

2.04.011 Requirement of Competitive Bidding, Exemptions

(a) For purposes of this chapter, "public contract" shall mean any purchase, lease or sale by Metro of personal property, public improvement or services other than agreements which are for personal service.

(b) All public contracts shall be based on competitive bids except:

(1) Contracts with other public agencies or the federal government.

(2) Contracts made with qualified nonprofit agencies providing employment opportunities for the handicapped.

(3) Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and 414.145.

(4) Contracts for supplies of less than \$2,500.

(5) Personal service contracts subject to ORS 279.051 and Code Section 2.04.035.

(6) Classes of public contracts which the Contract Review Board has found to be exempt without encouraging favoritism or substantially diminishing competition for public contracts and that such exemptions will result in substantial cost savings. These contracts include:

(a) Purchase and sale of Zoo animals.

(b) Purchase and sale of Zoo gift shop retail inventory and resale items.

(c) All contracts of less than \$10,000, not otherwise exempt, subject to the requirements of subsection (d) of this section.

(d) Contracts not to exceed \$25,000 for road, highway or parking lot maintenance provided that at least three (3) competitive quotes are obtained, if available, and a record of said quotes and efforts to obtain them are maintained.

(e) Emergency contracts subject to subsection (f) of this section.

(f) Contracts for sale of surplus property subject to subsection (g) of this section.

(c) Specific contracts, not within the classes exempted in subsection (6) above, may be exempted by the Board by resolution subject to the requirements of ORS 279.015(2) and ORS 279.015(5).

(d) Contracts exempted by subsection (6)(c) of this section may be awarded only subject to the following:

(1) The amount of the contract does not exceed \$10,000; and is for a single project; and is not a component of any other project.

(2) When the amount of the contract does not exceed \$500, the District should, where feasible, obtain competitive quotes.

(3) When the amount of the contract is more than \$500, but less than \$10,000, the District must obtain a minimum of three (3) competitive quotes. The District shall keep a written record of the source and amount of the quotes received. If three (3) quotes are not available, a lesser number will suffice provided that a written record is made of the effort to obtain the quotes.

(4) No contractor may be awarded in the aggregate, within the fiscal year, contracts in excess of \$30,000 without competitive bidding. In computing the aggregate under this subsection, awards under \$500 shall not be included.

(e) Emergency contracts shall be awarded subject to a resolution of the Council declaring the emergency and reciting the conditions which require prompt contract execution. Any emergency contract shall be awarded within sixty (60) days following the declaration of the emergency unless the Board grants an extension.

(f) Contracts for sale of surplus property may be executed without competitive bidding only when the Executive Officer determines in writing that the number, value and nature of the items to be sold make it probable that the cost of conducting a sale by competitive bid will be such that a liquidation sale will result in substantially greater net revenue to the District.

Section 7. Code section 2.04.015 is hereby amended to read as follows:

2.04.015 Contract Review Committee:

(a) There is hereby created a Contract Review Committee of the Council, which committee shall have the powers and

responsibilities described in the Metro Contract Procedures adopted by this chapter.

(b) The Contract Review Committee shall be comprised of three members to be appointed annually by the Presiding Officer of the Council.

(c) The Committee may establish a regular meeting schedule and may meet in special session at the call of the [Deputy Presiding Officer] Committee Chair. A majority of the Committee shall constitute a quorum and the Committee shall act by majority vote.

(d) In addition to the meeting provisions in subsection (c) of this section, the Committee may act by individual or telephonic poll of the membership. The results of any such polling shall be included in the minutes of the next regular or special meeting of the Committee.

Section 8. Code section 2.04.020 is hereby amended to read as follows:

2.04.020 Application of Contract Procedures:

(a) All public contracts to which Metro is a party or to which Metro may become a party shall be established, processed, approved and executed pursuant to [the Metro Contract Procedures adopted by] this chapter.

(b) The Executive Officer may establish such other contract regulations, not inconsistent with [the Metro Contract Procedures,] this chapter as may be necessary and expedient.

Section 9. Code section 2.04.025 is hereby rescinded.

Section 10. Code section 2.04.030 is hereby amended to read as follows:

2.04.030 Rules and Procedures Governing All Contracts:

(a) Initiating a Contract: When a department initiates a contract not in the form of a purchase order, it must first notify the [Department of Management] Budget and Administrative Services Division of its intention and request the issuance of a contract number which shall appear on all copies of the contract. Additionally, the department must complete a Contract Summary form indicating the specifics of the contract. This form must be forwarded to the [Department of Management] Budget and Administrative Services Division either with a fully executed contract [three] (one [copies] copy), if the amount is [under] \$2,500 or under; or with an unexecuted contract (three copies) for review, approval and signature, if the amount is over \$2,500.

(b) Persons Authorized to Sign Contracts:

(1) For contracts of an amount [under] of \$2,500 or under the Director of the initiating department, or a designee of the Director approved by the Executive Officer, may sign contracts if the following conditions are met:

(A) A standard contract form is used;

(B) Any deviations to the contract form are approved by the [General] Legal Counsel;

(C) The expenditure is authorized in the budget;

(D) The contract does not further obligate Metro beyond \$2,500;

(E) The appropriate Scope of Work is attached to the contract; and

(F) The Contract is for an entire project or purchase; not a portion of a project or purchase which, when complete, will amount to a cost greater than \$2,500.

(2) For contracts of more than \$2,500 [or more], and for contract amendments which exceed \$2,500 or which result in a total contract price exceeding \$2,500, either the Executive Officer or Deputy Executive Officer must sign; provided, however, that the Director or [Deputy] Assistant Director of the Zoo may sign purchase orders of [up to] \$10,000 or less. When designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the [Director of Management] Manager of Budget and Administrative Services may sign contracts.

(c) Approval of Contracts of more than \$10,000 [or More]:

(1) Except as provided in subsection (4) of this section, all initial contracts, individual amendments, or purchase orders, with a contract price of more than \$50,000 [or more] shall be approved by the Council prior to execution.

(2) Except as provided in subsection (4) of this section, all initial contracts, including purchase orders, with a contract price of greater than \$10,000 [or more] but [less than] \$50,000 or less shall be approved by the Contract Review Committee of the Council prior to execution.

(3) Except as provided in subsection (4) of this section, all contract amendments and extensions which exceed \$10,000 or which result in a total contract price of more than \$10,000 or \$50,000 [more] shall be approved by the Contract Review Committee prior to execution.

(4) The following types of contracts, including contract amendments and extensions to such contracts, shall be exempt from the provisions of this section (c).

(A) Contracts which merely pass through funds from a state or federal agency.

(B) Contracts under which Metro is to provide a service only and incurs no financial obligation to another party.

(C) Contracts with another government agency.

(D) Initial contracts of \$10,000 or less [than \$10,000] and contract extensions and amendments which do not cause or result in a total contract price of more than \$10,000 [or more].

(E) Grant award contracts.

[(F) Contracts previously approved as part of annual work programs.]

[(G)] (F) Purchases of inventory and gift items for resale at the Zoo Gift Shop.

(G) Emergency contracts approved pursuant to Code section 2.04.010(e).

(d) Documentation Required for Contract Files: The Budget and Administrative Services Division [Department of Management Services] will maintain central files for all contracts. [Individual departments should keep a copy of each contract which they have initiated and all subsequent extensions and amendments.] An original copy should be given to each contractor. All correspondence relating to a contract which alters conditions or amounts must be included in the central files as should all papers which document the process of obtaining competitive bids, quotes, or proposals. In any case where a low bid, quote, or proposal is not accepted, a detailed justification must be included with the contract file. Other documentation, if applicable, that should be included in the file includes:

- Mailing lists
- Affidavits of Publication
- Insurance endorsements and certificates
- Amendments
- Extensions
- Related Correspondence
- Quotes, Proposals, and Bids
- Bonds
- [MBE contacts] WBE/DBE information
- Contract closure form
- Personal Services Evaluation form

(e) Contract Review: Any contract which deviates from a standard contract form must be reviewed by [the Metro General Counsel] legal counsel. Contracts involving federal or state grant funds must be reviewed by the [Finance] Deputy Executive Officer. [Contracts which are to be let after advertised competitive bids, quotes or proposals must be reviewed by the Contracts Manager.]

(f) [Minority] Disadvantaged Business Program: All public contracting and purchasing is subject to the Metro [Minority] Disadvantaged Business Enterprise Program. Metro will take affirmative action to do business with [Minority] Disadvantaged Business Enterprises. The Contracts Manager will maintain a directory of [minority] disadvantaged businesses which shall be consulted and used in all contracting and purchasing of goods and services. If a [minority] disadvantaged business is [available] included in the directory that appears capable of providing needed goods or services, that business [must] should be contacted and given an opportunity to compete for Metro business. Contracts awarded subject to the [MBE] program may be exempted from the competitive bidding process by resolution of the Contract Review Board.

[(g) Awarding Contracts Without Competitive Bids, Quotes or Proposals:]

[(1) In some cases, competitive bidding may not be required. The Contracts Manager will make a determination of whether a contract must be awarded subject to competitive bidding. Examples of the contracts which may not be legally subject to competitive bidding are:

- Rare Animals
- Price Regulated Items
- Emergency Contracts
- Advertising Contracts
- Recycled Materials
- Products of the Handicapped
- Contracts between Government Agencies
- Affirmative Action Contracts
- Data Processing Contracts
- Insurance Contracts
- Contract Amendments and Extensions
- Personal Services Contracts
- Purchases Under Requirement Contracts]

[(2) In most cases these exempt categories must be interpreted narrowly. An emergency contract, for example, may only be executed if the emergency conditions could not have reasonably been foreseen and the only way to remedy the situation is through the execution of a contract.]

[(3) Personal services contracts are subject to separate procedures described in Section III.]

[(4) Specific exemptions from competitive bidding may be sought from the Metro Contract Review Board (See Ordinance No. 79-76 and Ordinance No. 81-125.)]

[(5) Any request for an exemption from competitive bidding must comply with OAR 127-10-160.]

[(h)] (g) Monthly Contract Report: The Executive Officer shall provide or cause to be provided a monthly report to the Council of all contracts, including extensions and amendments, which have been executed during the preceding month; provided, however, that such monthly report need not include purchase orders under \$500.

[(i)] (h) Purchase Orders: For purposes of [these regulations] this chapter, the term "contracts" includes purchases of goods or materials by purchase order. Purchase orders may be utilized in lieu of written contracts when the purchase is for goods or materials only.

[(j)] (i) Code of Conduct:

(1) No employee, officer or agent of Metro shall participate in the selection, award or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer or agent, any member of his/her immediate family, his or her partner, or an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. No Metro officer, employee or agent shall solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

(2) Violations of this Code of Conduct shall subject an officer or employee to disciplinary action pursuant to the Metro Personnel Rules and may be grounds for other civil or criminal penalties provided by law.

[(k)] (j) Federal/State Agency Approval: When required by federal or state law or regulations, review and approval of Metro contracts shall include prior concurrence or approval by appropriate federal or state agencies. (Ordinance No. 82-130, Sec. 2(a))

(k) In all public contracts, Metro shall prefer goods or services that have been manufactured or produced in Oregon if price, fitness, availability and quality are otherwise equal. Where a contract in excess of \$10,000 is awarded to a contractor not domiciled or registered to do business in Oregon, the initiating Department shall assure compliance with the provisions of ORS 279.021.

(l) All requests for bids or proposals for all contracts in excess of \$10,000 shall be reviewed by the Department of Management Services and Legal Counsel prior to solicitation or advertisement, and shall include the contract form to be used.

Section 11. Code section 2.04.035 is hereby amended to read as follows:

2.04.035 Personal Services Contracts:

(a) Definition: Personal Services contracts are for personal or professional services that are not normally performed by [the] Metro department staffs and will not require continuous supervision by Metro staff. Examples of services that may be obtained under Personal Services contracts are: attorneys; economic consultants; engineers; architects; special photography; legislative liaison; public relations and professional advice on retainer. [Personal Services contracts shall be in compliance with OAR 127-10-092.]

(b) Distinguishing Between Employees and Independent Contractors: [It is important that] Employees shall not be hired under the guise of a Personal Services Contract. To determine whether a particular worker is to be an employee or an independent contractor, the most important factor to consider is the employer's right to control. If the employer is to retain the right to control the manner and means of accomplishing a desired result, the worker is generally considered an employee; if, however, the employer has the right to control only the results of the work, the worker is considered an independent contractor. [Thus, the question usually comes down to who is to have the right to direct what shall be done and when and how it shall be done.] This test of control does not require actual exercise of control, but rather the employer's right to control. [A consideration of] The following factors [is helpful] shall be considered in determining a worker's status:

(1) Whether the worker is to be engaged in a distinct occupation or business. Independent contractor status is often accorded those who are engaged for their special skills. Thus, the hiring of an architect, broker, doctor, painter or attorney may indicate that an independent contractor relationship is being contemplated.

(2) Whether the employer or the worker is to supply the instrumentalities, tools and the place of work.

(3) Whether the worker or the employer is to have the power to dictate the particular manner in which the instrumentalities or tools shall be used and the way the workers shall do their work.

(4) Whether the worker employs, pays and has full power of control over assistants.

(5) Whether the work is part of the regular business of the employer.

(c) Selection Process for Personal Services Contracts:

(1) Contracts [Under] of \$2,500 or less: For Personal

Services contracts [under] of \$2,500 or less, the Department Director shall state in writing the need for the contract. This statement shall include a description of the contractor's capabilities in performing the work. Multiple proposals need not be obtained. This statement will be kept in the Department of Management Services contract file.

(2) Contracts Between \$2,500 and \$10,000: For Personal Services contracts [of at least] greater than \$2,500 but [less than] \$10,000 or less, the Department Director shall use the following process:

(A) Proposals shall be solicited from at least three (3) potential contractors who, in the judgment of the Department Director, are capable and qualified to perform the requested work. [The Minority Business Enterprise Directory maintained by the Contract Manager shall be consulted and at least one (1) of the potential contractors notified shall be an MBE if an MBE service provider appears in the MBE Directory.]

(B) The initiating Department shall document the fact that at least three (3) proposals have been solicited. Preferably, the proposals should be written but this is not required. Metro shall reserve the right to reject any or all proposals for any reason.

(C) Evaluation, as determined by the Department Director, shall include use of a contractor evaluation form and may require oral presentations. The objective is the highest quality of work for the most reasonable price. The quality of the proposal may be more important than cost.

(D) Notification of selection or rejection shall be made in writing after final review by the initiating department.

(E) If the contract is for more than \$2,500 [or more], it shall be submitted to the contractor for signature and then to [either the Executive Officer or Deputy Executive Officer for signature] the Budget and Administrative Services Division for internal review and execution.

(3) Contracts [of] for more than \$10,000 [or More]: For Personal Services contracts [of] for more than \$10,000 [or more], an evaluation of proposals from potential contractors shall be performed as follows:

(A) A request for proposals shall be prepared by the initiating department. Where appropriate, the request

shall be published in a newspaper of general circulation or in trade magazines. In addition, Metro shall notify in writing at least three (3) potential contractors, who, in the judgment of the Department Director are capable and qualified to perform the requested work. The [Department of Management Services] initiating department will be responsible for maintaining the file and making the appropriate notification.

(B) Evaluations of proposals shall include use of a contract evaluation form. The use of an oral interview or an evaluation team is recommended.

(C) After evaluation is complete, the Department Director will recommend [the] final selection [to the Executive Officer] thru the Budget and Administrative Services Division.

(D) Notifications of selection and rejection shall be made in writing by the initiating department.

(E) Such Personal Services contracts with the Scope of Work must be [reviewed] approved by the department head[,] [General Counsel] and then forwarded to the Budget and Administrative Services Division for internal review [by the Contracts Manager prior to approval] and execution. Legal counsel review is required if other than a standard contract form is used.

(F) Such Personal Services contracts shall be subject to the approval requirements of Section 2.04.030(c) of this chapter.

(4) Sole Source Personal Services Contracts: If there is only one qualified provider of the service required, the initiating department need not solicit and document three (3) proposals as required by subsections (c)(2) and (c)(3) above. The initiating department must document that there is only one qualified provider of the service required, and the Council shall be given notice of the execution and the justification for the contract.

(5) Continuing Activities: A Personal Services contract may be renewed without receiving competitive proposals if the contractor is performing a continuing activity for the agency. This applies, but is not limited to [such] contracts [as those] for construction observation, public relations consulting, outside legal counsel and annual auditing. Except as provided in paragraph (6) below, competitive proposals must be solicited for these services at least once every three (3) years and annually if the contractor proposes a price or rate increase of more than

10% over the previous year[, competitive proposals must be solicited].

(6) Limited Source Contracts: Personal Services contracts may be renewed, extended or renegotiated without soliciting competitive proposals if, at the time of renewal, extension or renegotiation, there are fewer than three (3) potential contractors qualified to provide the quality and type of services required. If a Personal Services contract is renewed, extended or renegotiated under this paragraph without soliciting proposals, the initiating department shall document in detail why the quality and type of services required make it unnecessary or impractical to solicit proposals.

(7) Approval of Personal Services Contracts: Personal Services contracts, amendments, renewals and extensions shall be subject to the approval requirements of Section 2.04.030[(c)] of this chapter.

(8) Personal Services Evaluation Form: Selection of Personal Services contractors shall include the use of an evaluation form documenting the reasons for the selection.

Section 12. Code section 2.04.040 is hereby amended to read as follows:

2.04.040 [Materials and Services] Labor and Materials Contracts:

(a) Definition: [This section is intended to provide guidance for contracting services other than Personal Services and is not intended to prevent the use of purchase orders. If a Department Director is in doubt as to whether a purchase should be on a purchase order or form contract, the Department Director or his/her designee should contact the Contracts Manager for a determination. Contracts for materials and services are those for specific goods or products or for the labor required to produce a specific product.] A Labor and Materials contract is a contract for trade related services, or services other than personal services, which may include the provision or production of related materials or goods. Examples of Labor and Materials contracts are maintenance, installation and custodial service, typesetting, security services and facility operations services. Labor and Materials contracts may be obtained by purchase order as determined by the Executive Officer.

(b) [Selection Process for Materials and Services Contracts:] Unless otherwise exempt from competitive bidding, Labor and Materials contracts shall be subject to the selection procedures of Code section 2.04.060.

[(1) Contracts Under \$500: For purchases of materials and services costing less than \$500, the initiating department should obtain three (3) quotes. The lowest quote obtained will be accepted unless valid reason for rejecting it can

be shown. After accepting a quote, the initiating department will follow up with a contract, attaching the quotes to the Department of Management Services file copy of the contract. Purchases of materials only under \$500 made by purchase order shall not require quotes and shall not be subject to the provisions of paragraph IID above.]

[(2) Contracts Between \$500 and \$10,000: All contracted materials and services costing between \$500 and \$10,000 will require written quotes. The initiating department will write specifications, sending them to possible contractors whom they feel can do the job. If possible, at least three (3) contractors will be contacted. After receipt of the quotes and review by the initiating department's staff, a contract will be developed. If three (3) quotes are not available, a lesser number will suffice provided that a written record is made of the effort to obtain the quotes. If it is over the amount of \$2,500 the contract will then be submitted to the contractor for signature and then to either the Executive Officer or Deputy Executive Officer for signature. The initiating department will attach all quotes received to the Department of Management Services' copy of the contract. The Minority Business Enterprise Directory maintained by the Department of Management Services shall be consulted to determine whether an MBE is available that may possibly do the work or supply the goods required by the specifications. If one is available it must be given the opportunity to make a bid or quote.]

[(3) Contracts Over \$10,000: Unless a general or specific exemption applies, all contracted materials and services costing over \$10,000 will be subject to a formal sealed bid process. The following procedure will be used:

[(A) The initiating department staff will write bid specifications and compile a list of potential bidders.

[(B) The bid document will be reviewed by the Department of Management Services and by legal counsel before bids are solicited.

[(C) A request for bids will be advertised in the Daily Journal of Commerce, or when feasible, in an appropriate trade magazine.

[(D) The Department of Management Services will receive and open sealed bids.

[(E) The opened bids will be reviewed by the requesting department and a recommendation and contract will be submitted to the Department of Management Services.

[(F) The Department of Management Services will make recommendation to the Executive Officer or Deputy Executive Officer.]

[(G) Materials and services contracts, amendments, renewals and extensions shall be subject to the approval requirements of Section 2.04.030(c) of this chapter.]

[(H) The Management Services Department will notify all bidders of the contract award, obtain signatures on the contract and obtain any necessary bonds and insurance certificates.]

[(I) Metro shall reserve the right to reject any or all quotes or bids received.]

[(4) Subsections (b)(1) and (b)(2) above shall not apply to the purchase of inventory and gift items for resale at the Zoo Gift Shop.]

[(c) Insurance and Bonding Requirements: All contracts which produce a possible liability to Metro must be accompanied by a certificate of liability insurance from the contractor naming Metro as a certificate holder or additional insured.]

[(1) Any improvements contract in excess of \$10,000 must be accompanied by a bid bond of not to exceed 10% of the amount of the contract and a performance bond of 100% of the amount of the contract.]

[(2) If a liability exposure to the District exists, certificates of insurance are required.]

[Minimum insurance requirements are:

[(A) \$100,000 for personal injury to any one (1) person;

[(B) \$300,000 for any number of claims resulting from one (1) accident;

[(C) \$50,000 property damage for all damage claims resulting from one (1) accident.]

Section 13. Code chapter 2.04.045 is hereby amended to read as follows:

2.04.045 Contracts Between Government Agencies:

(a) Contracts between government agencies may be made without competitive bids, quotes, or proposals.

(b) Each contract being initiated by a department must be reviewed by the Department Director, [General Counsel] legal counsel, Budget and Administrative Services Division and appropriate state or federal agencies. If the contract is made pursuant to federal or state grants, it must be reviewed by the [Finance] Deputy Executive Officer. (Ordinance No. 82-130, Sec. 2(a))

Section 14. Code Chapter 2.04 is hereby amended by adding a new section 2.04.050 as follows:

2.04.050 Procurement or Sales Contracts

(a) Definition: Procurement or Sales Contracts are contracts for the purchase, lease, rental or sale of goods, supplies or other personal property in which labor or service is not involved or is merely incidental to the purpose of the contract. Procurement or sales by purchase order is allowed as may be determined by the Executive Officer.

(b) Unless otherwise exempt from competitive bidding, Procurement or Sales Contracts shall be subject to the selection procedures of Code section 2.04.060.

Section 15. Code Chapter 2.04 is hereby amended by adding a new section 2.04.055 as follows:

2.04.055 Construction Contracts

(a) Definition: A Construction Contract is a contract for construction, reconstruction, or major renovation on real property, but does not include Labor and Materials Contracts such as emergency work, minor alteration or ordinary repair and maintenance necessary in order to preserve a public improvement.

(b) Unless otherwise exempt from competitive bidding, Construction Contracts shall be subject to the selection procedures of Code section 2.04.060.

(c) Within thirty (30) days of award of a construction contract, the Department of Management Services shall provide the notice required by ORS 279.363. Such notice is not required for contracts not exceeding \$10,000 or for contracts regulated under the Davis-Bacon Act (40 USC 276a).

Section 16. Code Chapter 2.04 is hereby amended by adding a new section 2.04.060 as follows:

2.04.060 Competitive Bidding Procedures

Unless exempt from competitive bidding by Code section 2.04.010 or otherwise, the following competitive bidding procedures shall apply to all contracts:

(1) The initiating department staff will prepare or have prepared bid specifications and compile a list of potential bidders.

(2) The bid document will be reviewed by the Budget and Administrative Services Division and by legal counsel before bids are solicited.

(3) A request for bids will be advertised in the Daily Journal of Commerce, a local minority newspaper, and when feasible, in an appropriate trade magazine. Additional advertisement may be appropriate depending upon the nature of the contract.

(4) The initiating department will receive and open sealed bids at the time and place designated in the request for bids.

(5) The opened bids will be reviewed by the requesting department and a recommendation and contract will be submitted to the Budget and Administrative Services Division.

(6) Contracts shall be subject, if applicable, to the approval requirements of Section 2.04.030(c) of this Chapter.

(7) The initiating department will notify all bidders of the contract award and obtain any necessary bonds and insurance certificates.

(8) Metro shall reserve the right to reject any or all quotes or bids received.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1984.

Presiding Officer

ATTEST:

Clerk of the Council

SK/srb
1140C/382
06/07/84

STAFF REPORT

Agenda Item No. 6.3

Meeting Date July 5, 1984

CONSIDERATION OF ORDINANCE NO. 84-176 RELATING TO
COUNCIL ORGANIZATION AND PROCEDURE, AMENDING CODE
SECTIONS 2.01.030, 2.01.060, 2.04.030 AND
REPEALING CODE SECTION 2.04.015

Date: June 27, 1984

Presented by: R. Barker

FACTUAL BACKGROUND AND ANALYSIS

The attached ordinance is submitted in anticipation of adoption of Resolution No. 84-478 on June 28, 1984. Resolution No. 84-478 directs the preparation of changes to the Metro Code to implement the restructuring of Council meetings and the reorganization of committees.

The ordinance changes the Council's regular meeting schedule from the first and fourth Thursday to the second and fourth Thursday of each month; provides for the submission of agenda items from JPACT directly to the Council, and substitutes the Council Management Committee for the Contract Review Committee to approve contracts greater than \$10,000 but less than \$50,000. (Note: The Contract Review Committee is the only named committee established by ordinance.)

With two readings of the ordinance, the effective date will be July 26, 1984. At the July 26 Council meeting, a Resolution will be introduced which will establish the Council Management Committee and rescind the resolution creating the Development, Services, and Coordinating Committees. Thus, the implementation of the restructured Council system will be effective beginning with the August meeting schedule.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 84-176 in order to begin the implementation of the provisions of Resolution No. 84-478.

ef
530C/382
6/27/84

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE RELATING TO COUNCIL) ORDINANCE NO. 84-176
ORGANIZATION AND PROCEDURE,)
AMENDING CODE SECTIONS 2.01.030,)
2.01.060, 2.04.030 AND REPEALING)
CODE SECTION 2.04.015)

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Code section 2.01.030 is hereby amended to read as follows:

2.01.030 Regular Meetings: The Council shall meet regularly on the [first] second and fourth Thursdays of each month at a time designated by the Presiding Officer. Regular meetings shall be held at a place designated in the published agenda of the meeting. Regular meetings may be adjourned to a specific time and place before the day of the next regular meeting. Published notice of the time and place of an adjourned meeting is not required. Matters included on the agenda of a regular meeting that is adjourned to a later date need not be republished. New matters to be considered at the adjourned meeting shall be published in the same manner as the agenda for a regular meeting.

Section 2. Code section 2.01.060 is hereby amended to read as follows:

2.01.060 Notice and Agenda:

(a) An agenda that sets forth the time, date, and place of the meeting, that includes a brief description of the ordinances to be considered, and that states that copies of ordinances are available at the office of the Metropolitan Service District shall be published in a newspaper of general circulation within the District no more than ten (10) nor less than four (4) days before a regular meeting of the Council. If an executive session will be held, the Notice shall state the specific provision of the law authorizing the executive session.

(b) The Presiding Officer shall establish the agenda from the agenda items submitted by the Councilors, Council committees, the Joint Policy Advisory Committee on Transportation (JPACT), or the Executive Officer. Each Councilor may request that items be placed upon the agenda of the next regular meeting by notifying the Clerk of the Council and specifying the subject of the agenda items. The Presiding Officer may, at his or her discretion, determine the time by which agenda items must be submitted for inclusion in the next succeeding agenda and shall notify the Councilors, Council committees, JPACT, and the Executive Officer of such due dates.

Section 3. Section 2.04.030 (Rules and Procedures Governing All Contracts) is hereby amended to read as follows:

(c) Approval of Contracts of more than \$10,000:

(1) Except as provided in subsection (4) of this section, all initial contracts, individual amendments, or purchase orders, which a contract price of more than \$50,000 shall be approved by the Council prior to execution.

(2) Except as provided in subsection (4) of this section, all initial contracts, including purchase orders, with a contract price of greater than \$10,000 but \$50,000 or less shall be approved by the [Contract Review Committee of the Council] Council Management Committee prior to execution.

(3) Except as provided in subsection (4) of this section, all contract amendments and extensions which exceed \$10,000 or which result in a total contract price of more than \$10,000 or \$50,000 shall be approved by the [Contract Review Committee] Council Management Committee prior to execution.

(4) The following types of contracts, including contract amendments and extensions to such contracts, shall be exempt from the provisions of this section (c).

(A) Contracts which merely pass through funds from a state or federal agency.

(B) Contracts under which Metro is to provide a service only and incurs no financial obligation to another party.

(C) Contracts with another government agency.

(D) Initial contracts of \$10,000 or less and contract extensions and amendments which do not cause or result in a total contract price of more than \$10,000.

(E) Grant award contracts.

(F) Purchases of inventory and gift items for resale at the Zoo Gift Shop.

(G) Emergency contracts approved pursuant to Code section 2.04.010(e).

Section 4. Code Section 2.04.015 (Contract Review Committee)
is hereby repealed.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1984.

Presiding Officer

ATTEST:

Clerk of the Council

EB/ef
1522C/382
6/26/84

STAFF REPORT

Agenda Item No. 7.1

Meeting Date July 5, 1984

CONSIDERATION OF THE WAIVER OF PERSONNEL RULES,
SECTION 32(d)(1): "EMPLOYEES HIRED OR PROMOTED
AT THE BEGINNING STEP OF A SALARY RANGE OR
BETWEEN THE BEGINNING STEP AND THE ENTRY MERIT
RATE ARE ELIGIBLE TO RECEIVE A SALARY INCREASE TO
THE ENTRY MERIT RATE AFTER SUCCESSFUL COMPLETION
OF SIX (6) MONTHS OF PROBATIONARY SERVICE."

Date: June 13, 1984

Presented by: Jennifer Sims

FACTUAL BACKGROUND AND ANALYSIS

Dennis Mulvihill was appointed to the vacant Waste Reduction Manager position on September 27, 1982. The probationary status included appointment above the beginning but below the entry merit step of the pay plan.

A performance evaluation was completed on June 6, 1984, recommending a 5 percent merit increase applicable retroactively to the probationary period. Because the recommended increase exceeds the entry rate step by 2.5 percent from the 5 percent/entry-merit-rate-step stipulated in the Personnel Rules (see attachment) a variance to the Rules is required.

Section 5 of the Personnel Rules provides for the waiver of the rules by the Executive Officer and that such variances also be ratified by the Council.

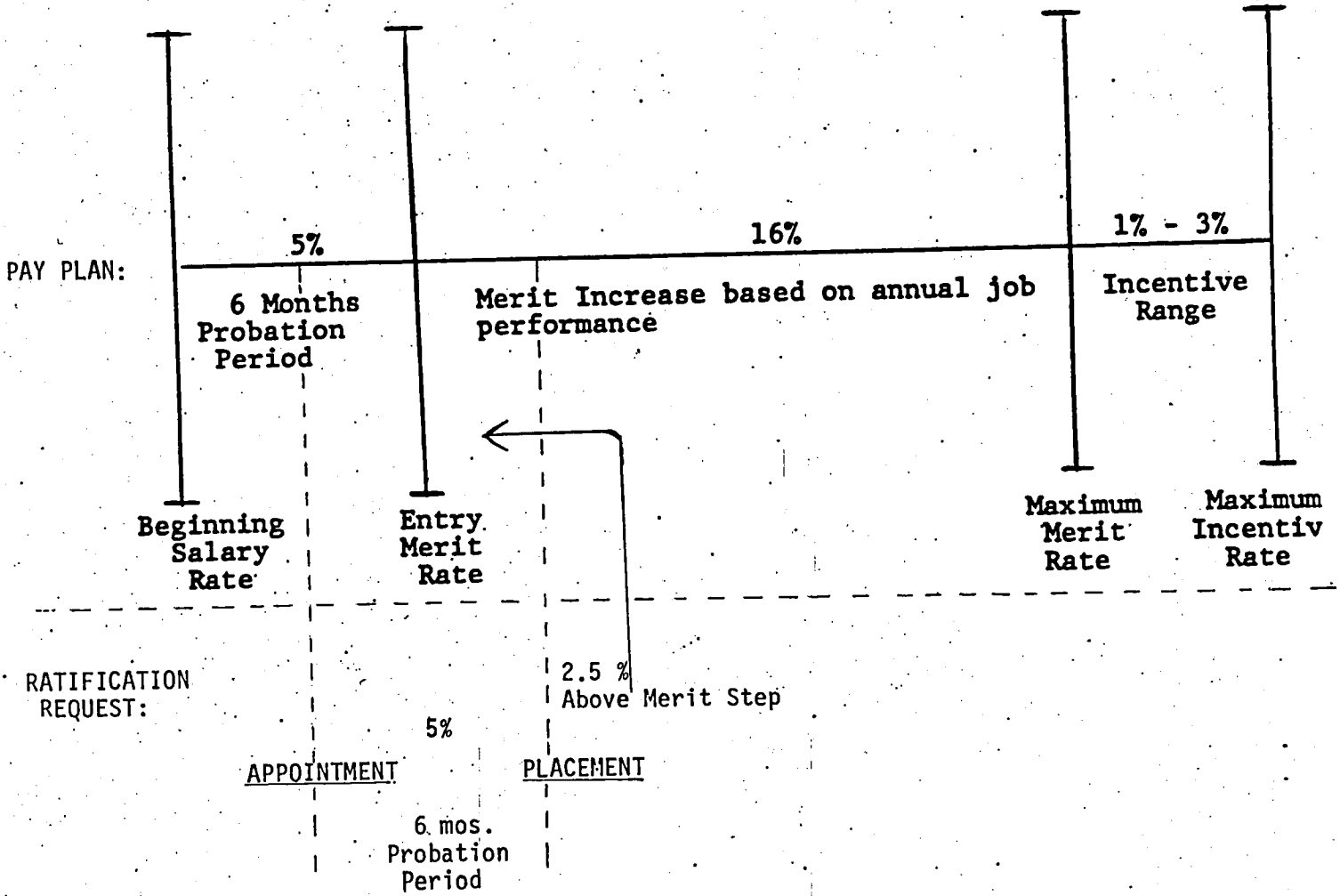
EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends ratification.

COMMITTEE CONSIDERATION AND RECOMMENDATION

JS/DK/srb
1437C/382
06/19/84

Salary Range:



STAFF REPORT

Agenda Item No. 7.2

Meeting Date July 5, 1984

CONSIDERATION OF ORDINANCE NO. 84-175 RELATING TO
PUBLIC CONTRACT PROCEDURES AND AMENDING CODE
SECTIONS 2.04.001, 002, 003, 005, 010, 015, 020,
030, 035, 040 and 045.

Date: June 19, 1984

Presented by: Donald E. Carlson

FACTUAL BACKGROUND AND ANALYSIS

Metro currently has contract procedures which establish the manner in which Metro will choose its contractors and the actions that must take place before Metro binds itself to a contract. Ordinance No. 84-175 amends the Code sections applicable to the contract procedures for primarily "housekeeping" purposes. The amendments provide for changes as reflected in Attachment A.

Ordinance No. 84-175 reflects no change in the current policy or procedure.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 84-175.

COMMITTEE CONSIDERATION AND RECOMMENDATION

On June 18, 1984, the Council Coordinating Committee unanimously recommended adoption of Ordinance No. 84-175.

SK/srb
1344C/382
06/19/84



Memo

METROPOLITAN SERVICE DISTRICT 527 S.W. HALL ST., PORTLAND, OREGON 97201 503 221-1646
Providing Zoo, Transportation, Solid Waste and other Regional Services

Date: June 12, 1984
To: Donald E. Carlson, Deputy Executive Officer
From: Sue Klobertanz, Management Analyst *Sue*
Regarding: Changes in Contract Procedure as Reflected by
Contract Ordinance No. 84-175

As per your request, I have listed below the changes reflected in Proposed Ordinance No. 84-175. The changes have been listed by type or effect.

1. Changes required to put contract procedures into code format. These changes include addition of section numbers, titles and appropriate headings.
2. Clarification of ORS numbers or references.
3. Deletion of the words "Metro" or "Metropolitan Service District" used unnecessarily in conjunction with references to the Council or Contract Review Board.
4. Additions/Deletions of sections to combine, rewrite or move to a more appropriate area. For example, Section 2.04.011 Requirement of Competitive Bidding, Exemptions is a rewrite of deleted Section (g) on p. 7. In this particular case, the policy for competitive bids remains the same while being rewritten to be more specific with reference to the new Code sections.
5. Name, title or word changes to reflect existing position titles, organizational structure or current program language. For example, contract types have been revised to be consistent with Metro's current Disadvantaged Business Program.
6. Changes to clarify the administrative use of contract amounts. Specifically, the existing contract procedures refer to contracts of "under \$2,500" or "up to \$10,000." The proposed change allows for contract amounts of "\$2,500 or under" or "\$10,000 or under." This change allows for a rounded dollar amount to be used in determining approval/review required.

Memorandum
June 12, 1984
Page 2

7. Clarification of items to be reviewed by the Council. In the past, some confusion has existed over approval of amendments for \$50,000 or more. The proposed ordinance states specifically that "initial contracts, individual amendments, or purchase orders, with a contract price of more than \$50,000 shall be approved by the Council prior to execution."
8. Deletion of contracts previously approved as part of annual work programs from exemption to competitive bidding. It was felt that all contracts, regardless of status in an annual work program, should be subject to competitive bid. This change is consistent with current administrative policy.
9. Changes to reflect current administrative procedures and department responsibilities in competitive bidding procedures.

As I have indicated earlier, none of the changes are substantial in nature nor do they reflect changes in current policy or procedure.

SK/srb
1422C/D3

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE RELATING TO PUBLIC) ORDINANCE NO. 84-175
CONTRACT PROCEDURES AND AMENDING)
CODE SECTIONS 2.04.001, 002, 003,)
005, 010, 015, 020, 030, 035,)
040 and 045.)

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Code section 2.04.001 is hereby amended to read as follows:

2.04.001 Public Contract Review Board: Creation: Pursuant to [1979 Or. Laws, ch. 804,] ORS 279.055 the Council is designated and created as the Metropolitan Service District [(Metro)] Contract Review Board.

Section 2. Code section 2.04.002 is hereby amended to read as follows:

2.04.002 Powers of Board: The [Metro] Contract Review Board shall have all the powers in the award of District contracts [that the Oregon State Public Contract Review Board may exercise in the state at-large under ORS ch. 279 and OAR Chapter 127,] allowed under ORS 279.011 to 279.061 including such revisions and additions to those [chapters] statutes as may later be adopted.

Section 3. Code section 2.04.003 is hereby amended to read as follows:

2.04.003 Rules: The [Metro] Contract Review Board may adopt rules relating to the award of District contracts. [Such rules shall prevail when in conflict with the rules of the Oregon State Contract Review Board at OAR Chapter 127.] Such rules of the [Metro] Contract Review Board shall be adopted by ordinance.

Section 4. Code section 2.04.005 is hereby amended to read as follows:

2.04.005 Contract Review Board Meetings:

(a) The meetings of the [Metropolitan Service District] Contract Review Board shall normally, but need not, be conducted at the same time as, and as a part of, the regular meetings of the Metropolitan Service District Council.

(b) The rules of procedure adopted by the [Metropolitan Service District] Council for its proceedings shall also govern proceedings of the [Metropolitan Service District] Contract Review Board unless they conflict with rules adopted by the Board.

[(c) Subsections (a) and (b) of this section supersede the rules adopted by the Public Contract Board at OAR Chapter 127, Divisions 80 and 90.]

Section 5. Code section 2.04.010 is hereby rescinded:

Section 6. The following provisions shall be added to Code Chapter 2.04:

2.04.011 Requirement of Competitive Bidding, Exemptions

(a) For purposes of this chapter, "public contract" shall mean any purchase, lease or sale by Metro of personal property, public improvement or services other than agreements which are for personal service.

(b) All public contracts shall be based on competitive bids except:

(1) Contracts with other public agencies or the federal government.

(2) Contracts made with qualified nonprofit agencies providing employment opportunities for the handicapped.

(3) Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and 414.145.

(4) Contracts for supplies of less than \$2,500.

(5) Personal service contracts subject to ORS 279.051 and Code Section 2.04.035.

(6) Classes of public contracts which the Contract Review Board has found to be exempt without encouraging favoritism or substantially diminishing competition for public contracts and that such exemptions will result in substantial cost savings. These contracts include:

(a) Purchase and sale of Zoo animals.

(b) Purchase and sale of Zoo gift shop retail inventory and resale items.

(c) All contracts of less than \$10,000, not otherwise exempt, subject to the requirements of subsection (d) of this section.

(d) Contracts not to exceed \$25,000 for road, highway or parking lot maintenance provided that at least three (3) competitive quotes are obtained, if available, and a record of said quotes and efforts to obtain them are maintained.

(e) Emergency contracts subject to subsection (f) of this section.

(f) Contracts for sale of surplus property subject to subsection (g) of this section.

(c) Specific contracts, not within the classes exempted in subsection (6) above, may be exempted by the Board by resolution subject to the requirements of ORS 279.015(2) and ORS 279.015(5).

(d) Contracts exempted by subsection (6)(c) of this section may be awarded only subject to the following:

(1) The amount of the contract does not exceed \$10,000; and is for a single project; and is not a component of any other project.

(2) When the amount of the contract does not exceed \$500, the District should, where feasible, obtain competitive quotes.

(3) When the amount of the contract is more than \$500, but less than \$10,000, the District must obtain a minimum of three (3) competitive quotes. The District shall keep a written record of the source and amount of the quotes received. If three (3) quotes are not available, a lesser number will suffice provided that a written record is made of the effort to obtain the quotes.

(4) No contractor may be awarded in the aggregate, within the fiscal year, contracts in excess of \$30,000 without competitive bidding. In computing the aggregate under this subsection, awards under \$500 shall not be included.

(e) Emergency contracts shall be awarded subject to a resolution of the Council declaring the emergency and reciting the conditions which require prompt contract execution. Any emergency contract shall be awarded within sixty (60) days following the declaration of the emergency unless the Board grants an extension.

(f) Contracts for sale of surplus property may be executed without competitive bidding only when the Executive Officer determines in writing that the number, value and nature of the items to be sold make it probable that the cost of conducting a sale by competitive bid will be such that a liquidation sale will result in substantially greater net revenue to the District.

Section 7. Code section 2.04.015 is hereby amended to read as follows:

2.04.015 Contract Review Committee:

(a) There is hereby created a Contract Review Committee of the Council, which committee shall have the powers and

responsibilities described in the Metro Contract Procedures adopted by this chapter.

(b) The Contract Review Committee shall be comprised of three members to be appointed annually by the Presiding Officer of the Council.

(c) The Committee may establish a regular meeting schedule and may meet in special session at the call of the [Deputy Presiding Officer] Committee Chair. A majority of the Committee shall constitute a quorum and the Committee shall act by majority vote.

(d) In addition to the meeting provisions in subsection (c) of this section, the Committee may act by individual or telephonic poll of the membership. The results of any such polling shall be included in the minutes of the next regular or special meeting of the Committee.

Section 8. Code section 2.04.020 is hereby amended to read as follows:

2.04.020 Application of Contract Procedures:

(a) All public contracts to which Metro is a party or to which Metro may become a party shall be established, processed, approved and executed pursuant to [the Metro Contract Procedures adopted by] this chapter.

(b) The Executive Officer may establish such other contract regulations, not inconsistent with [the Metro Contract Procedures,] this chapter as may be necessary and expedient.

Section 9. Code section 2.04.025 is hereby rescinded.

Section 10. Code section 2.04.030 is hereby amended to read as follows:

2.04.030 Rules and Procedures Governing All Contracts:

(a) Initiating a Contract: When a department initiates a contract not in the form of a purchase order, it must first notify the [Department of Management] Budget and Administrative Services Division of its intention and request the issuance of a contract number which shall appear on all copies of the contract. Additionally, the department must complete a Contract Summary form indicating the specifics of the contract. This form must be forwarded to the [Department of Management] Budget and Administrative Services Division either with a fully executed contract [three] (one [copies] copy), if the amount is [under] \$2,500 or under; or with an unexecuted contract (three copies) for review, approval and signature, if the amount is over \$2,500.

(b) Persons Authorized to Sign Contracts:

(1) For contracts of an amount [under] of \$2,500 or under the Director of the initiating department, or a designee of the Director approved by the Executive Officer, may sign contracts if the following conditions are met:

(A) A standard contract form is used;

(B) Any deviations to the contract form are approved by the [General] Legal Counsel;

(C) The expenditure is authorized in the budget;

(D) The contract does not further obligate Metro beyond \$2,500;

(E) The appropriate Scope of Work is attached to the contract; and

(F) The Contract is for an entire project or purchase; not a portion of a project or purchase which, when complete, will amount to a cost greater than \$2,500.

(2) For contracts of more than \$2,500 [or more], and for contract amendments which exceed \$2,500 or which result in a total contract price exceeding \$2,500, either the Executive Officer or Deputy Executive Officer must sign; provided, however, that the Director or [Deputy] Assistant Director of the Zoo may sign purchase orders of [up to] \$10,000 or less. When designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the [Director of Management] Manager of Budget and Administrative Services may sign contracts.

(c) Approval of Contracts of more than \$10,000 [or More]:

(1) Except as provided in subsection (4) of this section, all initial contracts, individual amendments, or purchase orders, with a contract price of more than \$50,000 [or more] shall be approved by the Council prior to execution.

(2) Except as provided in subsection (4) of this section, all initial contracts, including purchase orders, with a contract price of greater than \$10,000 [or more] but [less than] \$50,000 or less shall be approved by the Contract Review Committee of the Council prior to execution.

(3) Except as provided in subsection (4) of this section, all contract amendments and extensions which exceed \$10,000 or which result in a total contract price of more than \$10,000 or \$50,000 [more] shall be approved by the Contract Review Committee prior to execution.

(4) The following types of contracts, including contract amendments and extensions to such contracts, shall be exempt from the provisions of this section (c).

(A) Contracts which merely pass through funds from a state or federal agency.

(B) Contracts under which Metro is to provide a service only and incurs no financial obligation to another party.

(C) Contracts with another government agency.

(D) Initial contracts of \$10,000 or less [than \$10,000] and contract extensions and amendments which do not cause or result in a total contract price of more than \$10,000 [or more].

(E) Grant award contracts.

[(F) Contracts previously approved as part of annual work programs.]

[(G)] (F) Purchases of inventory and gift items for resale at the Zoo Gift Shop.

(G) Emergency contracts approved pursuant to Code section 2.04.010(e).

(d) Documentation Required for Contract Files: The Budget and Administrative Services Division [Department of Management Services] will maintain central files for all contracts. [Individual departments should keep a copy of each contract which they have initiated and all subsequent extensions and amendments.] An original copy should be given to each contractor. All correspondence relating to a contract which alters conditions or amounts must be included in the central files as should all papers which document the process of obtaining competitive bids, quotes, or proposals. In any case where a low bid, quote, or proposal is not accepted, a detailed justification must be included with the contract file. Other documentation, if applicable, that should be included in the file includes:

- Mailing lists
- Affidavits of Publication
- Insurance endorsements and certificates
- Amendments
- Extensions
- Related Correspondence
- Quotes, Proposals, and Bids
- Bonds
- [MBE contacts] WBE/DBE information
- Contract closure form
- Personal Services Evaluation form

(e) Contract Review: Any contract which deviates from a standard contract form must be reviewed by [the Metro General Counsel] legal counsel. Contracts involving federal or state grant funds must be reviewed by the [Finance] Deputy Executive Officer. [Contracts which are to be let after advertised competitive bids, quotes or proposals must be reviewed by the Contracts Manager.]

(f) [Minority] Disadvantaged Business Program: All public contracting and purchasing is subject to the Metro [Minority] Disadvantaged Business Enterprise Program. Metro will take affirmative action to do business with [Minority] Disadvantaged Business Enterprises. The Contracts Manager will maintain a directory of [minority] disadvantaged businesses which shall be consulted and used in all contracting and purchasing of goods and services. If a [minority] disadvantaged business is [available] included in the directory that appears capable of providing needed goods or services, that business [must] should be contacted and given an opportunity to compete for Metro business. Contracts awarded subject to the [MBE] program may be exempted from the competitive bidding process by resolution of the Contract Review Board.

[(g) Awarding Contracts Without Competitive Bids, Quotes or Proposals:]

[(1) In some cases, competitive bidding may not be required. The Contracts Manager will make a determination of whether a contract must be awarded subject to competitive bidding. Examples of the contracts which may not be legally subject to competitive bidding are:

- Rare Animals
- Price Regulated Items
- Emergency Contracts
- Advertising Contracts
- Recycled Materials
- Products of the Handicapped
- Contracts between Government Agencies
- Affirmative Action Contracts
- Data Processing Contracts
- Insurance Contracts
- Contract Amendments and Extensions
- Personal Services Contracts
- Purchases Under Requirement Contracts]

[(2) In most cases these exempt categories must be interpreted narrowly. An emergency contract, for example, may only be executed if the emergency conditions could not have reasonably been foreseen and the only way to remedy the situation is through the execution of a contract.]

[(3) Personal services contracts are subject to separate procedures described in Section III.]

[(4) Specific exemptions from competitive bidding may be sought from the Metro Contract Review Board (See Ordinance No. 79-76 and Ordinance No. 81-125.)]

[(5) Any request for an exemption from competitive bidding must comply with OAR 127-10-160.]

[(h)] (g) Monthly Contract Report: The Executive Officer shall provide or cause to be provided a monthly report to the Council of all contracts, including extensions and amendments, which have been executed during the preceding month; provided, however, that such monthly report need not include purchase orders under \$500.

[(i)] (h) Purchase Orders: For purposes of [these regulations] this chapter, the term "contracts" includes purchases of goods or materials by purchase order. Purchase orders may be utilized in lieu of written contracts when the purchase is for goods or materials only.

[(j)] (i) Code of Conduct:

(1) No employee, officer or agent of Metro shall participate in the selection, award or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer or agent, any member of his/her immediate family, his or her partner, or an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. No Metro officer, employee or agent shall solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

(2) Violations of this Code of Conduct shall subject an officer or employee to disciplinary action pursuant to the Metro Personnel Rules and may be grounds for other civil or criminal penalties provided by law.

[(k)] (j) Federal/State Agency Approval: When required by federal or state law or regulations, review and approval of Metro contracts shall include prior concurrence or approval by appropriate federal or state agencies. (Ordinance No. 82-130, Sec. 2(a))

(k) In all public contracts, Metro shall prefer goods or services that have been manufactured or produced in Oregon if price, fitness, availability and quality are otherwise equal. Where a contract in excess of \$10,000 is awarded to a contractor not domiciled or registered to do business in Oregon, the initiating Department shall assure compliance with the provisions of ORS 279.021.

(l) All requests for bids or proposals for all contracts in excess of \$10,000 shall be reviewed by the Department of Management Services and Legal Counsel prior to solicitation or advertisement, and shall include the contract form to be used.

Section 11. Code section 2.04.035 is hereby amended to read as follows:

2.04.035 Personal Services Contracts:

(a) Definition: Personal Services contracts are for personal or professional services that are not normally performed by [the] Metro department staffs and will not require continuous supervision by Metro staff. Examples of services that may be obtained under Personal Services contracts are: attorneys; economic consultants; engineers; architects; special photography; legislative liaison; public relations and professional advice on retainer. [Personal Services contracts shall be in compliance with OAR 127-10-092.]

(b) Distinguishing Between Employees and Independent Contractors: [It is important that] Employees shall not be hired under the guise of a Personal Services Contract. To determine whether a particular worker is to be an employee or an independent contractor, the most important factor to consider is the employer's right to control. If the employer is to retain the right to control the manner and means of accomplishing a desired result, the worker is generally considered an employee; if, however, the employer has the right to control only the results of the work, the worker is considered an independent contractor. [Thus, the question usually comes down to who is to have the right to direct what shall be done and when and how it shall be done.] This test of control does not require actual exercise of control, but rather the employer's right to control. [A consideration of] The following factors [is helpful] shall be considered in determining a worker's status:

(1) Whether the worker is to be engaged in a distinct occupation or business. Independent contractor status is often accorded those who are engaged for their special skills. Thus, the hiring of an architect, broker, doctor, painter or attorney may indicate that an independent contractor relationship is being contemplated.

(2) Whether the employer or the worker is to supply the instrumentalities, tools and the place of work.

(3) Whether the worker or the employer is to have the power to dictate the particular manner in which the instrumentalities or tools shall be used and the way the workers shall do their work.

(4) Whether the worker employs, pays and has full power of control over assistants.

(5) Whether the work is part of the regular business of the employer.

(c) Selection Process for Personal Services Contracts:

(1) Contracts [Under] of \$2,500 or less: For Personal

Services contracts [under] of \$2,500 or less, the Department Director shall state in writing the need for the contract. This statement shall include a description of the contractor's capabilities in performing the work. Multiple proposals need not be obtained. This statement will be kept in the Department of Management Services contract file.

(2) Contracts Between \$2,500 and \$10,000: For Personal Services contracts [of at least] greater than \$2,500 but [less than] \$10,000 or less, the Department Director shall use the following process:

(A) Proposals shall be solicited from at least three (3) potential contractors who, in the judgment of the Department Director, are capable and qualified to perform the requested work. [The Minority Business Enterprise Directory maintained by the Contract Manager shall be consulted and at least one (1) of the potential contractors notified shall be an MBE if an MBE service provider appears in the MBE Directory.]

(B) The initiating Department shall document the fact that at least three (3) proposals have been solicited. Preferably, the proposals should be written but this is not required. Metro shall reserve the right to reject any or all proposals for any reason.

(C) Evaluation, as determined by the Department Director, shall include use of a contractor evaluation form and may require oral presentations. The objective is the highest quality of work for the most reasonable price. The quality of the proposal may be more important than cost.

(D) Notification of selection or rejection shall be made in writing after final review by the initiating department.

(E) If the contract is for more than \$2,500 [or more], it shall be submitted to the contractor for signature and then to [either the Executive Officer or Deputy Executive Officer for signature] the Budget and Administrative Services Division for internal review and execution.

(3) Contracts [of] for more than \$10,000 [or More]: For Personal Services contracts [of] for more than \$10,000 [or more], an evaluation of proposals from potential contractors shall be performed as follows:

(A) A request for proposals shall be prepared by the initiating department. Where appropriate, the request

shall be published in a newspaper of general circulation or in trade magazines. In addition, Metro shall notify in writing at least three (3) potential contractors, who, in the judgment of the Department Director are capable and qualified to perform the requested work. The [Department of Management Services] initiating department will be responsible for maintaining the file and making the appropriate notification.

(B) Evaluations of proposals shall include use of a contract evaluation form. The use of an oral interview or an evaluation team is recommended.

(C) After evaluation is complete, the Department Director will recommend [the] final selection [to the Executive Officer] thru the Budget and Administrative Services Division.

(D) Notifications of selection and rejection shall be made in writing by the initiating department.

(E) Such Personal Services contracts with the Scope of Work must be [reviewed] approved by the department head[,] [General Counsel] and then forwarded to the Budget and Administrative Services Division for internal review [by the Contracts Manager prior to approval] and execution. Legal counsel review is required if other than a standard contract form is used.

(F) Such Personal Services contracts shall be subject to the approval requirements of Section 2.04.030(c) of this chapter.

(4) Sole Source Personal Services Contracts: If there is only one qualified provider of the service required, the initiating department need not solicit and document three (3) proposals as required by subsections (c) (2) and (c) (3) above. The initiating department must document that there is only one qualified provider of the service required, and the Council shall be given notice of the execution and the justification for the contract.

(5) Continuing Activities: A Personal Services contract may be renewed without receiving competitive proposals if the contractor is performing a continuing activity for the agency. This applies, but is not limited to [such] contracts [as those] for construction observation, public relations consulting, outside legal counsel and annual auditing. Except as provided in paragraph (6) below, competitive proposals must be solicited for these services at least once every three (3) years and annually if the contractor proposes a price or rate increase of more than

10% over the previous year[, competitive proposals must be solicited].

(6) Limited Source Contracts: Personal Services contracts may be renewed, extended or renegotiated without soliciting competitive proposals if, at the time of renewal, extension or renegotiation, there are fewer than three (3) potential contractors qualified to provide the quality and type of services required. If a Personal Services contract is renewed, extended or renegotiated under this paragraph without soliciting proposals, the initiating department shall document in detail why the quality and type of services required make it unnecessary or impractical to solicit proposals.

(7) Approval of Personal Services Contracts: Personal Services contracts, amendments, renewals and extensions shall be subject to the approval requirements of Section 2.04.030[(c)] of this chapter.

(8) Personal Services Evaluation Form: Selection of Personal Services contractors shall include the use of an evaluation form documenting the reasons for the selection.

Section 12. Code section 2.04.040 is hereby amended to read as follows:

2.04.040 [Materials and Services] Labor and Materials Contracts:

(a) Definition: [This section is intended to provide guidance for contracting services other than Personal Services and is not intended to prevent the use of purchase orders. If a Department Director is in doubt as to whether a purchase should be on a purchase order or form contract, the Department Director or his/her designee should contact the Contracts Manager for a determination. Contracts for materials and services are those for specific goods or products or for the labor required to produce a specific product.] A Labor and Materials contract is a contract for trade related services, or services other than personal services, which may include the provision or production of related materials or goods. Examples of Labor and Materials contracts are maintenance, installation and custodial service, typesetting, security services and facility operations services. Labor and Materials contracts may be obtained by purchase order as determined by the Executive Officer.

(b) [Selection Process for Materials and Services Contracts:] Unless otherwise exempt from competitive bidding, Labor and Materials contracts shall be subject to the selection procedures of Code section 2.04.060.

[(1) Contracts Under \$500: For purchases of materials and services costing less than \$500, the initiating department should obtain three (3) quotes. The lowest quote obtained will be accepted unless valid reason for rejecting it can

be shown. After accepting a quote, the initiating department will follow up with a contract, attaching the quotes to the Department of Management Services file copy of the contract. Purchases of materials only under \$500 made by purchase order shall not require quotes and shall not be subject to the provisions of paragraph IID above.]

[(2) Contracts Between \$500 and \$10,000: All contracted materials and services costing between \$500 and \$10,000 will require written quotes. The initiating department will write specifications, sending them to possible contractors whom they feel can do the job. If possible, at least three (3) contractors will be contacted. After receipt of the quotes and review by the initiating department's staff, a contract will be developed. If three (3) quotes are not available, a lesser number will suffice provided that a written record is made of the effort to obtain the quotes. If it is over the amount of \$2,500 the contract will then be submitted to the contractor for signature and then to either the Executive Officer or Deputy Executive Officer for signature. The initiating department will attach all quotes received to the Department of Management Services' copy of the contract. The Minority Business Enterprise Directory maintained by the Department of Management Services shall be consulted to determine whether an MBE is available that may possibly do the work or supply the goods required by the specifications. If one is available it must be given the opportunity to make a bid or quote.]

[(3) Contracts Over \$10,000: Unless a general or specific exemption applies, all contracted materials and services costing over \$10,000 will be subject to a formal sealed bid process. The following procedure will be used:

[(A) The initiating department staff will write bid specifications and compile a list of potential bidders.

[(B) The bid document will be reviewed by the Department of Management Services and by legal counsel before bids are solicited.

[(C) A request for bids will be advertised in the Daily Journal of Commerce, or when feasible, in an appropriate trade magazine.

[(D) The Department of Management Services will receive and open sealed bids.

[(E) The opened bids will be reviewed by the requesting department and a recommendation and contract will be submitted to the Department of Management Services.

[(F) The Department of Management Services will make recommendation to the Executive Officer or Deputy Executive Officer.]

[(G) Materials and services contracts, amendments, renewals and extensions shall be subject to the approval requirements of Section 2.04.030(c) of this chapter.]

[(H) The Management Services Department will notify all bidders of the contract award, obtain signatures on the contract and obtain any necessary bonds and insurance certificates.]

[(I) Metro shall reserve the right to reject any or all quotes or bids received.]

[(4) Subsections (b) (1) and (b) (2) above shall not apply to the purchase of inventory and gift items for resale at the Zoo Gift Shop.]

[(c) Insurance and Bonding Requirements: All contracts which produce a possible liability to Metro must be accompanied by a certificate of liability insurance from the contractor naming Metro as a certificate holder or additional insured.]

[(1) Any improvements contract in excess of \$10,000 must be accompanied by a bid bond of not to exceed 10% of the amount of the contract and a performance bond of 100% of the amount of the contract.]

[(2) If a liability exposure to the District exists, certificates of insurance are required.]

[Minimum insurance requirements are:

[(A) \$100,000 for personal injury to any one (1) person;

[(B) \$300,000 for any number of claims resulting from one (1) accident;

[(C) \$50,000 property damage for all damage claims resulting from one (1) accident.]

Section 13. Code chapter 2.04.045 is hereby amended to read as follows:

2.04.045 Contracts Between Government Agencies:

(a) Contracts between government agencies may be made without competitive bids, quotes, or proposals.

(b) Each contract being initiated by a department must be reviewed by the Department Director, [General Counsel] legal counsel, Budget and Administrative Services Division and appropriate state or federal agencies. If the contract is made pursuant to federal or state grants, it must be reviewed by the [Finance] Deputy Executive Officer. (Ordinance No. 82-130, Sec. 2(a))

Section 14. Code Chapter 2.04 is hereby amended by adding a new section 2.04.050 as follows:

2.04.050 Procurement or Sales Contracts

(a) Definition: Procurement or Sales Contracts are contracts for the purchase, lease, rental or sale of goods, supplies or other personal property in which labor or service is not involved or is merely incidental to the purpose of the contract. Procurement or sales by purchase order is allowed as may be determined by the Executive Officer.

(b) Unless otherwise exempt from competitive bidding, Procurement or Sales Contracts shall be subject to the selection procedures of Code section 2.04.060.

Section 15. Code Chapter 2.04 is hereby amended by adding a new section 2.04.055 as follows:

2.04.055 Construction Contracts

(a) Definition: A Construction Contract is a contract for construction, reconstruction, or major renovation on real property, but does not include Labor and Materials Contracts such as emergency work, minor alteration or ordinary repair and maintenance necessary in order to preserve a public improvement.

(b) Unless otherwise exempt from competitive bidding, Construction Contracts shall be subject to the selection procedures of Code section 2.04.060.

(c) Within thirty (30) days of award of a construction contract, the Department of Management Services shall provide the notice required by ORS 279.363. Such notice is not required for contracts not exceeding \$10,000 or for contracts regulated under the Davis-Bacon Act (40 USC 276a).

Section 16. Code Chapter 2.04 is hereby amended by adding a new section 2.04.060 as follows:

2.04.060 Competitive Bidding Procedures

Unless exempt from competitive bidding by Code section 2.04.010 or otherwise, the following competitive bidding procedures shall apply to all contracts:

(1) The initiating department staff will prepare or have prepared bid specifications and compile a list of potential bidders.

(2) The bid document will be reviewed by the Budget and Administrative Services Division and by legal counsel before bids are solicited.

(3) A request for bids will be advertised in the Daily Journal of Commerce, a local minority newspaper, and when feasible, in an appropriate trade magazine. Additional advertisement may be appropriate depending upon the nature of the contract.

(4) The initiating department will receive and open sealed bids at the time and place designated in the request for bids.

(5) The opened bids will be reviewed by the requesting department and a recommendation and contract will be submitted to the Budget and Administrative Services Division.

(6) Contracts shall be subject, if applicable, to the approval requirements of Section 2.04.030(c) of this Chapter.

(7) The initiating department will notify all bidders of the contract award and obtain any necessary bonds and insurance certificates.

(8) Metro shall reserve the right to reject any or all quotes or bids received.

ADOPTED by the Council of the Metropolitan Service District

this _____ day of _____, 1984.

Presiding Officer

ATTEST:

Clerk of the Council

SK/srb
1140C/382
06/07/84

CONSIDERATION OF THE WAIVER OF PERSONNEL RULES, SECTION 32(d)(1): "EMPLOYEES HIRED OR PROMOTED AT THE BEGINNING STEP OF A SALARY RANGE OR BETWEEN THE BEGINNING STEP AND THE ENTRY MERIT RATE ARE ELIGIBLE TO RECEIVE A SALARY INCREASE TO THE ENTRY MERIT RATE AFTER SUCCESSFUL COMPLETION OF SIX (6) MONTHS OF PROBATIONARY SERVICE."

Date: June 13, 1984

Presented by: Jennifer Sims

FACTUAL BACKGROUND AND ANALYSIS

Dennis Mulvihill was appointed to the vacant Waste Reduction Manager position on September 27, 1982. The probationary status included appointment above the beginning but below the entry merit step of the pay plan.

A performance evaluation was completed on June 6, 1984, recommending a 5 percent merit increase applicable retroactively to the probationary period. Because the recommended increase exceeds the entry rate step by 2.5 percent from the 5 percent/entry-merit-rate-step stipulated in the Personnel Rules (see attachment) a variance to the Rules is required.

Section 5 of the Personnel Rules provides for the waiver of the rules by the Executive Officer and that such variances also be ratified by the Council.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends ratification.

COMMITTEE CONSIDERATION AND RECOMMENDATION

JS/DK/srb
1437C/382
06/19/84

ATTACHMENT

Salary Range:

