

# A G E N D A

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**METRO**

## Agenda

MEETING: METRO COUNCIL REGULAR MEETING  
DATE: December 10, 2002  
DAY: Tuesday  
TIME: 2:00 PM  
PLACE: Metro Council Chamber

### CALL TO ORDER AND ROLL CALL

#### 1. INTRODUCTIONS

#### 2. CITIZEN COMMUNICATIONS

#### 3. MCCI RETREAT RECOMMENDATIONS

Ganoe

#### 4. 2002 URBAN GROWTH FUNCTIONAL PLAN COMPLIANCE REPORT

Bernards/Uba

#### 5. CONSENT AGENDA

5.1 Consideration of Minutes for the December 5, 2002 Metro Council Regular Meeting.

#### 6. ORDINANCES - SECOND READING

##### 6.1 Ordinance No. 02-965A, For the purpose of Amending Chapter 2.02

Monroe

Personnel Rules of the Metro Code to conform to the Metro Charter amendments adopted on November 7, 2000, and Declaring an Emergency.

#### 7. RESOLUTIONS

7.1 Resolution No. 02-3247, For the Purpose of Allowing a one-time exemption to the Personnel Rules limiting Retroactivity on Merit Pay increases to one year.

Monroe

7.2 Resolution No. 02-3248, For the Purpose of Approving the Revised Public Involvement Planning Guide on Behalf of the Metro Committee on Citizen Involvement (MCCI).

Burkholder

7.3 Resolution No. 02-3249, For the Purpose of Authorizing the Executive Officer to Issue a Renewed Metro Solid Waste Facility License For Yard Debris Composting to Grimm's Fuel Company.

Atherton



- 7.4     **Resolution No 02-3253**, For the Purpose of Adopting an Updated Regional Greenspaces System Concept Map.     McLain
- 7.5     **Resolution No. 02-3256**, For the Purpose of Authorizing the Issuance of a Request for Proposals for Personal Services for the Highway 217 Corridor Study.     Atherton
8.     **CONTRACT REVIEW BOARD**
- 8.1     **Resolution No. 02-3246**, For the Purpose of Authorizing the Executive Officer to Execute Change Order No. 4 to the Contract for Operation of the Metro South and Metro Central Transfer Stations.     Atherton
- 8.2     **Resolution No. 02-3251**, For the Purpose of Approving an Exclusive Personal Services Agreement with the Buel Group to Serve as the Sole Agent of Metro to Develop Hospitality and Other Compatible Facilities at Glendoveer Golf Course.     Hosticka
9.     **COUNCILOR COMMUNICATION**

**ADJOURN**



**Cable Schedule for December 10, 2002 Meeting (PCA)**

	Sunday (12/15)	Monday (12/16)	Tuesday (12/17)	Wednesday (12/11)	Thursday (12/12)	Friday (12/13)	Saturday (12/14)
<b>CHANNEL 11</b> (Community Access Network) (most of Portland area)							
<b>CHANNEL 30</b> (TVTV) (Washington County, Lake Oswego)							
<b>CHANNEL 30</b> (CityNet 30) (most of City of Portland)	8:00 AM		12:00 PM	7:00 PM			
<b>CHANNEL 30</b> <b>Willamette Falls</b> <b>Television</b> (West Linn, Rivergrove, Lake Oswego)	4:00 PM						10:00 AM
<b>CHANNEL 23/18</b> <b>Willamette Falls</b> <b>Television</b> (23 -- Oregon City, West Linn, Gladstone; 18 -- Clear Creek)	4:00 PM						10:00 AM
<b>CHANNEL 23</b> <b>Milwaukie Public</b> <b>Television</b> (Milwaukie)							

**PLEASE NOTE THAT ALL SHOWING TIMES ARE TENTATIVE BASED ON THE INDIVIDUAL CABLE COMPANIES' SCHEDULES. PLEASE CALL THEM OR CHECK THEIR WEB SITES TO CONFIRM SHOWING TIMES.**

<b>Portland Cable Access</b>	<a href="http://www.pcatv.org">www.pcatv.org</a>	<b>(503) 288-1515</b>
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<b>Willamette Falls Television</b>	<a href="http://www.wftvaccess.com">www.wftvaccess.com</a>	<b>(503) 650-0275</b>
<b>Milwaukie Public Television</b>		<b>(503) 652-4408</b>

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, 797-1542. Public Hearings are held on all ordinances second read and on resolutions upon request of the public. Documents for the record must be submitted to the Clerk of the Council to be considered included in the decision record. Documents can be submitted by email, fax or mail or in person to the Clerk of the Council. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).



Agenda Item Number 4.0

**2002 URBAN GROWTH FUNCTIONAL PLAN COMPLIANCE REPORT**

Metro Council Meeting  
Tuesday, December 10, 2002  
Metro Council Chamber





METRO

December 2, 2002

The Honorable Carl Hosticka  
Presiding Officer  
Metro Council  
600 N.E. Grand Avenue  
Portland, OR 97232

Dear Councilor Hosticka:

***Re: 2002 Urban Growth Management Functional Plan Compliance Reports***

I am pleased to submit two Reports on Compliance with the Urban Growth Management Functional Plan (Functional Plan). The first report includes the status of the local jurisdictions' compliance with Titles 1 through 6.

Title 1: Requirements for Housing and Employment Accommodation  
Title 2: Regional Parking Policy  
Title 3: Water Quality, Flood Management and Fish and Wildlife Conservation  
Title 4: Retail in Employment and Industrial Areas  
Title 5: Neighbor Cities and Rural Reserves  
Title 6: Regional Accessibility

The second report includes the status of the local jurisdiction's compliance with Title 7.

Title 7: Affordable Housing

The requirements for the Reports on Compliance are found in Metro Code Section 3.07.880. A copy of this section of the Metro Code is attached to this memo.

**PROCESS FOR THE COMPLIANCE REPORT AND ORDER**

As outlined in Metro Code Section 3.07.880.B, upon receipt of the compliance report, the Metro Council shall set a date for a public hearing in order to receive testimony on the report and to determine whether a city or county has complied with the requirements of the Functional Plan. A notice of the hearing will be sent to the cities and counties, the Department of Land Conservation and Development and to anyone who has requested notification of the hearing. Included in the notification will be a statement that the Metro Council does not have jurisdiction to determine that actions taken by a city or county that were deemed to comply, no longer comply with a requirement of the Functional Plan.



The Honorable Carl Hosticka  
Presiding Officer  
Metro Council  
December 2, 2002  
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Following the hearing, the Metro Council will enter an order that determines with which Functional Plan requirements each city and county complies. Once an order has been issued, and there has been no successful appeal to the Land Use Board of Appeals, the Metro Council's decision is final. As part of the notice of the hearing, a statement that prior orders cannot be reconsidered will be included.

Best regards,

A handwritten signature in black ink, appearing to read "Mike Burton", with a long horizontal flourish extending to the right.

Mike Burton  
Executive Officer

MB/BB/srb  
I:\gm\community\_development\share\Annual Compliance Cover Memo.doc

Enclosure



## **TITLE 8 COMPLIANCE PROCEDURES**

### **3.07.880 Compliance Report and Order**

- A. The Executive Officer shall submit a report to the Metro Council by December 31 of each calendar year on compliance by cities and counties with the Urban Growth Management Functional Plan. The report shall include an accounting of compliance with each requirement of the Functional Plan by each city and county in the district. The report shall recommend action that would bring a city or county into compliance with the Functional Plan requirement and shall advise the city or county whether it may seek an extension pursuant to section 3.07.850 or an exception pursuant to section 3.07.860. The report shall also include an evaluation of the implementation of this chapter and its effectiveness in helping achieve the 2040 Growth Concept.
- B. Upon receipt of the compliance report, the Metro Council shall set a public hearing for the purpose of receiving testimony on the report and determining whether a city or county has complied with the requirements of the Functional Plan. The Executive Officer shall notify all cities and counties, the Department of Land Conservation and Development and any person who request notification of the hearing of the date, time and place of the hearing. The notification shall state that the Metro Council does not have jurisdiction (1) to determine whether previous amendments of comprehensive plans or land use regulations made by a city or county comply with Functional Plan requirements if those amendments already comply pursuant to subsections F and G of Section 3.07.810 or (2) to reconsider a determination in a prior order issued pursuant to subsection C that a city or county complies with a requirement of the Functional Plan. Any person may testify, orally or in writing, at the public hearing.
- C. Following the public hearing, the Metro Council shall enter an order that determines with which Functional Plan requirements each city and county complies. The order shall be based upon the Executive Officer's report submitted pursuant to subsection A and upon testimony at the public hearing pursuant to subsection B, with which Functional Plan requirements each city and county complies. The order may relay upon the report for its findings of fact and conclusions of compliance with a Functional Plan requirement. If the Metro Council receives testimony during its public hearing that takes exception to the report on the question of compliance, the order shall include supplemental findings and conclusions to address the testimony. The Executive Officer shall send a copy of its order to cities and counties and any person who testifies, orally or in writing, at the public hearing.



**URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN  
ANNUAL COMPLIANCE REPORT  
December 2002  
Titles 1 through 6**

**INTRODUCTION**

The Urban Growth Management Functional Plan (Functional Plan) came into effect in February 1997. Jurisdictions had two years to comply with the requirements contained in Titles 1, 2, 4, 5 and 6. Title 3 came into effect in June 1998 and compliance was required by January 2000. Not all jurisdictions were able to amend their comprehensive plans and implementing ordinances by these dates. Time extensions were granted by the Metro Council to a number of jurisdictions to complete their compliance efforts. This report, required by Metro Code 3.07.880, outlines the status of each jurisdiction in their compliance efforts with Titles 1 through 6 of the Functional Plan.

**CONTENTS OF THE REPORT**

Metro Code 3.07.880.A requires that this report include the following:

- An accounting of compliance with each requirement of the functional plan by each city and county in the district.
- A recommendation for action that would bring a city or county into compliance with the functional plan requirement and shall advise the city or county whether it may seek an extension pursuant to section 3.07.850 or an exception pursuant to section 3.07.860.
- An evaluation of the implementation of the Functional Plan and its effectiveness in helping achieve the 2040 Growth Concept.

The accounting of compliance is presented in two ways. First, the compliance of each jurisdiction is discussed individually. Second, a compliance matrix has been prepared which contains a summary of compliance by Functional Plan Titles 1 through 6.

For those jurisdictions that will not meet the requirements of Titles 1 through 6 by December 31, 2002, an additional time extension is not possible. In the Council's deliberations on time extensions in November 2001, it was agreed that there would be no additional time extensions beyond December 2002 to comply with Titles 1, 2, 3 (Floodplain Management, Water Quality and Erosion Control) 4, 5 and 6. Further, the Council determined that any such requests would be considered as a request for an exception to the requirements of the Title. In the staff report accompanying Resolution No. 01-3123A, the Executive Officer concurred with this position. The discussion of actions to bring the jurisdictions into compliance is included with accounting of compliance. Following the individual jurisdiction discussion, there is an evaluation of the implementation of Titles 1 through 6 of the Functional Plan to date, their effectiveness in helping achieve the 2040 Growth Concept and series of next steps.

**GENERAL COMPLIANCE NOTES**

This report details the compliance status of the jurisdictions through November 2002. A number of jurisdictions have extensions to complete their work to December 2002. While these jurisdictions are required to report on their status by December 31, 2002, a



number indicated that they would not be able to meet their deadline. These are discussed in the next section.

Ordinance No. 02-969, currently before the Council, proposes a series of amendments to the Functional Plan. A number of these amendments, if adopted, will require the jurisdictions to undertake additional actions to remain in compliance. This report deals with compliance with the Functional Plan currently in effect. However, there are two elements of the current compliance requirements, Table 3.07-1 of Title 1 and Sections 3.07.620 and 3.07.630 of Title 6 that should be noted.

Table 3.07-1: Target Capacity for Housing and Employment Units – Year 1994 to 2017

Table 3.07-1 set out target capacities for housing and employment from 1994 to 2017 that the jurisdictions were to meet. Section 3.07.150 required the jurisdictions to determine their capacity and, if the capacity fell short of the targets in Table 3.07-1, a jurisdiction was required to increase its capacity. Most of the jurisdictions found it necessary to increase their capacity to some degree. For some jurisdictions, even with extensive efforts to increase capacity they were unable to meet the target capacities set out in Table 3.07-1.

Beaverton, Durham, Johnson City, King City, Lake Oswego, Maywood Park, Milwaukie Troutdale, Clackamas County and Washington County fell short of their target capacity for dwelling units. Beaverton, Happy Valley, Johnson City, Maywood Park, Milwaukie, Oregon City, Rivergrove and Clackamas County fell short to target capacity for employment. Details of the efforts these jurisdictions made to reach their targets are included below.

During the development of the target capacities, a 5,000-acre expansion to the boundary was initially assumed. Through discussions at the Metro Technical Advisory Committee and the Metro Policy Advisory Committee, it was determined that a no expansion position would be taken and the targets were adjusted accordingly. In 1998 the Metro Council did expand the boundary approximately 3,000 acres.

When adding the reported capacities of the jurisdictions and accounting for the capacity included in the 3,000 additional acres, the region as a whole met and exceeded the capacity targets. Table 3.07-1 had a dwelling unit capacity target of 243,995 and the reported capacity is 246,053 dwelling units. The employment capacity target was 499,218 and the reported employment capacity is 516,873 jobs. The substantial increase in the employment capacity is primarily a result of the City of Portland, which reported a capacity of approximately 50,000 jobs above the target capacity.

As the region as a whole reached the target capacities, it was determined that the region as a whole had reached compliance with Table 3.07-1. At its meeting on November 19, 2001, the Community Planning Committee recommended that Table 3.07-01 be replaced with a new Table that identified the zoned capacity of each jurisdiction based on the capacities reported through efforts to comply with the requirements of the Functional Plan. The proposed amendments to Title 1 contained in Exhibit A of Ordinance No. 02-969 would ensure that there would be no backsliding from these zoned capacities.



#### Title 6: Regional Accessibility

The jurisdictions were required to meet Metro Code Sections 3.07.620 (Regional Street Design Guidelines) and 3.07.630 (Design Standards for Street Connectivity) under Title 6. With the adoption of the Regional Transportation Plan (RTP) in August 2000, the requirements of Title 6: Regional Accessibility were moved to the RTP. As the timeline to meet the above two requirements did not change, compliance efforts with these are included below. The proposed amendments to the Functional Plan delete the Regional Accessibility language and add a new Title 6 dealing with Centers. The 2003 Compliance Report will not include references to Regional Accessibility as part of the Functional Plan compliance.

#### **SUMMARY OF COMPLIANCE BY JURISDICTION**

The jurisdictions were required to amend their Comprehensive Plans and implementing ordinances to comply with many of the requirements of the Functional Plan. The requirements that the cities and counties complied with before the adoption of the Functional Plan, therefore no amendments were necessary to comply, are noted in the bulleted text.

##### **The City of Beaverton:**

The City is in compliance with Titles 1 through 6 of the Functional Plan. Beaverton needed to take actions to complete all requirements of the Functional Plan apart from the following:

- Partitioning standards required by Metro Code 3.07.120.B.

Target Capacities: Beaverton reached 91 percent of its dwelling unit target and 85 percent of its job target capacity. The City undertook Regional Center, Town Center and Station Community Planning and increased the zoned capacity in these areas. The City is continuing with its Regional Center planning with its current SW 114th Avenue study. In addition, Beaverton committed significant time and resources to the Round at Beaverton Central project.

##### **Outstanding Items: None**

##### **The City of Cornelius:**

The City is in compliance with Titles 1 through 6 of the Functional Plan. Cornelius needed to take actions to complete all requirements of the Functional Plan.

Target Capacities: Cornelius has met its target capacities.

##### **Outstanding Items: None**

##### **The City of Durham:**

The City has requested an exception to the minimum density standards and to the requirements of Title 2. Staff is working with the City. The City has complied with the remaining requirements of the Functional Plan. Durham needed to take actions to complete these requirements apart from the following:

- Restricting large-scale retail uses as required by Metro Code 3.07.420.

Target Capacities: Durham reached 93 percent of its dwelling unit target capacity. The City has Inner Neighborhood and Employment Area design types.



**Outstanding Items: Minimum Density, Parking Standards.**

Action: Staff is working with Durham staff to resolve these outstanding items.

**The City of Fairview:**

The City is in compliance with Titles 1 through 6 of the Functional Plan. Fairview needed to take actions to complete these requirements apart from the following:

- Minimum densities in Fairview Village as required by Metro Code 3.07.120.A.
- Partitioning standards as required by Metro Code 3.07.120.B.
- Accessory dwelling units in Fairview Village as required by Metro Code 3.07.120.C.
- Blended parking ratios in Fairview Village as required by Metro Code 3.07.220.A.
- Parking maximums in Fairview Village as required by Metro Code 3.07.220.A.

Target Capacities: Fairview has met its target capacities.

**Outstanding Items: None****The City of Forest Grove:**

The City is in compliance with Titles 1 through 6 of the Functional Plan. Fairview needed to take actions to complete these requirements apart from the following:

- Partitioning standards required by Metro Code 3.07.120.B.

Target Capacities: Forest Grove has met its target capacities.

**Outstanding Items: None****The City of Gladstone:**

The City is in compliance with Titles 1 through 6 of the Functional Plan. Gladstone needed to take actions to complete all requirements of the Functional Plan.

Target Capacities: Gladstone has met its target capacities.

**Outstanding Items: None****The City of Gresham:**

The City is in compliance with all requirements of the Functional Plan. The City has demonstrated substantial compliance with the minimum parking standards for single family dwelling units. Gresham needed to take actions to complete these requirements apart from the following:

- Partitioning standards as required by Metro Code 3.07.120.B.
- Accessory dwelling units as required by Metro Code 3.07.120.C.
- Minimum parking requirements for single family dwelling units as described in Table 3.07-2.

Target Capacities: Gresham has met its target capacities. The City accepted a portion of Multnomah County's target and a portion of the target for the Pleasant Valley area.

**Outstanding Items: None**



**The City of Happy Valley:**

The City is in compliance with Titles 1 through 6 of the Functional Plan. Happy Valley needed to take actions to complete these requirements apart from the following:

- Partitioning standards as required by Metro Code 3.07.120.B.
- Accessory dwelling units as required by Metro Code 3.07.120.C.

Target Capacities: Happy Valley has reached 29 percent of its job target capacity. With no commercially zoned lands within the 1996 City boundary, Happy Valley's primary source of jobs was home based occupations and civic employment. In order to increase employment opportunities, voters were asked if the City should permit commercial uses in the area adjacent to the City Hall or annex lands for commercial purposes. The voters choose annexation of the Rock Creek area and portions of Sunnyside Road. While these areas came with job capacity targets, Happy Valley increased the zoning capacity and established a mixed-use area. In addition, Happy Valley has taken the target capacity for former Urban Reserves Nos. 14 and 15.

**Outstanding Items: None****Hillsboro:**

The City is in compliance with Titles 1 through 6 of the Functional Plan. Hillsboro needed to take actions to complete these requirements apart from the following:

- Minimum densities in Station Communities as required by Metro Code 3.07.120.A.
- Partitioning standards as required by Metro Code 3.07.120.B.
- Accessory dwelling units in Station Communities as required by Metro Code 3.07.120.C.
- Blended parking ratios in Station Communities as required by Metro Code 3.07.220.A.
- Parking maximums in Station Communities as required by Metro Code 3.07.220.A.

Target Capacities: Hillsboro has met its target capacities. In addition, Hillsboro has taken the target capacity for former Urban Reserve No. 55W.

**Outstanding Items: None****Johnson City:**

The City is in compliance with Titles 1 through 6 of the Functional Plan. Johnson City needed to take actions to complete all requirements of the Functional Plan.

Target Capacities: Johnson City has reached 23 percent of its dwelling unit target capacity and 45 percent of its job target capacity. The target capacities were based on an assumption that the City's 47 acres were primarily vacant. In fact, Johnson City is a fully developed mobile home and trailer park with limited opportunities for adding additional dwelling units or jobs.

**Outstanding Items: None****King City:**

The City is in compliance with Titles 1 through 6 of the Functional Plan. King City needed to take actions to complete all requirements of the Functional Plan.



Target Capacities: King City has reached 55 percent of its dwelling unit target capacity. The City has taken the target capacity of former Urban Reserve No. 47.

**Outstanding Items: None**

**City of Lake Oswego:**

The City is in compliance with all requirements of Title 1 through 6 of the Functional Plan apart from the Floodplain Management and the Water Quality Resource Area performance standards of Title 3. Lake Oswego needed to take actions to complete all requirements of the Functional Plan apart from the following:

- Partitioning standards as required by Metro Code 3.07.120.B.
- Variances for parking standards as allowed by Metro Code 3.07.220.A.

Target Capacities: Lake Oswego reached 96 percent of its dwelling unit target capacity. The City accepted a portion of Clackamas County's target capacities. Lake Oswego increased zoned capacity in its downtown and in the Lake Grove Town Center. The City is planning to expand the downtown to an underutilized industrial site along the Willamette River.

**Outstanding Items: Floodplain Management and Water Quality Resource Areas Performance Standards**

Action: The City Council is scheduled to hear the Floodplain Management Performance Standards in January 2003. The City has expressed the intent to seek an extension to complete the Water Quality Resource Area Performance Standards. As no further extensions will be granted, Metro staff will work with City staff to begin work on a possible exception request.

**City of Maywood Park:**

The City is in compliance with Titles 1 through 6 of the Functional Plan. Maywood Park needed to take actions to complete all requirements of the Functional Plan that were applicable to the City. The City has no floodplains, streams or wetlands (Title 3), no Industrial or Employment Areas (Title 4) and no streets designated as "Regional" (Title 6) within its boundaries.

Target Capacities: Maywood Park has reached 44 percent of dwelling unit target capacity. The City has an Inner Neighborhood designation and almost fully built out in the 1950's with limited opportunity to increase its capacity.

**Outstanding Items: None**

**The City of Milwaukie:**

The City is in compliance with Titles 1 through 6 of the Functional Plan apart from the Title 3, Water Quality Resource Areas Performance Standards. Milwaukie needed to take actions to complete all requirements of the Functional Plan apart from the following:

- a number of the parking maximums as required by Metro Code 3.07.220
- consideration of Regional Street Design Guidelines as required by Metro Code 3.07.620

Target Capacities: Milwaukie reached 91 percent of its dwelling unit target capacity and 49 percent of its jobs target capacity. The City increased densities in its downtown and



planned for a main street along King Rd. Milwaukie is currently undergoing a study of its north industrial area to look for additional employment capacity.

**Outstanding Items: Water Quality Resource Areas Performance Standards**

Action: The City Council is scheduled to hear this matter on December 17, 2002. If the standards are adopted at this time, no further action is needed. As no further extensions will be granted, if the City Council does not adopt the performance measures, Metro staff will work with City staff to begin work on a possible exception request.

**City of Oregon City:**

The City is in compliance with Titles 2, 3, 4 and 6 of the Functional Plan. The City needs to adopt minimum density standards for developments other than Planned Unit Developments, to permit accessory dwelling units and adopt a policy regarding Green Corridors. Oregon City needed to take action, or is taking action, to complete all requirements of the Functional Plan apart from the following:

- Planned Unit Developments are required to be developed to at least 80% of the maximum density.
- Large-scale retail uses are not permitted in areas designated as Industrial or Employment Areas on the Title 4 map.

Target Capacities: Oregon City reached 75 percent of jobs target capacity. The City accepted some of Clackamas County's target capacity. Oregon City has increased its zoning in its downtown and throughout the City, certain areas have been up-zoned from single family to multi-family designations.

**Outstanding Items: Minimum Densities, Accessory Dwelling Units, Title 5 Green Corridor policy**

Action: The Planning Commission has begun hearing on these matters. The hearings are scheduled to continue into 2003. There has not been a City Commission hearing scheduled. As no further extensions will be granted, Metro staff will work with City staff to begin work on a possible exception request.

**City of Portland:**

The City is in compliance with Titles 1 through 6 of the Functional Plan. Portland needed to take actions to complete all requirements of the Functional Plan apart from the following:

- Partitioning standards as required by Metro Code 3.07.120.B.
- Accessory dwelling units as required by Metro Code 3.07.120.C.
- Water Quality Resource Area performance standards on the tributaries of the Willamette River as required by Metro Code 3.07.340.B.

The City was found to be in substantial compliance the Metro Code 3.07.130 requirement to delineate design type boundaries. Portland has many mixed-use design types including the Central City, Gateway Regional Center, Hillsdale, West Portland, St. Johns, Hollywood, and Lents Town Centers, Station Communities along the east and west light rail line, the Interstate light rail line and the Airport light rail line and over 100 miles of main streets.

Planning for the Central City, Gateway, Hollywood, Lents and Hillsdale Town Centers have been completed as well as the planning for the station communities on all light rail



lines. Many of the main streets are included in the planning work undertaken for various districts within the City. The transit street classification and street design decisions of the City's current Transportation System Plan update will inform a final determination of the remaining main street boundaries and any corridors not already defined. The City has mapped its Employment and Industrial Areas as well as its neighborhood designations.

The remaining tasks are to identify boundaries for the St. Johns and West Portland Town Center. The City is undertaking the planning for the St. Johns Town Center. Based on the amount of work completed and currently underway to address this requirement of the Functional Plan and the City's clear intention to meet this requirement, Metro staff agreed that the City is in substantial compliance with Metro Code 3.07.130. In addition, the City has provided data to map the design types for Metro's modeling purposes, including generalized study areas for the St. Johns and West Portland Town Centers.

Target Capacities: Portland has met its target capacities. The City accepted a portion of Multnomah County's target and a portion of the target for the Pleasant Valley area.

**Outstanding Items: None**

**City of Rivergrove:**

The City is in compliance with Titles 1 through 6 of the Functional Plan. The City has no Industrial or Employment Areas (Title 4) and no streets designated as "Regional" (Title 6) within its boundaries. Rivergrove needed to take actions to complete all requirements of the Functional Plan apart from the following:

- Partitioning standards as required by Metro Code 3.07.120.B.
- Accessory dwelling units as required by Metro Code 3.07.120.C.

Target Capacities: Rivergrove reached 0 percent of its job capacity. The City is entirely zoned for residential uses.

**Outstanding Items: None**

**City of Sherwood:**

The City is in compliance with Titles 1 through 6 of the Functional Plan apart from submitting its final design type map as required by Metro Code 3.07.130. Sherwood needed to take actions to complete all requirements of the Functional Plan.

Target Capacities: Sherwood has met its target capacities.

**Outstanding Items: final elements of the design type map**

Action: Metro staff is working with City staff to complete this map by December 2002.

**City of Tigard:**

The City is in compliance with Titles 1 through 6 of the Functional Plan. Tigard needed to take actions to complete all requirements of the Functional Plan apart from the following:

- Partitioning standards as required by Metro Code 3.07.120.B.
- Accessory dwelling units as required by Metro Code 3.07.120.C.



Target Capacities: Tigard has met its target capacities.

**Outstanding Items: None**

**City of Troutdale:**

The City is in compliance with Titles 1 through 6 of the Functional Plan. Troutdale needed to take actions to complete all requirements of the Functional Plan apart from the following:

- Partitioning standards as required by Metro Code 3.07.120.B.
- Variances for parking standards as allowed by Metro Code 3.07.220.A.

Target Capacities: Troutdale reached 86 percent of its housing target capacity. The City increased its zoned capacity in its historic downtown and invested in efforts to enhance the main street.

**Outstanding Items: None**

**City of Tualatin:**

The City is in compliance with Titles 1 through 6. Tualatin needed to take actions to complete all requirements of the Functional Plan apart from the following:

- Partitioning standards as required by Metro Code 3.07.120.B.

Target Capacities: Tualatin has met its target capacities.

**Outstanding Items: None**

**City of West Linn:**

The City is in Compliance with Titles 1, 2, 4, 5 and 6. The City is completing compliance with Title 3. West Linn needed to take actions to complete all requirements of the Functional Plan apart from the following:

- minimum densities as required by Metro Code 3.07.120.A
- Partitioning standards as required by Metro Code 3.07.120.B.
- Blended parking ratios as required by Metro Code 3.07.220.A.
- Variances for parking standards as allowed by Metro Code 3.07.220.A.

Target Capacities: West Linn has met its target capacities. The City accepted a portion of Clackamas County's target capacity.

**Outstanding Items: Water Quality Resource Areas Performance Standards**

Action: West Linn has indicated that this work will not be completed by December 2002. As no further extensions will be granted, Metro staff will work with City staff to begin work on a possible exception request.

**City of Wilsonville:**

The City is in compliance with Titles 1 through 6 apart from undertaking a capacity analysis as required by Metro Code 3.07.150 and consideration of Regional Street Design Guidelines as required by Metro Code 3.07.620. Wilsonville needed to take actions to complete all requirements of the Functional Plan.



Target Capacities: Wilsonville has not completed its capacity analysis. The target capacities in the 1996 Table 3.07-1 were carried forward to the revised Table included as Exhibit A of Ordinance No. 02-969.

**Outstanding Items: Capacity Analysis, Regional Street Design Guidelines**

Action: The City is continuing to work on these two items but final hearing dates have not been set. If the City is able to complete these requirements by December 2002, no further action is needed. As no further extensions will be granted, if the City Council does not meet this timeframe, Metro staff will work with City staff to begin work on a possible exception request.

**City of Wood Village:**

The City is in compliance with Titles 1 through 6. Wood Village needed to take actions to complete all requirements of the Functional Plan apart from the following:

- minimum densities in the Town Center as required by Metro Code 3.07.120.A
- Partitioning standards as required by Metro Code 3.07.120.B.
- Parking maximums and minimums in the Town Center Village as required by Metro Code 3.07.220.A.

Target Capacities: Wood Village has met its target capacities.

**Outstanding Items: None**

**Clackamas County:**

The County is in compliance with Titles 1 through 6 apart from the requirements of the Water Quality Resources Area performance measures in one area of the County. Clackamas County needed to take actions to complete all requirements of the Functional apart from the following:

- Partitioning standards as required by Metro Code 3.07.120.B.
- Variances for parking standards as allowed by Metro Code 3.07.220.A.

Target Capacities: Clackamas County reached 93 percent of its dwelling unit target capacity and 84 percent of its jobs target capacity. Clackamas County has apportioned a part of its target capacities to the Cities of Lake Oswego, Oregon City and West Linn. In its planning for the Clackamas Regional Center, the County increased zoning in the Regional Center.

**Outstanding Items: Water Quality Resource Areas Performance Standards for wetlands in Lake Grove portion of the County.**

Action: The hearing for this final piece of Title 3 compliance has been scheduled for Planning Commission in January and the Board of Commissioners in March. Metro staff will monitor the progress, if necessary Metro staff will work with City staff to begin work on a possible exception request.

**Multnomah County:**

The County is in compliance with Title 6 and is in final hearings for Title 3 outside of the UGB but inside of the Metro jurisdictional boundary. Multnomah County has signed IGA's with Portland and Troutdale and is in the process of signing an IGA with Gresham. The Cities will be providing urban services to the unincorporated county within the UGB.



As the three cities are in compliance with the requirements of Titles 1 through 5 of the Functional Plan, the signing of the IGA's will bring the County into compliance as well.

Target Capacities: Multnomah County has apportioned its target capacities to the Cities of Portland, Gresham and Troutdale. The County is moving away from the provision of urban services.

**Outstanding Items – Title 3 for the area inside the Metro jurisdictional boundary but outside of the Urban Growth Boundary, east of the Sandy River.**

Action: The Third Reading is scheduled for December 5, 2002 and the provisions will come into effect on January 1, 2003. Finalization of the IGA's with the Cities of Troutdale, Gresham and Portland is ongoing and will bring the County into compliance with the remaining elements of the Functional Plan.

**Washington County:**

The County is in compliance with Titles 1 through 6 of the Functional Plan. Washington County needed to take actions to complete all requirements of the Functional Plan apart from the following:

- Partitioning standards as required by Metro Code 3.07.120.B.
- Accessory dwelling units as required by Metro Code 3.07.120.C.
- Large-scale retail uses are not permitted in areas designated as Industrial or Employment Areas on the Title 4 map.

Target Capacities: Washington County reached 94 percent of its dwelling unit capacity target. The County increased the zoned capacities in the town centers and station communities within the unincorporated areas.

**Outstanding Items: None**

**EVALUATION OF THE IMPLEMENTATION OF THE FUNCTIONAL PLAN**

This is the first Compliance Report required by Metro Code 3.07.880. To date, the region has reached a compliance rate of 93 percent.

Compliance with the Functional Plan contributes toward achievement of the 2040 Growth Concept and efficient use of land within the region. Evaluation of compliance is a prerequisite to the region's response to the mandates of state law in ORS 197.296 and 197.299. Those statutes require Metro to determine the capacity of the urban growth boundary to accommodate housing and employment every five years and to take measures to ensure that they can be accommodated. Metro has recently completed this capacity analysis as part of its periodic review program.

Part of the capacity analysis is to gauge actual development patterns in the years since the last periodic review. If the patterns (density, housing mix, etc.) of the past, when projected into the future, are not sufficient to satisfy housing needs of the future, then ORS 197.296(5) requires the region to take new measures to increase capacity in the region. Measures to increase capacity can include expansion of the urban growth boundary, actions to increase the yield from land within the boundary, or a combination of measures. The Functional Plan contains measures that increase the yield from land within the boundary. These measures include setting minimum densities, increasing zoned capacities for dwelling units and jobs, permitting accessory dwelling units,



permitting portioning of lots at least twice the size of the minimum lot size and limiting the amount of land dedicated to parking.

If the jurisdictions in the region do not implement the efficiency measures in the Functional Plan, not only will the region use land less efficiently, but also the region will also not know whether Functional Plan measures would be successful. As a result, the region would lose much of its flexibility to respond to the requirements of ORS 197.296. The region would have to undertake new measures. New measures would likely include significant expansion of the urban growth boundary and others more daunting than the measures in the Functional Plan.

As the jurisdictions are implementing the measures of the Functional Plan, and the region wide capacity targets have been met; the region retains the flexibility under state law to continue its course toward achievement of the 2040 Growth Concept.

### **NEXT STEPS**

Metro staff will continue to work with the jurisdictional staff as compliance efforts are completed. The Cities of Durham, Lake Oswego, Milwaukie, Oregon City, Sherwood, West Linn and Wilsonville and Clackamas and Multnomah Counties have outstanding compliance issues. Apart from Durham, these jurisdictions were granted time extensions to complete the remaining compliance work. As a condition of these extensions, the jurisdictions are required to submit quarterly status reports. The final status report is due on December 31, 2002. Once these have been reviewed, staff will have a better understanding of which jurisdictions will need to request exceptions.



## Status of Compliance by Jurisdiction - 2002

### Title 1: Housing and Employment Accommodation

	2.A minimum density	2.B partitioning standards	2.C accessory dwelling units	3.A map of design types	5.A capacity analysis
Beaverton	in compliance	in compliance	in compliance	in compliance	housing, employment low
Cornellius	in compliance	in compliance	in compliance	in compliance	in compliance
Durham	<b>exception requested</b>	in compliance	in compliance	in compliance	housing low
Fairview	in compliance	in compliance	in compliance	in compliance	in compliance
Forest Grove	in compliance	in compliance	in compliance	in compliance	in compliance
Gladstone	in compliance	in compliance	in compliance	in compliance	in compliance
Gresham	in compliance	in compliance	in compliance	in compliance	in compliance
Happy Valley	in compliance	in compliance	in compliance	in compliance	employment low
Hillsboro	in compliance	in compliance	in compliance	in compliance	in compliance
Johnson City	in compliance	in compliance	in compliance	in compliance	housing low employment low
King City	in compliance	in compliance	in compliance	in compliance	housing low
Lake Oswego	in compliance	in compliance	in compliance	in compliance	in compliance
Maywood Park	in compliance	in compliance	in compliance	in compliance	housing low, employment low
Milwaukie	in compliance	in compliance	in compliance	in compliance	housing low, employment low
Oregon City	<b>extension to 12/02</b>	in compliance	<b>extension to 12/02</b>	in compliance	employment low
Portland	in compliance	in compliance	in compliance	in compliance	in compliance
Rivergrove	in compliance	in compliance	in compliance	in compliance	employment low
Sherwood	in compliance	in compliance	in compliance	<b>due 12/00</b>	in compliance
Tigard	in compliance	in compliance	in compliance	in compliance	in compliance
Troutdale	in compliance	in compliance	in compliance	in compliance	housing low
Tualatin	in compliance	in compliance	in compliance	in compliance	in compliance
West Linn	in compliance	in compliance	in compliance	in compliance	in compliance
Wilsonville	in compliance	in compliance	in compliance	<b>extension to 09/02</b>	<b>extension to 09/02</b>
Wood Village	in compliance	in compliance	in compliance	in compliance	in compliance
Clackamas C.	in compliance	in compliance	in compliance	in compliance	housing low, employment low
Multnomah C.	<b>see Note 2</b>	<b>see Note 2</b>	<b>see Note 2</b>	<b>see Note 2</b>	targets to Portland Gresham, Troutdale
Washington C.	in compliance	in compliance	in compliance	in compliance	housing low

**NOTE 2:** Multnomah County is signing IGA's with Gresham, Portland and Troutdale and will come into compliance with Title 1 once these are in place.



	Title 2: Regional Parking Policy		
	2.A.1&2 Minimum/Maximum standards	2.A.3 Variance Process	2.B Blended Ratios
Beaverton	in compliance	in compliance	in compliance
Cornelius	in compliance	in compliance	in compliance
Durham	<b>exception requested to minimum need exception to maximum standards</b>	<b>need exception</b>	<b>need exception</b>
Fairview	in compliance	in compliance	in compliance
Forest Grove	in compliance	in compliance	in compliance
Gladstone	in compliance	in compliance	in compliance
Gresham	in compliance	in compliance	in compliance
Happy Valley	in compliance	in compliance	in compliance
Hillsboro	in compliance	in compliance	in compliance
Johnson City	in compliance	in compliance	in compliance
King City	in compliance	in compliance	in compliance
Lake Oswego	in compliance	in compliance	in compliance
Maywood Park	in compliance	in compliance	in compliance
Milwaukie	in compliance	in compliance	in compliance
Oregon City	in compliance	in compliance	in compliance
Portland	in compliance	in compliance	in compliance
Rivergrove	in compliance	in compliance	in compliance
Sherwood	in compliance	in compliance	in compliance
Tigard	in compliance	in compliance	in compliance
Troutdale	in compliance	in compliance	in compliance
Tualatin	in compliance	in compliance	in compliance
West Linn	in compliance	in compliance	in compliance
Wilsonville	in compliance	in compliance	in compliance
Wood Village	in compliance	in compliance	in compliance
Clackamas County	in compliance	in compliance	in compliance
Multnomah County	<b>see note</b>	<b>see note</b>	<b>see note</b>
Washington County	in compliance	in compliance	in compliance

**NOTE:** Multnomah County is signing IGA's with Gresham, Portland and Troutdale and will come into compliance with Title 2 once these are in place.



	<b>Title 3: Water Quality, Flood Mgmt and Fish and Wildlife Conservation</b>		
	4.A Flood Mgmt Performance Standards	4.B Water Quality Performance	4.C Erosion and Sediment Control
Beaverton	in compliance	in compliance	in compliance
Cornelius	in compliance	in compliance	in compliance
Durham	in compliance	in compliance	in compliance
Fairview	in compliance	in compliance	in compliance
Forest Grove	in compliance	in compliance	in compliance
Gladstone	in compliance	in compliance	in compliance
Gresham	in compliance	in compliance	in compliance
Happy Valley	in compliance	in compliance	in compliance
Hillsboro	in compliance	in compliance	in compliance
Johnson City	in compliance	in compliance	in compliance
King City	in compliance	in compliance	in compliance
Lake Oswego	<b>extension to 12/02</b>	<b>extension to 12/02</b>	in compliance
Maywood Park	N/A	N/A	in compliance
Milwaukie	in compliance (see Note 1.)	<b>extension to 10/02</b>	in compliance
Oregon City	in compliance	in compliance	in compliance
Portland	in compliance	in compliance	in compliance
Rivergrove	in compliance	in compliance	in compliance
Sherwood	in compliance	in compliance	in compliance
Tigard	in compliance	in compliance	in compliance
Troutdale	in compliance	in compliance	in compliance
Tualatin	in compliance	in compliance	in compliance
West Linn	in compliance	<b>extension to 12/02</b>	in compliance
Wilsonville	in compliance	in compliance	in compliance
Wood Village	N/A	in compliance	in compliance
Clackamas County	in compliance	<b>extension to 12/02</b>	in compliance
Multnomah County	<b>see note 2</b>	<b>see note 2</b>	<b>see note 2</b>
Washington County	in compliance	in compliance	in compliance

**Note:** 1. Milwaukie will address prohibition of uncontained hazardous matter in WQRA compliance.

2. The County will be in compliance for the urban area once IGA's have been signed with Gresham, Portland and Troutdale and Gresham and Portland have completed their Title 3 work; the County has requested a time extension to June 2002 to complete the work for the rural areas inside the Metro Boundary.



	Title 4: Retail in Employment and Industrial Areas		Title 5: Neighbor Cities and Rural Reserves	
	2.A Retail Restrictions - Industrial Areas	2.B Retail Restrictions - Employment Areas	2. Rural Reserves	2. Green Corridors
Beaverton	in compliance	in compliance	N/A	N/A
Cornelius	in compliance	in compliance	N/A	N/A
Durham	in compliance	in compliance	N/A	N/A
Fairview	in compliance	in compliance	N/A	N/A
Forest Grove	in compliance	in compliance	N/A	N/A
Gladstone	N/A	in compliance	N/A	N/A
Gresham	in compliance	in compliance	N/A	in compliance
Happy Valley	N/A	N/A	N/A	N/A
Hillsboro	in compliance	in compliance	N/A	in compliance
Johnson City	N/A	N/A	N/A	N/A
King City	N/A	N/A	N/A	N/A
Lake Oswego	in compliance	in compliance	N/A	N/A
Maywood Park	N/A	N/A	N/A	N/A
Milwaukie	in compliance	in compliance	N/A	N/A
Oregon City	in compliance	in compliance	N/A	<b>extension to 12/02</b>
Portland	in compliance	in compliance	N/A	N/A
Rivergrove	N/A	N/A	N/A	N/A
Sherwood	in compliance	in compliance	N/A	in compliance
Tigard	in compliance	in compliance	N/A	N/A
Troutdale	in compliance	in compliance	N/A	N/A
Tualatin	in compliance	in compliance	N/A	in compliance
West Linn	N/A	in compliance	N/A	in compliance
Wilsonville	in compliance	in compliance	N/A	in compliance
Wood Village	in compliance	in compliance	N/A	N/A
Clackamas County	in compliance	in compliance	in compliance	in compliance
Multnomah County	<b>see note</b>	<b>see note</b>	N/A	<b>see note</b>
Washington County	in compliance	in compliance	in compliance	in compliance

**NOTE:** Multnomah County is signing IGA's with Gresham, Portland and Troutdale and will come into compliance with Green Corridor provisions of Title 5 once these are in place and Gresham has completed its work.



	<b>Title 6: Regional Accessibility</b>	
	2. Regional Street Designs	3. Design Standards for Connectivity
Beaverton	in compliance	in compliance
Cornelius	in compliance	in compliance
Durham	in compliance	in compliance
Fairview	in compliance	in compliance
Forest Grove	in compliance	in compliance
Gladstone	in compliance	in compliance
Gresham	in compliance	in compliance
Happy Valley	in compliance	in compliance
Hillsboro	in compliance	in compliance
Johnson City	in compliance	in compliance
King City	in compliance	in compliance
Lake Oswego	in compliance	in compliance
Maywood Park	in compliance	in compliance
Milwaukie	in compliance	in compliance
Oregon City	in compliance	in compliance
Portland	in compliance	in compliance
Rivergrove	in compliance	in compliance
Sherwood	in compliance	in compliance
Tigard	in compliance	in compliance
Troutdale	in compliance	in compliance
Tualatin	in compliance	in compliance
West Linn	in compliance	in compliance
Wilsonville	<b>extension to 09/02</b>	in compliance
Wood Village	in compliance	in compliance
Clackamas County	in compliance	in compliance
Multnomah County	in compliance	in compliance
Washington County	in compliance	in compliance

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**ANNUAL URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN COMPLIANCE REPORT**  
**December 2002**  
**Title 7 (Affordable Housing)**

**INTRODUCTION**

This compliance report is for the first Title 7 reporting period, January 19, 2001 to January 18, 2002. Nine of the twenty-seven jurisdictions submitted their reports between January and November 2002.

**REPORT REQUIREMENTS AND CONTENTS OF THE REPORT**

Metro Code Section 3.07.880.A requires that this report include the following:

- An accounting of compliance with each requirement of the functional plan by each city and county in the district.
- A recommendation for action that would bring a city or county into compliance with the functional plan requirement and shall advise the city or county whether it may seek an extension pursuant to section 3.07.850 or an exception pursuant to section 3.07.860.
- An evaluation of the implementation of the Functional Plan and its effectiveness in helping achieve the 2040 Growth Concept.

This report includes four elements:

- 1) An Overall Compliance Summary (a brief overview of requirements and compliance);
- 2) Evaluation Issues (a discussion of code interpretation and evaluation issues);
- 3) Compliance Report Details (an in-depth description of individual city or county reports)
- 4) Compliance Matrix (a one page table that summarizes compliance for each city or county)

**OVERALL COMPLIANCE SUMMARY – Title 7**

Following is a summary of Title 7 requirements and an overall summary of compliance:

*A. Metro Code 3.07.720: Adoption of voluntary affordable housing production goals.*

The City of Gresham adopted a city affordable housing goal in 2000 as part of its Consolidated Plan required by the US Department of Housing and Urban Development (HUD). The goal is lower than Metro's, it is for a different time period (2000-2005 instead of 2001-2006), and a portion of their goal is not targeted to the income segment (50 percent of median household income or less) that the Metro Council adopted in Title 7

The eight remaining jurisdictions that submitted reports did not adopt the voluntary affordable housing production goals. Beaverton's comprehensive plan was updated to generally acknowledge Metro's affordable housing goals for the city, but the numerical target was not added. The Tigard City Council has twice debated the efficacy of setting a voluntary goal but have not taken action. Clackamas County will consider adoption of the goal in 2003. Washington County staff recommended that the Board of County Commissioners consider inclusion of the voluntary goal as a target. However, to date, no action was taken by the Board.



- B. Metro Code 3.07.730.A: Including diversity strategies, and measures to maintain the existing supply, increase new dispersed affordable housing and increase affordable housing opportunities for household of all income levels in the comprehensive plan and implementing ordinances.*

Portland, Tigard, Tualatin, Clackamas and Washington Counties reported having existing strategies in their comprehensive plans and implementing ordinances addressing diversity and the measures in the Code above. However, no new initiatives since January 2001 were reported by these cities or counties. Below is a discussion of whether the Metro Council should count existing strategies as meeting compliance.

- C. Metro Code 3.07.730.B: Amendment of comprehensive plan and implementing ordinances with density bonus, replacement housing, inclusionary housing, transfer of development rights, elderly and people with disabilities, local regulatory constraints, and parking tools and strategies.*

Gresham reported that it has completed consideration of all of the six strategies, adopting four and declining two. The other eight jurisdictions that submitted reports did not indicate new strategies and/or complete consideration of any of the strategies. Beaverton, Hillsboro, Portland, Tigard, Tualatin, Clackamas and Washington County did include listing existing strategies already implemented that address density bonus and the other strategies listed above. As noted above, staff have requested Metro Council determination of whether existing regulations should be counted as compliance. .

- D. Metro Code 3.07.760: Implementation of other affordable housing strategies, including replacement housing resulting from urban renewal, inclusionary housing in urban renewal districts, non-land use tools such as fee waivers or funding incentives, promotion of affordable housing for incomes 50% to 120% of the regional median household income, joint coordination or action to meet the affordable housing production goals.*

All the jurisdictions reported having some other affordable housing strategies, including the five listed in the Functional Plan.

## **EVALUATION ISSUES – Titles 7**

As mentioned earlier, this is the first affordable housing compliance report required by Title 7.

Compliance with the Title 7 of the Functional Plan contributes to the overall livability of the region. The positive affects of affordable housing include lowering or holding steady the cost of doing business, increased employee productivity, household stability, and complete communities while accommodating people of all ages, physical conditions and income. Although evaluation of compliance is necessary for determining the region's commitment to continue to improve livability of the region, the exercise of evaluating local government compliance reports revealed how challenging it is for Metro to judge the efforts of local governments affordable housing efforts.

Title 7 requires local governments to ensure that their comprehensive plan and implementing ordinances include diversity strategies, measures to maintain the existing supply as well as increase the opportunities for new dispersed affordable housing within their boundaries, and measures aimed at increasing opportunities for household of all income levels to live within their



jurisdiction. Metro staff are unclear how to evaluate the related policies in the comprehensive plan that is reported.

Another area that needs clarification is the requirement of jurisdictions to "consider" amendment of their comprehensive plan and implementing ordinances with strategies such as density bonus, replacement housing inclusionary housing, and elderly and people with disabilities housing. The Functional Plan also stated that "compliance with this subsection is achieved when a city or county undertakes and completes its consideration of the plan or ordinance amendment". The Functional Plan further states that the "requirement to consider" means that local government shall report what actions were taken or not taken in order to carry out comprehensive plan policies, and also report on tools considered but not adopted, and why these tools were not adopted. The time frame for this consideration is not completely clear. Metro staff have assumed that the spirit and intent of this language was to have cities and counties in the region complete this consideration after the adoption of Title 7. That is, that current efforts had not proved to be sufficient and that Metro was looking for additional, new local affordable housing efforts, not recitation of existing local policies or regulations,

In addition, it was not clear who at the local jurisdiction would be sufficient to comply with the requirement to consider. For example, some reports indicated that the local elected body discussed and reviewed the reports while other reports indicated that the local elected body did not review nor discuss the local staff report before sending it to Metro. It is therefore unclear how to evaluate the completeness of a jurisdiction consideration or the action taken.

Accordingly, Metro staff recommends that the Metro Council determine the appropriate interpretation of section 3.07.730 C (the definition of "requirement to consider") and that the following be used:

"Metro will conclude that a jurisdiction has completed consideration of a Title 7 element requiring consideration when after January, 2001, the elected body of the jurisdiction has adopted an ordinance that changes the jurisdiction's comprehensive plan and implementing ordinance(s) in a manner that addresses affordable housing in the jurisdiction, and/or the elected body of the jurisdiction has adopted a resolution or has approved a letter from the chief elected official from that jurisdiction to the Metro Council stating a reason or reasons why they considered a specific affordable housing strategy but did not adopt the strategy into the comprehensive plan and implementing ordinance."

The 2001 to 2006 affordable housing production goals are probably one of the clearest measure of local efforts. Of the nine reporting jurisdictions, eight did not adopt any voluntary affordable housing goals. The ninth, the City of Gresham, indicated that there were formidable obstacles to local achievement of affordable housing and therefore declined to adopt the regional recommended goal. However, they did adopt in 2000 a lesser goal as part of the City's Consolidated Plan required by HUD. The goal provide assistance to fewer numbers of affordable housing units and is not designed to meet the income levels of those judged by Metro to be most in need. Title 7 only recommends adoption of affordable housing goals. Hence, there is no direct compliance issue with regard to these targets. Metro staff have simply noted that a lesser goal was set. Is this an interpretation acceptable to the Metro Council?



## SUMMARY OF COMPLIANCE – Title 7

Following is a summary of compliance for each jurisdiction in alphabetical order organized by the requirements shown in *italic*.

### Beaverton

*A. Metro Code 3.07.720: Adoption of voluntary affordable housing production goals.*

The City report stated that a new housing element in its comprehensive plan amended in 2001 discussed and acknowledged Metro affordable housing production goals for the city. However, the city has not adopted a specific goal or Metro's recommended voluntary affordable housing production goals.

*B. Metro Code 3.07.730.A: Including diversity strategies, and measures to maintain the existing supply, increase new dispersed affordable housing and increase affordable housing opportunities for household of all income levels in the comprehensive plan and implementing ordinances.*

The City did not report any existing or new strategies in its comprehensive plan and implementing ordinances addressing diversity of affordable housing, measures to maintain the existing supply, measures to increase new dispersed affordable housing, and measures to increase affordable housing opportunities for household of all income levels.

*C. Metro Code 3.07.730.B: Amendment of comprehensive plan and implementing ordinances with density bonus, replacement housing, inclusionary housing, transfer of development rights, elderly and people with disabilities, local regulatory constraints, and parking tools and strategies.*

The city reported the following:

Existing Strategies: The City report did not indicate that any of the above seven strategies was implemented through its comprehensive plan and implementing ordinances prior to the adoption of Title 7 of the Functional Plan in January 2001.

Discussed Strategies: The City report discussed how it intends to consider these strategies for implementation. For example: 1) the report stated questions that the City intends to answer about application of the density bonus strategy; 2) for the elderly and people with disabilities housing strategy, the report stated that the City "has structured its zoning in order to place high density residential development near transit amenities in areas appropriate for these population"; 3) in regards to local regulatory constraints strategy, it stated that reviewing the Code for the impacts of regulatory constraints on affordable housing will be a major task.

Considered Strategies: The report did not indicate that the City has completed its consideration of the comprehensive plan and implementing ordinance amendment with regards to the implementation of the seven strategies.

*D. Metro Code 3.07.760: Implementation of other affordable housing strategies, including replacement housing resulting from urban renewal, inclusionary housing in urban renewal districts, non-land use tools such as fee waivers or funding incentives, promotion of*



*affordable housing for incomes 50% to 120% of the regional median household income, joint coordination or action to meet the affordable housing production goals.*

Several tools and strategies currently in use or that are formally being considered by the City's comprehensive plan are: 1) use of federal funds to assist community housing development organizations; 2) housing rehabilitation with federal funds; 3) supporting infrastructure development for existing affordable housing with federal funds; 4) permit fee waiver; 5) provision that permit accessory dwelling unit (required by Title 1 of the Functional Plan) that typically consist smaller affordable housing units; 6) provision of manufactured housing in all zones that allow single family housing; 7) public education strategy for affordable housing; 8) land banking for affordable housing; 9) discretionary fund to pay various fee and system development charges for affordable housing.

***Other Information Provided:***

The City reported its intention to conduct sufficient research of the cost/benefit aspects of the affordable housing tools. These results will be provided in the second report to Metro in June 2003 and the third report in April 2004.

**Outstanding Items:**

1. Adoption of the voluntary affordable housing production goals
2. Including diversity strategies, measures to maintain the existing supply, measures to increase new dispersed affordable housing, and measures to increase affordable housing opportunities for household of all income levels in the comprehensive plan and implementing ordinance.
3. Consideration of the amendment of comprehensive plan and implementing ordinance amendment with the seven land use strategies.
4. Consideration of other affordable housing strategies, including the five listed in Title 7 of the Functional Plan.

**Cornelius**

- The City has not submitted the first progress report due on January 18, 2001 (Metro Code 3.07.740).

**Outstanding Items:** All requirements yet to be addressed.

**Durham**

- The City has not submitted the first progress report due on January 18, 2001 (Metro Code 3.07.740).

**Outstanding Items:** All requirements yet to be addressed.

**Fairview**

- The City has not submitted the first progress report due on January 18, 2001 (Metro Code 3.07.740).



**Outstanding Items:** All requirements yet to be addressed.

### **Forest Grove**

- The City has not submitted the first progress report due on January 18, 2001 (Metro Code 3.07.740).

**Outstanding Items:** All requirements yet to be addressed.

### **Gladstone**

- The City has not submitted the first progress report due on January 18, 2001 (Metro Code 3.07.740).

**Outstanding Items:** All requirements yet to be addressed.

### **Gresham**

The City's report stated that the report was reviewed and unanimously approved by its Planning Commission (January 14, 2002), Community Development and Housing Committee (December 13, 2001), and City Council (January 22, 2002).

*A. Metro Code 3.07.720: Adoption of voluntary affordable housing production goals.*

The City reported adoption of housing production goals in its Consolidated Plan for the period, 2000-2005, lower than those in the Functional Plan, Table 3.07-7, and serving population other than those stated in the Functional Plan (with incomes at and below 50 percent of the region's median family income). The City report stated several issues that would have to be addressed for the affordable housing production goals in the functional Plan to be realistic. The report did not, however, indicate who would be responsible for addressing these issues. Some of the issues are the cost of building the units and the impact of adding considerable inventory of below 50% of below the region median family income.

*B. Metro Code 3.07.730.A: Including diversity strategies, and measures to maintain the existing supply, increase new dispersed affordable housing and increase affordable housing opportunities for household of all income levels in the comprehensive plan and implementing ordinances.*

The City did not report any existing or new strategies in its comprehensive plan and implementing ordinances addressing diversity of affordable housing, measures to maintain the existing supply, measures to increase new dispersed affordable housing, and measures to increase affordable housing opportunities for household of all income levels.

*C. Metro Code 3.07.730.B: Amendment of comprehensive plan and implementing ordinances with density bonus, replacement housing, inclusionary housing, transfer of development*



*rights, elderly and people with disabilities, local regulatory constraints, and parking tools and strategies.*

The city reported the following:

*Existing Strategies:* Two of the seven strategies adopted by the City prior to the adoption of Title 7 of the Functional Plan (January 2001) are: 1) use of Community Development Block Grant and HOME funds to help implement voluntary inclusionary housing; and 2) revision of its permitting process over the course of the last two years that reduces building review time, thus reducing development costs.

*Discussed Strategies:* The report stated how the seven strategies were discussed by the City, including how it has not yet considered the possible application of some strategies and how it has considered some tools but did not adopt them.

*Considered Strategies:*

- The City has considered and adopted four of the seven strategies (inclusionary housing, elderly and people with disabilities, local regulatory constraints, and parking).
- The City has considered but not adopted two of the seven strategies (density bonus and replacement housing).
- Three of the six strategies considered and adopted or not adopted by the City were considered after the adoption of Functional Plan Title 7. These strategies are: 1) elderly and people with disabilities; 2) component of regulatory constraints; and 3) parking.

*D. Metro Code 3.07.760: Implementation of other affordable housing strategies, including replacement housing resulting from urban renewal, inclusionary housing in urban renewal districts, non-land use tools such as fee waivers or funding incentives, promotion of affordable housing for incomes 50% to 120% of the region median household income, joint coordination or action to meet the affordable housing production goals.*

The City has considered eight other strategies and adopted five of them. Two of the strategies adopted are in the Functional Plan (transit oriented tax exemption and joint coordination or regional cooperation).

In addition, the City has invested \$1 million federal funds to support the construction of 77 units of affordable special needs housing.

The City has completed consideration of replacement housing and inclusionary housing strategies as stated earlier, and indicated its intention to promote housing affordable to households with incomes of 50% to 120% of the region median family income.

#### **Outstanding Items:**

1. Adoption of the voluntary affordable housing production goals.
2. Including diversity strategies, measures to maintain the existing supply, measures to increase new dispersed affordable housing, and measures to increase affordable housing opportunities for household of all income levels in the comprehensive plan and implementing ordinance.
3. Consideration of the amendment of comprehensive plan and implementing ordinance amendment with the "transfer of development rights" strategy.

#### **Happy Valley**



- The City has not submitted the first progress report due on January 18, 2001 (Metro Code 3.07.740).

**Outstanding Items:** All requirements yet to be addressed.

### Hillsboro

The City's report included a cover letter summarizing the key findings its Hillsboro 2020 Housing Needs Study (November 2000), status of affordable housing in the City and related policies and initiatives, and a timeline for updating its Comprehensive Plan with Functional Plan Title 7 affordable housing policies. Below is an explanation of the City's report as it relates to Title 7 requirements.

*A. Metro Code 3.07.720: Adoption of voluntary affordable housing production goals.*

The City has not adopted the voluntary affordable housing production goals. The City's housing needs study indicated a need for 2,707 affordable housing units for households earning less than 40% of Hillsboro median family income. The Functional Plan voluntary affordable housing production goals for the City is 513 units for the period 2001-2006 for households earning 50% and less of the region median family income.

*B. Metro Code 3.07.730.A: Including diversity strategies, and measures to maintain the existing supply, increase new dispersed affordable housing and increase affordable housing opportunities for household of all income levels in the comprehensive plan and implementing ordinances.*

The City did not report any existing or new strategies in its comprehensive plan and implementing ordinances addressing diversity of affordable housing, measures to maintain the existing supply, measures to increase new dispersed affordable housing, and measures to increase affordable housing opportunities for household of all income levels.

*C. Metro Code 3.07.730.B: Amendment of comprehensive plan and implementing ordinances with density bonus, replacement housing, inclusionary housing, transfer of development rights, elderly and people with disabilities, local regulatory constraints, and parking tools and strategies.*

The city reported the following:

*Existing Strategies:* One of the seven strategies, local regulatory constraints is partially implemented in the City through technical assistance provided to non-profits groups to facilitate and streamline the approval process for affordable housing projects.

*Discussed Strategies:* The report stated that it "will further analyze the feasibility of the seven land use tools" and that within the next two years it "foresees adoption of an updated comprehensive plan which will likely include a number of affordable housing policies."

*Considered Strategies:* The City has not considered adoption of the seven strategies.

*D. Metro Code 3.07.760: Implementation of other affordable housing strategies, including replacement housing resulting from urban renewal, inclusionary housing in urban renewal*



*districts, non-land use tools such as fee waivers or funding incentives, promotion of affordable housing for incomes 50% to 120% of the regional median household income, joint coordination or action to meet the affordable housing production goals.*

The report indicated that the City has other affordable housing tools and strategies but did not explain them. One of the strategies was adopted in the Functional Plan (joint coordination or action to meet its affordable housing production goal). In addition, the City has implemented three affordable housing tools and projects.

**Outstanding Items:**

1. Adoption of the voluntary affordable housing production goals
2. Including diversity strategies, measures to maintain the existing supply, measures to increase new dispersed affordable housing, and measures to increase affordable housing opportunities for household of all income levels in the comprehensive plan and implementing ordinance.
3. Consideration of the amendment of comprehensive plan and implementing ordinance amendment with the seven land use strategies.
4. Consideration of other affordable housing strategies, including the five listed in Title 7 of the Functional Plan.

**Johnson City**

- The City has not submitted the first progress report due on January 18, 2001 (Metro Code 3.07.740).

**Outstanding Items:** All requirements yet to be addressed.

**King City**

- The City has not submitted the first progress report due on January 18, 2001 (Metro Code 3.07.740).

**Outstanding Items:** All requirements yet to be addressed.

**Lake Oswego**

- The City has not submitted the first progress report due on January 18, 2001 (Metro Code 3.07.740).

**Outstanding Items:** All requirements yet to be addressed.

**Maywood Park**

- The City has not submitted the first progress report due on January 18, 2001 (Metro Code 3.07.740).



**Outstanding Items:** All requirements yet to be addressed.

### Milwaukie

- The City has not submitted the first progress report due on January 18, 2001 (Metro Code 3.07.740).

**Outstanding Items:** All requirements yet to be addressed.

### Oregon City

- The City has not submitted the first progress report due on January 18, 2001 (Metro Code 3.07.740).

**Outstanding Items:** All requirements yet to be addressed.

### Portland

*A. Metro Code 3.07.720: Adoption of voluntary affordable housing production goals.*

As stated in its report, the City "intends to document to the best of (its) ability (its) performance relative to the affordable housing production goals and to direct federal and other public funds to those with the highest needs as established in the Portland-Gresham-Multnomah County Consolidated Plan."

*B. Metro Code 3.07.730.A: Including diversity strategies, and measures to maintain the existing supply, increase new dispersed affordable housing and increase affordable housing opportunities for household of all income levels in the comprehensive plan and implementing ordinances.*

The City reported existing strategies in its comprehensive plan addressing diversity of affordable housing, maintaining existing supply, dispersed affordable housing, and affordable housing opportunities for household of all income levels. No new strategies were adopted during the reporting period.

*C. Metro Code 3.07.730.B: Amendment of comprehensive plan and implementing ordinances with density bonus, replacement housing, inclusionary housing, transfer of development rights, elderly and people with disabilities, local regulatory constraints, and parking tools and strategies.*

The city reported the following:

*Existing Strategies:* Six of the seven strategies were adopted by the City prior to the adoption of Title 7 of the Functional Plan (January 2001) are: 1) density bonus; and 2) transfer of development rights for exiting SROs in Central City; 3) replacement housing; 4) inclusionary housing; 5) residential parking regulations; and 6) review of regulatory impacts.



*Discussed Strategies:* No new strategies considered.

*Considered Strategies:* There was indication that the City Council considered the Functional Plan requirements and its existing strategies in light of the need for additional or new strategies.

- D. Metro Code 3.07.760: Implementation of other affordable housing strategies, including replacement housing resulting from urban renewal, inclusionary housing in urban renewal districts, non-land use tools such as fee waivers or funding incentives, promotion of affordable housing for incomes 50% to 120% of the regional median household income, joint coordination or action to meet the affordable housing production goals.*

The City has adopted 16 other strategies. Five of the strategies adopted are listed in the Functional Plan (replacement housing in urban renewal areas, inclusionary housing in urban renewal districts, fee waivers or funding incentives, promotion of housing for other households with incomes 50% to 120% of the region median family income). The City has considered but not adopted two additional strategies.

*Other Information Provided:*

The City reported that its Auditor report documented that \$100 million of City resources have assisted over 11,700 housing units during the four period FY1996/97 to FY 1999/00.

**Outstanding Items:**

1. Adoption of the voluntary affordable housing production goals
2. Consideration and adoption of "elderly and people with disabilities" strategy in the comprehensive plan and implementing ordinance.

**Rivergrove**

- The City has not submitted the first progress report due on January 18, 2001 (Metro Code 3.07.740).

**Outstanding Items:** All requirements yet to be addressed.

**Sherwood**

- The City has not submitted the first progress report due on January 18, 2001 (Metro Code 3.07.740).

**Outstanding Items:** All requirements yet to be addressed.

**Tigard**

- A. Metro Code 3.07.720: Adoption of voluntary affordable housing production goals.*

As stated in its report, the City "has twice debated the efficacy of setting a voluntary affordable housing goal" but have not taken any formal action regarding adoption.



- B. *Metro Code 3.07.730.A: Including diversity strategies, and measures to maintain the existing supply, increase new dispersed affordable housing and increase affordable housing opportunities for household of all income levels in the comprehensive plan and implementing ordinances.*

The City reported existing strategies in its comprehensive plan addressing diversity of affordable housing, maintaining existing supply, dispersed affordable housing, and affordable housing opportunities for household of all income levels. However, the report did not state the inclusion of these strategies in its implementing ordinances. No new strategies were adopted during the reporting period.

- C. *Metro Code 3.07.730.B: Amendment of comprehensive plan and implementing ordinances with density bonus, replacement housing, inclusionary housing, transfer of development rights, elderly and people with disabilities, local regulatory constraints, and parking tools and strategies.*

The city reported the following:

*Existing Strategies:* The report indicates that three of the seven strategies were adopted by the City prior to the adoption of Title 7 of the Functional Plan (January 2001) are: 1) elderly and people with disabilities strategy (accessory dwellings that is required also by Functional Plan Title 1 is the core element of this strategy); 2) components of local regulatory constraints; and 3) parking.

*Discussed Strategies:* The report discussed the strategies under consideration, those considered and adopted or not adopted.

*Considered Strategies:* The City considered but did not adopt four of the seven strategies (density bonus, transfer of development rights, replacement housing, and inclusionary housing).

- D. *Metro Code 3.07.760: Implementation of other affordable housing strategies, including replacement housing resulting from urban renewal, inclusionary housing in urban renewal districts, non-land use tools such as fee waivers or funding incentives, promotion of affordable housing for incomes 50% to 120% of the regional median household income, joint coordination or action to meet the affordable housing production goals.*

- The City is continuing its consideration of a component of one of the strategies adopted in the Functional Plan (fee waivers or funding incentives: system development charges). The City considered and did not adopt another component of the same strategy (fee waivers or funding incentives: permit fees).
- Other affordable housing strategies currently implemented by the City are property tax exemption, and donation of foreclosed properties to non-profit organizations.
- In addition, the City has implemented four other strategies, including use of use of CBDG money to improve roads and sidewalks bordering affordable housing built by non-profit organizations.

**Outstanding Items:**

1. Adoption of the voluntary affordable housing production goals
2. Including diversity strategies, measures to maintain the existing supply, measures to increase new dispersed affordable housing, and measures to increase affordable housing



opportunities for household of all income levels in the comprehensive plan and implementing ordinance.

3. Consideration of the amendment of comprehensive plan and implementing ordinance amendment with four of the seven land use strategies (density bonus, transfer of development rights, replacement housing, and inclusionary housing).
4. Consideration of other affordable housing strategies, including the two of the five listed in Title 7 of the Functional Plan (fee waivers or funding incentives, promoting housing affordable to other households with incomes 50% to 120% of the region median income).

### **Troutdale**

- The City has not submitted the first progress report due on January 18, 2001 (Metro Code 3.07.740).

**Outstanding Items:** All requirements yet to be addressed.

### **Tualatin**

- A. *Metro Code 3.07.720: Adoption of voluntary affordable housing production goals.*

The City's report did not include references to any action of the City Council on the voluntary affordable housing production goals.

- B. *Metro Code 3.07.730.A: Including diversity strategies, and measures to maintain the existing supply, increase new dispersed affordable housing and increase affordable housing opportunities for household of all income levels in the comprehensive plan and implementing ordinances.*

The City reported existing strategies in its comprehensive plan and implementing ordinances addressing diversity of affordable housing, measures to maintain the existing supply, measures to increase new dispersed affordable housing, and measures to increase affordable housing opportunities for household of all income levels. No new strategies were adopted during the reporting period.

- C. *Metro Code 3.07.730.B: Amendment of comprehensive plan and implementing ordinances with density bonus, replacement housing, inclusionary housing, transfer of development rights, elderly and people with disabilities, local regulatory constraints, and parking tools and strategies.*

The city reported the following:

*Existing Strategies:* Two of the seven strategies were adopted by the City prior to the adoption of Title 7 of the Functional Plan (parking standards and a component of local regulatory constraints).



*Discussed Strategies:* The report discussed the strategies under consideration, those considered and adopted or not adopted. Metro staff believes that some of the strategies implemented in the City were not really designed for affordable housing purposes.

*Considered Strategies:* The City considered and implemented measures to encourage elderly and people with disabilities housing, and measures to implement a component of local regulatory constraints (review of development and design standards).

- D. Metro Code 3.07.760: Implementation of other affordable housing strategies, including replacement housing resulting from urban renewal, inclusionary housing in urban renewal districts, non-land use tools such as fee waivers or funding incentives, promotion of affordable housing for incomes 50% to 120% of the regional median household income, joint coordination or action to meet the affordable housing production goals.*

The City has adopted nine other affordable housing strategies. The information in the report seems to show that most or all of these strategies were not developed specifically for affordable housing, and in most cases are not implemented City-wide.

**Outstanding Items:**

1. Adoption of the voluntary affordable housing production goals
2. Consideration of the amendment of comprehensive plan and implementing ordinance amendment of four of the seven land use strategies (density bonus, replacement housing, inclusionary housing, and transfer of development rights).
3. Consideration of other affordable housing strategies, including the five listed in Title 7 of the Functional Plan.

**West Linn**

- The City has not submitted the first progress report due on January 18, 2001 (Metro Code 3.07.740).

**Outstanding Items:** All requirements yet to be addressed.

**Wilsonville**

- The City has not submitted the first progress report due on January 18, 2001 (Metro Code 3.07.740).

**Outstanding Items:** All requirements yet to be addressed.

**Wood Village**

The City report claims that it is currently carrying much greater burden of affordable housing than any other community in the region.

- A. Metro Code 3.07.720: Adoption of voluntary affordable housing production goals.*



The City's report did not reference any action of the City on the voluntary affordable housing production goals.

- B. *Metro Code 3.07.730.A: Including diversity strategies, and measures to maintain the existing supply, increase new dispersed affordable housing and increase affordable housing opportunities for household of all income levels in the comprehensive plan and implementing ordinances.*

The City did not report any existing or new strategies in its comprehensive plan and implementing ordinances addressing diversity of affordable housing, measures to maintain the existing supply, measures to increase new dispersed affordable housing, and measures to increase affordable housing opportunities for household of all income levels.

- C. *Metro Code 3.07.730.B: Amendment of comprehensive plan and implementing ordinances with density bonus, replacement housing, inclusionary housing, transfer of development rights, elderly and people with disabilities, local regulatory constraints, and parking tools and strategies.*

The city reported the following:

*Existing Strategies:* One of the seven strategies is currently implemented in the City (components of regulatory constraints).

*Discussed Strategies:* There was no discussion of tools and strategies considered and implemented by the City.

*Considered Strategies:* None.

- D. *Metro Code 3.07.760: Implementation of other affordable housing strategies, including replacement housing resulting from urban renewal, inclusionary housing in urban renewal districts, non-land use tools such as fee waivers or funding incentives, promotion of affordable housing for incomes 50% to 120% of the regional median household income, joint coordination or action to meet the affordable housing production goals.*

The City has not implemented or considered to implement other affordable housing strategies, including those in the Functional Plan.

**Outstanding Items:**

1. Adoption of the voluntary affordable housing production goals
2. Including diversity strategies, measures to maintain the existing supply, measures to increase new dispersed affordable housing, and measures to increase affordable housing opportunities for household of all income levels in the comprehensive plan and implementing ordinance.
3. Consideration of the amendment of comprehensive plan and implementing ordinance amendment with the seven land use strategies.
4. Consideration of other affordable housing strategies, including the five listed in Title 7 of the Functional Plan.

**Clackamas County**

- A. *Metro Code 3.07.720: Adoption of voluntary affordable housing production goals.*



The County reported that it will consider adoption of the voluntary affordable housing goal next year (2003).

- B. *Metro Code 3.07.730.A: Including diversity strategies, and measures to maintain the existing supply, increase new dispersed affordable housing and increase affordable housing opportunities for household of all income levels in the comprehensive plan and implementing ordinances.*

The County reported several existing strategies in its comprehensive plan and implementing ordinances addressing diversity of affordable housing, measures to maintain the existing supply, measures to increase new dispersed affordable housing, and measures to increase affordable housing opportunities for household of all income levels. No new strategies were adopted during this reporting period.

- C. *Metro Code 3.07.730.B: Amendment of comprehensive plan and implementing ordinances with density bonus, replacement housing, inclusionary housing, transfer of development rights, elderly and people with disabilities, local regulatory constraints, and parking tools and strategies.*

The city reported the following:

*Existing Strategies:* Six of the seven strategies were adopted by the County prior to the adoption of Title 7 of the Functional Plan (density bonus, replacement housing, transfer of development rights, local regulatory constraints, elderly and disabled people housing, and parking). There is no mention of affordable housing in the parking standards. The report cited its density bonus strategy as meeting the provision of inclusionary housing. Although both strategies can be linked and implemented as a single affordable housing tool, the County report did not indicate any linkage of the two strategies.

*Discussed Strategies:* (not applicable)

*Considered Strategies:* There was no indication that the City Council considered the Functional Plan requirements and its existing strategies in light of the need for additional or new strategies.

- D. *Metro Code 3.07.760: Implementation of other affordable housing strategies, including replacement housing resulting from urban renewal, inclusionary housing in urban renewal districts, non-land use tools such as fee waivers or funding incentives, promotion of affordable housing for incomes 50% to 120% of the regional median household income, joint coordination or action to meet the affordable housing production goals.*

The County has adopted 11 other strategies. Four of the other strategies adopted are in the Functional Plan (replacement housing in urban renewal areas, fee waivers or funding incentives, joint coordination or action, and promotion of housing for other households with incomes 50% to 120% of the region median family income).

#### **Outstanding Items:**

1. Adoption of the voluntary affordable housing production goals
2. Consideration of the amendment of comprehensive plan and implementing ordinance amendment with one of the seven land use strategies (inclusionary housing).



3. Consideration of other affordable housing strategies, including one of the five included in Title 7 of the Functional Plan (inclusionary housing in urban renewal districts).

### **Multnomah County**

- The County has not submitted the first progress report due on January 18, 2001 (Metro Code 3.07.740).

**Outstanding Items:** All requirements yet to be addressed.

### **Washington County**

The Board of County Commissioners considered and accepted an affordable housing report prepared by staff, however, the report did not report on actions taken or not taken by the Board.

*A. Metro Code 3.07.720: Adoption of voluntary affordable housing production goals.*

The report stated that the County staff recommended that the Board of County Commissioners consider inclusion of the voluntary affordable housing production goal as a target for the county.

*B. Metro Code 3.07.730.A: Including diversity strategies, and measures to maintain the existing supply, increase new dispersed affordable housing and increase affordable housing opportunities for household of all income levels in the comprehensive plan and implementing ordinances.*

The County reported several existing comprehensive plan provisions addressing diversity of affordable housing, maintaining existing supply, dispersed affordable housing, and affordable housing opportunities for household of all income levels. The report did not state the existence of the same provisions in its implementing ordinances. No new strategies were adopted during the reporting period.

*C. Metro Code 3.07.730.B: Amendment of comprehensive plan and implementing ordinances with density bonus, replacement housing, inclusionary housing, transfer of development rights, elderly and people with disabilities, local regulatory constraints, and parking tools and strategies.*

The city reported the following:

*Existing Strategies:* One of the seven strategies (elderly and people with disabilities housing) and a component of another strategy (reviewing of development and design standards to reduce impact on affordable housing) has been adopted by the County.



*Discussed Strategies:* The report discussed staff recommendations to the Board to direct staff to further explore four of the seven strategies (density bonus, inclusionary housing, "corridor overlay districts" for ... and parking).

*Considered Strategies:* The report stated that staff recommended that no action be taken on two of seven strategies (replacement housing, and transfer of development rights). As explained earlier, the actions of the Board on these recommendations was not reported.

- D. *Metro Code 3.07.760: Implementation of other affordable housing strategies, including replacement housing resulting from urban renewal, inclusionary housing in urban renewal districts, non-land use tools such as fee waivers or funding incentives, promotion of affordable housing for incomes 50% to 120% of the regional median household income, joint coordination or action to meet the affordable housing production goals.*

One of the other affordable housing strategies adopted in the Functional Plan (promotion of affordable housing for incomes 50% to 120% of the regional median household income) is currently implemented. The County staff recommended that no additional action be taken on four of the strategies adopted in the Functional Plan (replacement housing in urban renewal areas, inclusionary housing in urban renewal districts, fee waivers, and joint coordination of action to meet affordable housing need of the County).

**Outstanding Items:**

1. Action of the County Board on the voluntary affordable housing production goals
2. Addition of diversity strategies, measures to maintain the existing supply, measures to increase new dispersed affordable housing, and measures to increase affordable housing opportunities for household of all income levels in the County's implementing ordinances.
3. Action of the County Board on the seven land use strategies.
4. Action of the County Board on the other affordable housing strategies, including the five listed in Title 7 of the Functional Plan.

**NEXT STEPS – Title 7**

Recent Action:

In November 2002, Metro Executive Officer, Mike Burton, sent a letter to those local governments that have not submitted their first report reminding them of the requirement and that the second report is due by January, 2003. A different letter was also sent to those local governments that submitted their first report, thanking them for doing so and looking forward to future results in the 2003 report.

Future Action:

1. Staff intends to work with local governments by providing them with a copy of this compliance report to ensure understanding of Title 7, accuracy of Metro staff compliance report and to identify any obstacles that local governments may have in completing the reports in a timely manner.
2. Staff intends to work with the Metro Council to clarify how best to interpret some provisions within Title 7 and improve compliance reports for Council consideration. As mentioned earlier in this report, it is unclear how to evaluate the related policies in the comprehensive plans that are reported, including "completeness of a jurisdiction consideration" or the action taken.



3. It is also unclear how to determine the effectiveness of a particular policy in a local government comprehensive plan or implementing ordinance. Although it may seem that the affordable housing production goals for 2001-2006 is the measure of the effectiveness of local actions or the progress made, this goal is voluntary and it is not clear whether all jurisdictions will adopt such a goal. In addition, outside factors (interest rates, unemployment rates, etc.) may have as much or more influence on short-term progress. Clear direction would be helpful on how to evaluate the strategies so that Metro would be able to provide local governments an objective evaluation of their affordable housing efforts.



## Annual Functional Plan Compliance Report - 2002

### Title 7: Affordable Housing

Jurisdiction	Progress Reports	Voluntary Goals	Comprehensive Plan and Implementing Ordinances						Other strategies	
			Diversity Strategy	Maintain Supply and Increase Dispersion	Supply for All Income Levels	Land Use Strategies (Seven)				
	(Title 7: 3.07.740)	(Title 7: 3.07.720)	(Title 7: 3.07.730.A.1)	(Title 7: 3.07.730.A.2)	(Title 7: 3.07.730.A.3)	(Title 7: 3.07.730.B)			(Title 7: 3.07.760)	
						Existing	Discussed	Considered	Metro list (five)	Local initiative
Beaverton	Yes	Discussed	NAR	NAR	NAR	NAR	NAR	NAR	2	1
Cornelius										
Durham										
Fairview										
Forest Grove										
Gladstone										
Gresham	Yes	Discussed	NAR	NAR	NAR	2	7	6	2	NAR
Happy Valley										
Hillsboro	Yes	NAR	NAR	NAR	NAR	1	NAR	NAR	1	NAR
Johnson City										
King City										
Lake Oswego										
Maywood Park										
Milwaukie										
Oregon City										
Portland	Yes	NAR	NAR	NAR	NAR	6	7	NAR	5	16
Rivergrove										
Sherwood										
Tigard	Yes	Discussed	NAR	NAR	NAR	2	2	1	2	5
Troutdale										
Tualatin	Yes	NAR	NAR	NAR	NAR	2	NAR	NAR	NAR	
West Linn										
Wilsonville										
Wood Village	Yes	NAR	NAR	NAR	NAR	NAR	NAR	NAR	NAR	1
Clackamas County	Yes	Will consider in 2003	NAR	NAR	NAR	5	NAR	NAR	3	3
Multnomah County										
Washington County	Yes		NAR	NAR	NAR	2	0	NAR	1	NAR

**Definitions:**

*Discussed* = Discussed after January 2001

*Existing* = Adopted prior to January 2001.

*Considered* = Discussed at a local elected officials public meeting after January 2001, and adoption of an ordinance which amends the comprehensive plan and implementing ordinances to include new tools and strategies or tools and strategies which were considered but not adopted and the revision(s) not adopted.

*NAR* = No action reported



Agenda Item Number 5.1

Consideration of the December 5, 2002 Regular Metro Council Meeting Minutes

Metro Council Meeting  
Thursday, December 10, 2002  
Metro Council Chamber



**Ordinance No. 02-965A, For the Purpose of Amending Chapter 2.02 Personnel Rules, of the Metro Code to conform to the Metro Charter amendments adopted on November 7, 2000, and Declaring an Emergency.**

***Second Reading***

Metro Council Meeting  
Tuesday, December 10, 2002  
MetroCouncil Chamber



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING CHAPTER 2.02 ) ORDINANCE NO. 02-965A  
PERSONNEL RULES, OF THE METRO CODE TO )  
CONFORM TO THE METRO CHARTER )  
AMENDMENTS ADOPTED ON NOVEMBER 7, 2000, ) Introduced by the Council Governmental  
AND DECLARING AN EMERGENCY ) Affairs Committee

WHEREAS, on November 7, 2000, the electors of Metro approved Ballot Measure 26-10 amending the Metro Charter; and

WHEREAS, the Metro Charter Amendments, created the Office of Council President and abolished the Office of the Executive Officer; and

WHEREAS, the Metro Council amended Metro Code Chapter 2.01 to reflect the creation of the office of Metro Council President pursuant to Ordinance No. 02-954A on June 27, 2002; and

WHEREAS, the Metro Charter Amendments required the Metro Council to create the Office of the Chief Operating Officer; and

WHEREAS, the Metro Charter Amendments, added Metro Code Chapter 2.20 to create the office of Chief Operating Officer and to define the duties and responsibilities of the Chief Operating Officer, pursuant to Ordinance No. 02-942A on June 27, 2002; and

WHEREAS, the Metro Charter Amendments required the Council to create the Office of the Metro Attorney; and

WHEREAS, the Metro Council amended Chapter 2.08 of the Metro Code to create the office of the Metro Attorney and to define the duties and responsibilities of the Metro Attorney, pursuant to Ordinance No. 02-953A on June 27, 2002; and

WHEREAS, it is necessary to amend Chapter 2.02 of the Metro Code to conform to the Metro Charter Amendments adopted on November 7, 2000; and

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The Metro Code Chapter 2.02, Personnel Rules, is amended as provided for and is attached as Exhibit A.
2. The Metro Charter Amendments to the Metro Code adopted by this ordinance shall take effect on January 6, 2003.
3. Effective January 6, 2003, any reference to the Executive Officer in any existing collective bargaining agreement or employment agreement shall be deemed to be a reference to the Chief Operating Officer. The Chief Operating Officer has the authority to take any action under any collective bargaining agreement or employment agreement that can be taken by the Executive Officer.



ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_ 2002.

\_\_\_\_\_  
Carl Hosticka, Presiding Officer

Attest:

Approved as to Form:

\_\_\_\_\_  
Christina Billington, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, General Counsel



**Exhibit A**  
**Metro Charter 2003 Amendments to Metro Code**  
**Chapter 2.02, Personnel Rules**

**CHAPTER 2.02**

**PERSONNEL RULES**

SECTIONS	TITLE
<b>2.02.001</b>	<b>Personnel Rules for Non-Represented Employees</b>
2.02.005	Purpose
2.02.010	Administration of the Rules
2.02.015	Amendment
<del>2.02.020</del>	<del>Separability</del>
2.02.025	Exemptions
2.02.030	Definitions of Personnel Terms
2.02.035	Position Classification Plan
2.02.040	New Positions
2.02.045	New Classifications
2.02.050	Reclassification of Existing Positions
2.02.055	Pay Plans
2.02.060	Salary Administration
2.02.065	Pay Policies
2.02.070	Affirmative Action Policy
2.02.075	Nepotism
2.02.080	Recruitment and Appointment
2.02.085	Probationary Period
2.02.090	Temporary Employees
2.02.095	Job Share
2.02.100	Orientation
2.02.105	Workers' Compensation Insurance
2.02.110	Insurance and Retirement
2.02.115	Transfers and Demotions
2.02.120	Work Schedules
2.02.125	Overtime Compensation
2.02.130	Holidays
2.02.135	Vacation
2.02.140	Vacation Credit and Accrual Rate
2.02.145	Sick Leave
2.02.150	Family Medical Leave
2.02.155	Pregnancy Leave/Transfer
2.02.160	Parental Leave
2.02.165	Leave of Absence Without Pay
2.02.170	Other Leaves of Absence With Pay
2.02.175	Preamble: Conduct, Discipline, Termination and Appeal
2.02.180	Disciplinary Actions
2.02.185	Layoff
2.02.190	Resignation



2.02.195	Personnel Records
2.02.200	Grievance Procedure
2.02.205	Service Awards
2.02.210	Education, Training and Development Policy
2.02.215	Drug/Alcohol Abuse Policy
2.02.220	Smoking Policy
2.02.225	Conference, Memberships and Conventions
2.02.230	Employee Organizations and Representation
2.02.235	Political Activity
2.02.240	Ethical Requirements for Employees, Officers, Elected and Appointed Officials
2.02.245	Zoo Visitor Services Employees
2.02.250	Volunteers
2.02.255	Acknowledgment of Receipt of Personnel Policies
<b>2.02.300</b>	<b>Personnel Rules for Represented Employees</b>
2.02.305	Purpose
2.02.310	Administration of the Rules
2.02.315	Amendment
2.02.320	Separability
2.02.325	Definitions of Personnel Terms
2.02.330	Position Classification Plan
2.02.335	New Positions
2.02.340	New Classifications
2.02.345	Reclassification of Existing Positions
2.02.350	Pay Plans
2.02.355	Salary Administration
2.02.360	Pay Policies
2.02.365	Affirmative Action Policy
2.02.370	Nepotism
2.02.375	Internal Recruitment
2.02.380	Probationary Period
2.02.385	Job Share
2.02.390	Orientation
2.02.395	Workers' Compensation Insurance
2.02.400	Transfers
2.02.405	Sick Leave Transfer
2.02.410	Family Medical Leave
2.02.415	Pregnancy Leave/Transfer
2.02.420	Parental Leave
2.02.425	Preamble: Conduct, Discipline, Termination and Appeal
2.02.430	Disciplinary Actions
2.02.435	Resignation
2.02.440	Service Awards
2.02.445	Education Opportunities
2.02.450	Smoking Policy
2.02.455	Conference, Memberships and Conventions
2.02.460	Employee Organizations and Representation
2.02.465	Political Activity
2.02.470	Acknowledgment of Receipt of Personnel Policies



## 2.02.001 Personnel Rules For Non-Represented Employees

Sections 2.02.001 to 2.02.299 of this Metro Code shall be known as and may be cited as the "Metro Personnel Rules for Non-Represented Employees." As used in Sections 2.02.001 to 2.02.299, references to "rules" or "chapter" shall be deemed to be references to these Metro Personnel Rules for Non-Represented Employees. (Ordinance No. 94-523B)

### 2.02.005 Purpose

The purpose of this chapter is:

- (a) To provide and maintain a system of personnel administration for all non-represented employees, seasonal employees, and temporary employees in which the appointment and retention of persons in Metro employment shall be achieved on the basis of promoting the public welfare and implementing Metro's responsibilities.
- (b) To establish and maintain a position classification plan which shall group all positions into classifications based upon their duties and responsibilities.
- (c) To provide for a compensation plan which shall include for each classification a minimum and/or maximum salary rate and such intermediate salary rates as the Council considers necessary and equitable.
- (d) To promote efficiency, economy and public responsiveness in the operation of Metro.
- (e) To provide that the employees covered by these rules shall be subject to proper employee conduct, the satisfactory performance of work and the availability of funds.
- (f) The provisions in this chapter do not constitute a contract of employment. Moreover, in order to meet future challenges, the Council retains the flexibility to change, substitute, and discontinue the policies and benefits described herein, at any time, with or without notice to employees. No person shall be deemed to have a vested interest in, or legitimate expectation of, continued employment with Metro, or any policy or benefit described herein or otherwise generally followed by Metro. No contract of employment can be created, nor can an employee's status be modified, by any oral or written agreement (except a valid collective bargaining agreement), or course of conduct, except by a written agreement signed by the Council President or Chief Operating Officer Executive Officer and the employee, and subject to the any approval of the Council requirements for contracts established by the Metro Code.
- (g) Nothing contained in this section or elsewhere in the chapter shall be construed as any guarantee of hours worked per day or per week.

(Ordinance No. 81-116, Sec. 1. Amended by Ordinance No. 94-523B)

### 2.02.010 Administration of the Rules

- (a) The Chief Operating Officer ~~Executive Officer~~ shall be responsible for:



- (1) Administering or delegating the administration of all the provisions of this chapter, and whenever a question arises as to the meaning or interpretation of provisions of this chapter, the interpretation given by the Chief Operating Officer ~~Executive Officer~~ or his/her designee shall be final and binding.
- (2) Reviewing and recommending to the Council necessary changes to this chapter.
- (3) Publishing a Personnel Procedures Manual to implement the provisions of this chapter.

(b) The Metropolitan Exposition-Recreation Commission shall adopt personnel rules consistent with and subject to Sections 6.01.040(h) and (m) of the Code notwithstanding any provision of this chapter to the contrary. For this purpose, the authority and duties of the Chief Operating Officer ~~Executive Officer~~ to employ, manage and terminate employees referred to in this chapter shall reside with the commission for employees of the commission.

(Ordinance No. 81-116, Sec. 2. Amended by Ordinance No. 87-232, Sec. 1; Ordinance No. 89-325A, Sec. 3; Ordinance No. 94-523B)

#### 2.02.015 Amendment

This chapter shall be amended solely by the Council, however, administrative amendments which deal solely with correcting grammatical or typographical errors, or correcting position titles to reflect properly processed reclassifications and title changes may be approved by the Chief Operating Officer ~~Executive Officer~~. All proposed amendments to this chapter and/or benefit changes will be required to be adopted by the Council. ~~If practical, copies of proposed amendments shall be provided to all directors of departments at least 10 days in advance of the council meeting in which they are to be considered.~~

(Ordinance No. 81-116, Sec. 3, Amended by Ordinance No. 94-523B)

#### 2.02.020 Separability

~~If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter.~~

(Ordinance No. 81-116, Sec. 4)

#### 2.02.025 Exemptions

—— (a) — Notwithstanding any provision of this chapter, council employees shall be exempt from and shall not be subject to this chapter except as expressly determined by a resolution adopted by the council, limited however to budgeted funds allocated to the council department.

—— (b) — Notwithstanding any provision of this chapter, employees in the office of the Executive Officer shall be exempt from and shall not be subject to this chapter except as expressly determined in writing by the Executive Officer, limited however to budgeted funds allocated to the office of the Executive Officer.



(a) Notwithstanding any provision of this chapter, individual positions in the Office of Chief Operating Officer assigned to provide services to the Council may be designated as exempt from and not subject to this chapter provided that the Council President has given written approval of the exemption after 10 days prior notice has been given to members of the Council.

~~\_\_\_\_\_~~ (be) Notwithstanding any provision of this chapter, employees in the Oeffice of Aauditor shall be exempt from and shall not be subject to this chapter except as expressly determined in writing by the Aauditor, limited however to budgeted funds allocated to the Oeffice of Aauditor.

(Ordinance No. 81-116, Sec. 46. Amended by Ordinance No. 94-523B)

#### 2.02.030 Definitions of Personnel Terms

For the purposes of this chapter unless the context requires otherwise the following terms shall have the meanings indicated:

(a) "Auditor" means the elected Aauditor of Metro or his/her designee.

~~\_\_\_\_\_~~ (b) ~~"Council" means the elected governing body of Metro.~~

(be) "Chief Financial Officer" means the person responsible for managing the financial affairs and budget of Metro and designated as such by the Chief Operating Officer.

(c) "Chief Operating Officer" means the person holding the position of Chief Operating Officer established by Section 2.20.010 of the Metro Code.

~~\_\_\_\_\_~~ (d) ~~"Council" means the elected governing body of Metro.~~

(ed) "Department" means a major functional unit of Metro as designated by the Chief Operating Officer.

(fe) "Department Director" means a person designated by the Chief Operating Officer to be responsible for the administration of a department or his/her designee.

(gf) "Division" means a major functional unit of a department.

(hg) "Employee" means an individual who is salaried or who receives wages for employment with Metro.

~~\_\_\_\_\_~~ (h) ~~"Executive Officer" means the elected Executive Officer of Metro or his/her designee.~~

(i) "Exempt position" means a position exempt from mandatory overtime compensation.

(j) "Fiscal year" means a 12-month period beginning July 1 and ending June 30.

(k) "Flexible work schedule" means an alternative work schedule other than the established normal work schedule, but which includes the same number of total hours per pay period as other full-time positions.



(l) "Full-time" means a position in which the scheduled hours of work are 40 hours per week and which is provided for in the adopted budget.

(m) "Hourly rate" means the rate of compensation for each hour of work performed.

(n) "Immediate family" means the husband, wife, son, daughter, father, mother, brother, sister, father-in-law, mother-in-law, grandparents or any relative living in the employee's household.

(o) "Layoff" means a separation from employment because of organizational changes, lack of work, lack of funds, or for other reasons not reflecting discredit upon the employee.

(p) "Non-exempt" position means a position that is eligible for overtime compensation.

(q) "Non-represented employee" means an employee who is not in a recognized or certified bargaining unit.

(r) "Part-time" means a position in which the scheduled hours of work are less than 40 hours per week but at least 20 hours or more per week and which is provided for in the adopted budget.

(s) "Permanent employee" means an employee who is appointed to fill a budgeted position and who is not temporary or seasonal. However, the term permanent does not confer any form of tenure or other expectation of continued employment.

(t) "Permanent position" means a budgeted position which is not temporary or seasonal. However, the term permanent does not confer any form of tenure or other expectation of continued employment.

(u) "Personnel action" means the written record of any action taken affecting the employee or the status of his/her employment.

(v) "Personnel Director" means the employee appointed by the Chief Operating Officer ~~Executive Officer~~ to administer the provisions of this chapter regardless of whether the person is also a Department Director.

(w) "Personnel file" means an employee's official personnel file which is kept in the office of personnel.

(x) "Personnel Procedures Manual" means a manual developed by the office of personnel and approved by the Chief Operating Officer ~~Executive Officer~~ to implement the policies and provisions of this chapter.

(y) "Probationary period" means a continuation of the screening process during which an employee is required to demonstrate fitness for the position to which the employee is appointed or promoted. Successful completion of any probationary period is for Metro's internal screening process only and does not confer any form of tenure or other expectation of continued employment.

(z) "Probationary employee" means an employee serving any period of probation.



(aa) "Promotion" means the change of an employee from a position in one classification to a position in another classification having a higher maximum salary rate.

(bb) "Reclassification" means a change in classification of a position by raising it to a class with a higher rate of pay, reducing it to a class with a lower rate of pay, or changing it to another class at the same rate of pay, based upon the duties currently assigned to an existing position or to be assigned for a vacant position. If the position is filled, the incumbent employee is reclassified along with the position.

(cc) "Regular employee" means an employee who has successfully completed the required initial probationary period occupying a permanent position.

(dd) "Reinstatement" means the return of an employee to a position following a separation of employment.

(ee) "Represented employee" means an employee who is in a recognized or certified bargaining unit.

(ff) "Resignation" means voluntary separation from employment.

(gg) "Seasonal employee" means an employee who is employed during peak seasons of the year and who may be scheduled as needed during the remainder of the year.

(hh) "Separation" is the cessation of employment with Metro not reflecting discredit upon the employee.

(ii) "Status" refers to the standing of an employee.

(jj) "Temporary employee" means a nonstatus employee appointed for the purpose of meeting emergency, nonrecurring or short-term workload needs, or to replace an employee during an approved leave period, for a period not to exceed 1,044 hours within a fiscal year, excluding interns, work-study students, and CETA employees, or similar federal and state employment programs.

(kk) "Termination" means the cessation of employment with Metro.

(ll) "Volunteer" means an individual serving in a non-paid voluntary status.

(mm) "Work schedule" means the assignment of hours of work by a supervisor.

(Ordinance No. 81-116, Sec. 6. Amended by Ordinance No. 94-523B; Ordinance No. 95-602A, Sec. 1)

#### 2.02.035 Position Classification Plan

(a) The purpose of the classification plan is to provide an inventory of specifications for each classification. The plan shall be developed and maintained so that all positions substantially similar with respect to duties, responsibilities, authority and qualifications are included within the same class, and so that the same range of compensation will apply. Each permanent position shall be allocated to an appropriate classification on the basis of the duties and responsibilities of the position.

(b) Classification titles shall be used in all personnel, budget and financial records.



(c) The classification plan shall cover permanent full-time and permanent part-time positions, as adopted and amended by the Ceouncil.

(d) The Chief Operating Officer ~~Executive Officer~~ or his/her designee shall establish administrative procedures to implement the classification and pay plans. The Chief Operating Officer ~~Executive Officer~~ may make administrative changes to classification specifications, title, and classification numbers. Subject to Metro Council approval, ~~The Chief Operating Officer Executive Officer with prior notice to the Metro council~~ may annually revise salary ranges to reflect a cost of living adjustment by an amount not to exceed the percentage increase to the National Consumers Price Index W (Urban Wage Earners) calculated annually from March to March.

(Ordinance No. 81-116, Sec. 23. Amended by Ordinance No. 94-523B; Ordinance No. 97-707, Sec. 1.)

#### 2.02.040 New Positions

Any new positions added to the budget require Ceouncil approval.

(Ordinance No. 81-116, Sec. 25. Amended by Ordinance No. 94-523B)

#### 2.02.045 New Classifications

Any new classification added to the classification plan requires Ceouncil approval.

(Ordinance No. 81-116, Sec. 26. Amended by Ordinance No. 94-523B)

#### 2.02.050 Reclassification of Existing Positions

Reclassification of an existing position from one existing classification to another existing classification may be approved by the Chief Operating Officer ~~Executive Officer~~ provided the reclassification can be accomplished with the limitations of the current budget.

(Ordinance No. 81-116, Sec. 27. Amended by Ordinance No. 94-523B)

#### 2.02.055 Pay Plans

(a) The Chief Operating Officer ~~Executive Officer~~ shall prepare pay plans for permanent positions and seasonal appointments which shall establish a salary range with a minimum and a maximum salary rate of pay appropriate for each class. The pay plans shall be approved by the Ceouncil. The pay plans shall establish the eligibility of each classification to receive overtime compensation as indicated by exempt or non-exempt status.

(b) The pay plans shall equitably reflect the difference in duties and responsibilities, and shall be related to compensation for comparable positions within the job market.

(c) The Chief Operating Officer ~~Executive Officer~~ shall review the pay plans annually and include recommended revisions within his/her proposed budget. Said review may cover such items as changes in the Consumer Price Index and in salaries and benefits received by employees in the labor market.



(d) The Chief Operating Officer ~~Executive Officer~~ shall administer the pay plans based on the need and expectations of Metro along with suitable employee performance.

(e) The Chief Operating Officer ~~Executive Officer~~ may propose an agency-wide classification/compensation study for non-represented employees to assess classifications and evaluate compensation. The implementation of study recommendations require Council approval.

(Ordinance No. 81-116, Sec. 29. Amended by Ordinance No. 94-523B)

#### 2.02.060 Salary Administration

(a) Current salary shall be used to calculate merit increases. Any annual revisions to the pay plans shall be added to the salary range of a classification, shall be cumulative, and shall be added to an employee's individual rate of pay. However, no employee's rate of pay shall be lower than the beginning rate of a salary range after a fiscal adjustment is made.

#### (b) Administrative Policies

- (1) Upon initial appointment to a position, each employee should receive a salary at or 5 percent above the beginning salary rate of the salary range for the class to which the position is allocated. Appointment at or 5 percent above the beginning salary rate should be the general practice, with appointments above that level being the exception for outstanding qualifications and experience, and subject to departmental personal services budget resources and approval of the hiring ~~D~~department ~~D~~director with concurrent notification to the Chief Operating Officer ~~Executive Officer~~.
- (2) Employees hired at or promoted to the beginning salary rate of a salary range shall receive a 5 percent salary increase after successful completion of six continuous months of probationary service. The increase of 5 percent shall be initiated by the office of personnel on the appropriate date. When an employee is appointed over the 5 percent above the beginning salary rate he/she is not eligible for a salary increase for one year, unless the Chief Operating Officer ~~Executive Officer~~ approves an extra meritorious salary increase based on outstanding performance after successful completion of six consecutive months of probationary service.
- (3) After an employee has reached 5 percent above the beginning salary rate, he/she is eligible for annual merit increases in 1 percent increments, not to exceed a total of 8 percent in any evaluation year, up to and including the maximum salary rate shown for the assigned salary range based on satisfactory performance which shall be effective on his/her anniversary date only.
- (4) All merit increases have to be authorized and approved by the ~~D~~department ~~D~~director and reviewed as to form by the ~~P~~personnel ~~D~~director prior to implementation. A decision by the ~~D~~department ~~D~~director to grant or withhold a merit increase will be communicated to the employee in writing.



- (5) Merit increases (except as noted in subsection (b)(2) of this section) must be submitted to the Personnel Director with a performance evaluation. Department Directors shall make every effort to complete the employee's evaluation by the employee's anniversary date. If the evaluation is not completed by that date, any merit increase assigned shall be retroactive to the employee's anniversary date not to exceed one year of retroactivity.
- (6) Criteria to be considered in recommending and granting merit increases should include but not be limited to:
  - (A) Planning and organizing work, and meeting deadlines.
  - (B) Competency and judgment.
  - (C) Growth in and ability to handle job responsibilities.
  - (D) Attitude.
  - (E) Specific actions toward self-improvement, as necessary.
  - (F) Recognition of excellence.
  - (G) Productivity increases of tangible quantities and/or qualities.
  - (H) Creative and innovative contributions.
  - (I) Cost and budgetary savings realized, if any.
  - (J) Affirmative Action & EEO responsibilities.
  - (K) Safety practices.
- (7) The Personnel Director shall review performance evaluations to assure that appropriate criteria are included.
- (8) When an employee is promoted or reclassified to a position in a classification with a higher maximum salary rate, the employee shall be placed on the beginning salary rate of the salary range or receive an increase of 5 percent, whichever is greater.
- (9) A promoted employee shall receive a 5 percent increase upon successful completion of his/her six-month probationary period. The anniversary date shall be changed to reflect the effective date of the completion of this probation.
- (10) A reclassified employee shall not serve a probationary period. An employee reclassified to a position in a classification with a higher maximum salary rate shall not receive a salary increase after completion of six months in the new classification. The employee's anniversary date shall reflect the effective date of the reclassification.



- (11) When an employee is reclassified to a position in a classification with a lower maximum salary rate, the employee's salary rate shall not be reduced as long as the employee's current salary rate is within the lower salary range. If the employee's salary rate is above the new salary range, the employee's rate of pay shall remain the same (red-circled) until annual adjustments to the pay plan bring the employee's rate within the new classification range. At that time, the employee will become eligible for merit increases.
- (12) When an employee is voluntarily demoted to a position in a classification with a lower maximum salary rate, the employee's salary rate shall not be reduced as long as the employee's current salary rate is within the lower salary range. If the employee's salary rate is above the new salary range, the employee's salary will be reduced to the highest rate of the new range. In no case, shall an employee's current salary rate be increased upon voluntary demotion.

(c) A ~~D~~department ~~D~~director may assign an employee, in writing, to work "out of class." Whenever an employee is assigned to work temporarily in a higher classification for a period in excess of 10 consecutive work days, he/she shall be considered as working "out of class" in a higher position and shall be paid from the date of assignment at 5 percent above his/her current rate of pay or at the beginning salary rate in the range designated for the higher classification if the employee is at the top of his/her salary range. An employee shall not remain in an acting capacity for a period exceeding six months within a 12-month period. If a ~~D~~department ~~D~~director needs to extend the work out of class period beyond six months, extenuating circumstances must be given in writing to the Chief Operating Officer ~~Executive Officer~~ for approval and forwarded to the ~~P~~ersonnel ~~D~~irector. A work out of class assignment, for up to six months, shall not be considered as time served for purposes of the effective date for reclassification or promotion.

(d) When, as part of a classification/compensation study, the salary range for any classification is increased, individual employees shall be placed within the new range at their current rate of pay or on the beginning salary rate of the new salary range if the beginning salary rate is higher than his/her current rate of pay without a change in the employee's established anniversary date.

(e) When the salary range for an entire classification is decreased as a part of a classification/compensation study, the rates of the incumbents in the positions shall be continued (red-circled) and no change in salary shall occur until the annual adjustments to the pay plan bring the employee's rates in the new class within the new range. At that time, incumbents will become eligible for salary adjustments.

(Ordinance No. 81-116, Sec. 32. Amended by Ordinance No. 94-523B; Ordinance No. 96-650A, Sec. 1)

#### 2.02.065 Pay Policies

(a) Permanent employees shall be paid according to the pay plan adopted by the ~~C~~ouncil and administered by the Chief Operating Officer ~~Executive Officer~~.

(b) Employees shall be paid twice monthly.



(c) In the event the normal payday falls on a holiday, payday shall occur the workday before the holiday. If the normal payday falls on a Saturday or a Sunday, payday shall be the prior Friday.

(d) Payroll procedures shall be established and implemented by the finance and management information department, accounting division.

(e) Payroll deductions will be made for income tax withholding, Workers' Compensation insurance and employee contributions to employee benefits, and may be made for the United Way Fund, payments to the employee's credit union and other agencies as approved by the Chief Operating Officer ~~Executive Officer~~ at the request of the employee.

- (1) Charitable solicitations of Metro employees while on the job during working hours shall be conducted in compliance with this section. No other solicitations of Metro employees while on the job during working hours by a charitable organization shall be permitted.
- (2) The Chief Operating Officer ~~Executive Officer~~ with consultation of Metro employees shall by executive order establish rules and procedures to implement this section including procedures for applications, time and length of solicitation campaigns and payroll deductions. The procedures shall specify that all solicitations shall be made during a single campaign period lasting no longer than 30 days and that employees may sign payroll deduction cards for charitable donations only during a two-week period following the end of the solicitation campaign period. The Chief Operating Officer ~~Executive Officer~~ once each year shall certify all charitable organizations recognized by Metro for the purpose of conducting a fund drive among the employees of Metro. The Chief Operating Officer's ~~Executive Officer's~~ action shall be based on the criteria stated in subsection (3) of this section.
- (3) Charitable organizations recognized to conduct a fund drive among Metro employees while on the job during working hours shall:
  - (A) Be a fund-raising organization which raised funds for 10 or more charitable agencies.
  - (B) Disburse funds only to agencies whose charitable activities are primarily in the geographical areas of Metro and which have an office located within Metro ~~the district~~.
  - (C) Be exempt from taxation under Internal Revenue Service Code Section 501(c)(3).
  - (D) Be in compliance with the Charitable Trust and Corporation Act and the Oregon Solicitation Act (ORS 128.618 through 128.898). All charitable organizations who have made the required filings under such laws and have no enforcement action pending against them shall be presumed to be in compliance with such laws.



- (E) Have a policy prohibiting discrimination in employment and fund distribution with regards to race, color, religion, national origin, handicap, age, sex and sexual preference in the charitable organization and all its grantee agencies.
  - (F) Provide an audited annual financial report to Metro for distribution to its employees 60 days prior to the charitable campaign.
- (4) Payroll deductions for employee charitable contributions shall be allowed only for charitable organizations in compliance with this section.

(Ordinance No. 81-116, Sec. 33. Amended by Ordinance No. 89-302A, Sec. 1, 2, 3 and 4; Ordinance No. 94-523B)

#### 2.02.070 Affirmative Action Policy

(a) Policy Statement. Metro states as its policy a commitment to provide equal employment opportunities without regard to race, color, religion, national origin, sex, age, disability, sexual orientation, or marital or familial status, except where a bona fide occupational qualification exists.

(b) Affirmative Action Program. The Ceouncil has adopted an affirmative action policy and program which is set forth in a separate document which is available throughout Metro facilities. All employees are encouraged to familiarize themselves with Metro's affirmative action policies.

(Ordinance No. 81-116, Sec. 53. Amended by Ordinance No. 94-523B)

#### 2.02.075 Nepotism

Notwithstanding Metro's affirmative action policy and program, no member of an employee's family (husband, wife, son, daughter, mother, father, brother, sister, in-laws of any kind, aunt, uncle, niece, nephew, stepparent, or stepchild) shall be employed in a position of exercising supervisory, appointment, or grievance adjustment authority over the other family member.

(Ordinance No. 81-116, Sec. 19. Amended by Ordinance No. 94-523B)

#### 2.02.080 Recruitment and Appointment

(a) All promotions and appointments to vacancies shall be based on the requirements of the position and organizational and operational needs.

(b) Recruitment efforts will be coordinated by the office of personnel in cooperation with the hiring department. Recruiting publicity will be distributed through appropriate media and/or other organizations to meet affirmative action guidelines. Such publicity will indicate that Metro is an affirmative action, equal opportunity employer and will be designed to attract a sufficient number of qualified applicants.

(c) Internal Recruitments. A regular employee who has successfully completed his/her initial probationary period may apply for vacant positions and will be considered as an internal applicant. Temporary employees must have completed a competitive recruitment and selection process through the office of personnel to be considered as an internal applicant. All applications will be considered without



prejudice to their present positions. Regular, regular part-time and temporary employees who apply will be given first consideration in filling a vacant position. Notice of internal recruitment shall be posted not less than five working days to allow for receipt of applications.

(d) General Recruitment. If the vacancy is not filled as a result of internal recruitment, recruitment outside the agency will commence. The period of general recruitment shall be not less than 10 working days to allow for receipt of applications.

(e) Except as otherwise provided for in this Code, All-all appointments of employees shall be the sole responsibility of the Chief Operating Officer Executive Officer-subject to the provisions of this chapter. However, the appointment of all department directors, the chief financial officer and the General Counsel must be confirmed by a majority of the council prior to the effective date of each such appointment or promotion.

(f) All appointments of employees to the office of the Metro Attorney Executive Officer shall be the sole responsibility of the Metro Attorney Executive Officer.

~~\_\_\_\_\_ (g) All appointments of employees to the council department shall be the sole responsibility of the Presiding Officer of the council.~~

(gh) All appointments of employees to the Office of Auditor shall be the sole responsibility of the Auditor.

(hi) Appointments of Ddepartment Ddirectors, the Cchief Ffinancial Oofficer, the Ppersonnel Ddirector, the Metro Attorney General Counsel, staff in the office of the Chief Operating Officer Executive Officer, and staff in the Office of the Auditor, and staff in the council office may be made without going through the normal recruitment and selection process. The Ppersonnel Ddirector, the Cchief Ffinancial Oofficer, all Ddepartment Ddirectors, and all appointed staff in the office of the Chief Operating Officer Executive Officer shall serve at the pleasure of the Chief Operating Officer Executive Officer. Staff in the Office of Auditor shall serve at the pleasure of the Auditor. ~~Staff in the council office shall serve at the pleasure of the council.~~

(i) Effective January 6, 2003, all positions that were subject to appointment by the General Counsel, the Executive Officer or the Council Presiding Officer are abolished. The Metro Attorney or the Chief Operating Officer may thereafter create new positions and make appointments thereto as provided for in this section.

(Ordinance No. 81-116, Sec. 8. Amended by Ordinance No. 84-183, Sec. 1; Ordinance No. 87-218, Sec. 1; Ordinance No. 88-255, Sec. 1; Ordinance No. 91-378A, Sec. 5; Ordinance No. 94-523B; Ordinance No. 95-602A, Sec. 1)

#### 2.02.085 Probationary Period

The probationary period shall be a continuation of the screening process and shall provide the supervisor an opportunity to observe the employee's work, to instruct and aid the employee in adjustment to the position, and to reject any employee who does not demonstrate fitness for the position. The successful completion of probation is for Metro's internal screening process only, and does not confer any form of tenure or other expectation of continued employment.



(a) All initial appointments and all promotions to permanent full-time and permanent part-time positions shall be subject to a standard probationary period of six consecutive months of service.

(b) Promotions. Employees who do not successfully complete their promotional six-month probationary period may be demoted at any time during the promotional period, and be reinstated into the position held prior to promotion if that position is vacant or if that position is filled by an employee in an initial probationary period. If that position is not filled by a person in his/her initial probationary period, the employee may be reinstated into any vacant position in the classification held prior to the promotion and the employee will serve a probationary period of three months in the new position. If no such positions are available, the employee shall be laid off.

(c) Reclassifications. No employee's position shall be reclassified until such time as he/she has successfully completed his/her initial six-month probationary period in the classification into which he/she was hired. Employees whose positions are reclassified, upon successful completion of the initial probationary period, shall not serve an additional probationary period.

(d) Transfers. Transfers to another position in the same classification with the similar duties, do not require an additional probationary period. Transfers to a position in the same classification with significantly different duties shall require a three-month probationary period. Employees who do not successfully complete the three-month probationary period, may be reinstated into the position held prior to transfer, if the position is vacant or if the position is filled by an employee in an initial probationary period. If that position does not exist as described above, the employee may be reinstated into any vacant position in the classification held prior to the transfer. If no such positions are available, the employee shall be laid off. In cases where a probationary employee is involuntarily transferred prior to the end of the probationary period, the employee must complete his/her initial probationary period.

(e) Demotions. An employee must have completed his/her initial six-month probationary period prior to requesting a voluntary demotion, and shall not serve a new probationary period upon demotion.

(f) Vacation leave credits based upon or earned in connection with time worked shall accumulate during an employee's initial probationary period. Upon successful completion of the initial probationary period, employee will be credited with vacation leave accumulated during the probationary period and will be eligible to take accrued vacation leave with pay as authorized. An employee who terminates for any reason during the initial probationary period shall not be entitled to vacation leave payment.

(g) Any authorized leave without pay during any probationary period will extend the probationary period by the amount of time the employee is on such leave.

(h) Employees serving the initial six-month probationary period may be disciplined or terminated without cause, with or without prior notice. Nothing in this section shall be construed as implying or requiring that cause must exist for the discipline or termination of a regular status employee.

(Ordinance No. 81-116, Sec. 9. Amended by Ordinance No. 94-523B)



#### 2.02.090 Temporary Employees

(a) Temporary employees appointed prior to the effective date of this ordinance and who are still employed as temporary employees without a break in service after the effective date of this ordinance, shall continue to receive all employee benefits granted to them since their current appointment as a temporary employee, not to exceed 1,044 hours.

(b) Status of Temporary Employees. Temporary employment shall be used for the purpose of meeting emergency, nonrecurring, or short-term workload needs, or to replace an employee during an approved leave of absence. A temporary employee may be given a nonstatus appointment without open competition and consideration only for the purposes enumerated in this section. Temporary appointments shall not be used to defeat the open competitive recruitment and selection process. Temporary employment shall not be used as any portion of a required probationary period.

(c) Term of Appointment. The term of temporary employment may not exceed 1,044 hours within a fiscal year without approval of the Chief Operating Officer Executive Officer who may grant up to a 1,044 hour extension. A temporary employee shall not become a permanent employee upon working more than 1,044 hours.

(d) Benefits. Benefits required by law such as Workers' Compensation and Social Security will be paid for all temporary employees. No additional benefits will be paid or given to temporary employees.

(e) Eligibility for Regular Employment. Temporary employees may compete for regular positions on the same basis as applicants from outside the agency. Temporary employees who have gone through a competitive recruitment and selection process through the office of personnel for the current temporary position will be considered as in-house applicants for vacant positions for which they apply through the internal recruitment process.

(Ordinance No. 81-116, Sec. 54. Amended by Ordinance No. 94-523B)

#### 2.02.095 Job Share

Any full-time position may be designated as a job share position by the Chief Operating Officer Executive Officer at the request of a Department Director. A job share position is a full-time position which is shared by two employees. Benefits for such position shall be apportioned between the position occupants in proportion to time worked by each; however, such apportioning may be altered upon written agreement of position occupants and approval by the Personnel Director. In no event, however, shall the benefits of a job share position exceed the benefits of any other full-time position.

(Ordinance No. 81-116, Sec. 11. Amended by Ordinance No. 94-523B)

#### 2.02.100 Orientation

All new permanent employees shall be provided with a copy of this chapter and insurance plans, and Metro shall periodically provide them with orientation sessions.

(Ordinance No. 81-116, Sec. 45. Amended by Ordinance No. 94-523B)



#### 2.02.105 Workers' Compensation Insurance

(a) All employees shall be covered for medical expenses and disability benefits for compensable injuries or illness resulting from employment.

(b) Payment of medical expenses and lost time disability benefits is determined by the Workers' Compensation Administration in accordance with ORS Chapter 656.

(c) The cost of Workers' Compensation insurance shall be paid by Metro with the exception of the employee contribution mandated by the Workers' Compensation Law of the State of Oregon.

(d) During an employee's absence due to an on-the-job injury or occupational illness, the employee may utilize sick leave or vacation credits to augment any benefits paid by the Workers' Compensation fund.

(Ordinance No. 81-116, Sec. 43. Amended by Ordinance No. 94-523B)

#### 2.02.110 Insurance and Retirement

(a) Permanent full-time employees shall receive insurance benefits, as provided in the budget, on the first day of the month following their first full month of employment. Co-payments by employees may be required. Job share positions are eligible for one set of benefits which are split between the two employees sharing the position.

(b) Permanent part-time employees who are budgeted at .50 FTE or more only, shall receive insurance benefits on a prorated basis, as provided in the budget, on the first day of the month following their first full month of employment. The prorated amount an eligible part-time employee will receive shall be commensurate with the budgeted FTE of their part-time position. An eligible part-time employee may pick up the remaining FTE portion and remaining cost up to 100 percent of insurance benefits at his/her request.

(c) Metro will pay the required employer contribution for an eligible employee's PERS (Public Employee Retirement System) account, and will also pick up the employee's 6 percent contribution. For only those current employees remaining in the former 11 percent plan, Metro will pay the employer 5 percent portion and pick up the employee 6 percent portion.

(Ordinance No. 81-116, Sec. 44. Amended by Ordinance No. 94-523B)

#### 2.02.115 Transfers and Demotions

(a) Transfers. A lateral transfer is the voluntary or involuntary movement of an employee from one position to another position in the same classification, or the voluntary or involuntary movement of an incumbent employee's position. Lateral transfers within the same classification and with the same duties do not require a new probationary period. Lateral transfers within the same classification but with significantly different duties require a three-month probationary period. An employee's salary rate will remain the same for all lateral transfers.

(1) Involuntary Transfer. A lateral transfer of an incumbent employee without the consent of the incumbent employee may be made due to operational needs or as a



result of disciplinary action, but the incumbent employee must be given 10 calendar days prior notice. The incumbent shall be transferred with the position.

- (2) Voluntary Transfer. Regular employees may apply for a transfer to a vacant position by applying through the established internal recruitment process only.

(b) Voluntary Demotion. A regular employee may apply for a voluntary demotion by applying through the established internal recruitment process only.

(Ordinance No. 81-116, Sec. 13. Amended by Ordinance No. 94-523B)

#### 2.02.120 Work Schedules

(a) The normal work schedule shall be 40 hours, Monday through Friday, and the normal work day shall be 8:00 a.m. to 5:00 p.m. Some departments have work schedules and hours, which may vary. In order to provide the best service to the public, Ddepartment Ddirectors may establish operating schedules for departments, which vary from the normal work schedule. Nothing contained in this section or elsewhere in this chapter shall be construed as any guarantee of hours of work per day or per week.

(b) Flexible Work Schedules. Department Ddirectors may establish employee work schedules, which vary from the normal work schedule. All flexible work schedules must be approved by the Ddepartment Ddirector.

(c) Meals and Breaks. Full-time employees shall be allowed at least a 30-minute, not more than an hour, meal break. Such meal breaks shall be scheduled in the middle of a workday as practicable. All employees are entitled to at least a 10-minute break period when working a continuous four-hour work period.

(Ordinance No. 81-116, Sec. 10. Amended by Ordinance No. 94-523B)

#### 2.02.125 Overtime Compensation

(a) When overtime is authorized, overtime compensation shall be paid only to employees who are not exempt from overtime as established in the pay plan.

(b) No overtime shall be paid to overtime exempt employees. Time worked on a holiday may be taken at a later date. It is understood that an overtime exempt employee may have to work on occasion beyond normal business hours, and that some extra work hours beyond a usual workday or workweek are part of the job expectations for an overtime exempt employee. At the Ddepartment Ddirector's discretion, flexible work hours may be utilized to accommodate a reasonable balance of work hours. Recorded time off shall be consistent with administrative leave.

(c) For purposes of computing overtime, hours worked shall include only time actually worked by the employee, and shall not include holiday pay, vacation pay, sick pay, or other compensable leaves.

(d) Compensation for authorized overtime shall be at the rate of time-and-one-half for time actually worked in excess of the 40 hours in a workweek or eight hours in a workday and may be paid in cash if budgeted funds are available or, if the employee agrees as compensatory time off, at the discretion of the Ddepartment Ddirector. Compensatory time must be taken as leave within six months or paid in



cash within the fiscal year that it is earned. Such payment shall be at the employee's rate of pay being earned at the time of payment. When a non-exempt employee is terminated, the employee shall be given cash compensation for the overtime the employee has accrued and not used.

(e) Overtime hours worked shall not be used to expand employee benefits or to shorten probationary or annual merit increase periods. Compensatory time off in lieu of overtime pay will be counted as regular time worked in computing wages and toward earning employee benefits and to serve out probation and merit increase periods.

(Ordinance No. 81-116, Sec. 34. Amended by Ordinance No. 94-523B)

#### 2.02.130 Holidays

(a) Probationary and regular employees of Metro shall be entitled to the following holidays listed with pay; however, floating holidays cannot be utilized by employees until they have successfully completed their initial probationary period:

- (1) New Years Day
- (2) Martin Luther King Jr. Birthday
- (3) President's Day
- (4) Memorial Day
- (5) Independence Day
- (6) Labor Day
- (7) Veterans Day
- (8) Thanksgiving Day
- (9) Christmas Day
- (10-11) Two floating holidays are allowed each fiscal year on days of each employee's choice, subject to schedule approval of the supervisor. For purposes of this section, a floating holiday is any day chosen by the employee and approved by the supervisor which would otherwise be a regular scheduled workday. The floating holidays are non-cumulative from fiscal year to fiscal year and must be taken by the employee within the fiscal year in which they accrue. No payment for floating holidays accrued and not taken shall be provided for any employee upon termination of employment for any reason.

(b) If any such holiday falls on a Sunday, the following Monday shall be given as that holiday. If any such holiday falls on a Saturday, the preceding Friday shall be given as a holiday.

(c) Holidays which occur during vacation or sick leave shall not be charged against such leave.

(d) Regular part-time employees shall receive holiday pay on a prorated basis, based on their hours of work.

(Ordinance No. 81-116, Sec. 35. Amended by Ordinance No. 94-523B)

#### 2.02.135 Vacation

The following provisions are applicable to permanent employees only:



(a) All regular and regular part-time employees shall be granted annual vacation leave with pay.

(b) Upon successful completion of their initial probationary period, employees may be granted accrued vacation leave by approval of the Department Director. Department Director vacations shall be approved by the Chief Operating Officer ~~Executive Officer~~.

(c) Employees shall not accumulate more than 250 hours of vacation leave. If the operating needs of the department prohibit granting a vacation leave request, additional hours in excess of the 250-hour limit, may be accrued or may be compensated, at the discretion of the Department Director, and with the written approval of the Chief Operating Officer ~~Executive Officer~~. Such written authorization shall be filed in the finance and management information department, accounting division, with a copy to the office of personnel.

(d) Department Directors shall schedule vacation requests consistent with the operational needs of the department. Vacation schedules may be amended to allow the department to meet emergency situations.

(e) An employee who has successfully completed his/her initial probationary period, and terminates for any reason, shall be entitled to payment for accrued unused vacation leave. In no case shall payment be more than the maximum allowable 250-hour accrual limit. An employee who terminates for any reason during the initial probationary period shall not be entitled to any accumulated vacation leave payment.

(Ordinance No. 81-116, Sec. 36. Amended by Ordinance No. 91-426, Sec. 1; Ordinance No. 94-523B)

#### 2.02.140 Vacation Credit and Accrual Rate

The vacation credit and accrual schedules for permanent employees are as follows:

<u>Total Years of Continuous Service</u>	<u>Accrual Rate Per Pay Period</u>	<u>Equivalent Annual Hours for Full-Time Employees</u>
Date of Hire through completion of 3rd year	5.00 hours	120 hours
4th year through completion of 7th year	6.00 hours	144 hours
8th year through completion of 11th year	7.00 hours	168 hours
12th year or more	8.00 hours	192 hours

Permanent part-time employees shall accrue vacation under the above schedule at a rate proportionate to the time worked per week.



(Ordinance No. 81-116, Sec. 37. Amended by Ordinance No. 82-139, Sec. 1; Ordinance No. 91-426, Sec. 2; Ordinance No. 94-523B)

2.02.145 Sick Leave

(a) Permanent employees shall earn sick leave with pay at a rate of 104 hours per year (.05 hours per hour worked); such sick leave shall accrue in an unlimited amount.

(b) Permanent part-time employees shall earn sick leave with pay proportionate to the amount of FTE for the position in the budget; such sick leave shall accrue in an unlimited amount.

(c) Employees may use accrued sick leave when temporarily unable to perform work duties by reason of personal illness, injury, disability, medical or dental care, or illness, injury, or disability of a person living in the employee's household. Sick leave is not to be used for personal time off or to extend holidays or vacation leave. No payment for accrued sick leave shall be provided for any employee upon termination of employment for any reason.

(d) Abuse of the sick leave privilege shall be cause for disciplinary action. An employee who is unable to report to work because of any of the reasons set forth in the above subsection of this section shall report the reason for his/her absence to his/her supervisor. Sick leave with pay may not be allowed unless such report has been made. The supervisor may require sick leave to be supported by a physician's statement attesting to the illness.

(e) Permanent full-time employees who use 24 hours or less of sick leave within one fiscal year period, and who are not at the 250-hour vacation accrual limit, shall accrue eight additional hours of vacation leave in exchange for eight hours of sick leave at the end of the fiscal year period. Permanent part-time employees who use 12 hours or less of sick leave within one fiscal year, and who are not at the 250-hour vacation accrual limit, shall accrue four additional hours of vacation leave in exchange for four hours of sick leave. Permanent employees must work a full fiscal year in order to be eligible for this exchange of accrued hours.

(f) Transfer of Leave Credits. Sick leave is provided as a benefit to each employee as insurance for period of illness. Under normal circumstances benefits are not transferable; however, upon written request of a regular employee to the Chief Operating Officer ~~Executive Officer~~ the voluntary transfer of sick leave hours may be authorized on a limited, carefully monitored basis as follows:

- (1) Each request will be reviewed and approval granted or denied on a case-by-case basis by the Chief Operating Officer ~~Executive Officer~~.
- (2) Requests must be due to a catastrophic, long-term, or chronic illness of the requesting employee only.
- (3) The requesting employee must have no more than 40 hours, combined accrued sick leave hours and accrued vacation leave hours at the time of the request.
- (4) Upon approval per (1) above, the requesting employee, or another employee he/she has designated, may initiate a request to Metro employees for the transfer of accrued sick leave hours.



- (5) Employees wanting to voluntarily transfer accrued sick leave hours to the requesting employee may do so only as follows:
- (A) The transferring employee's Department Director must authorize the transfer of hours by signature, such authorization will indicate the transfer of hours can be accomplished within the departmental fiscal year budget.
  - (B) The transfer of accrued sick leave hours cannot exceed a total of 40 hours per transferring employee for each individual requesting employee for each fiscal year.
  - (C) Under no circumstances shall the transferring employee's sick leave balance be reduced to below 120 hours of accrued sick leave because of the voluntary transfer of sick leave hours to another employee.
- (6) Normal leave accruals will not continue for requesting employees while they are on paid leave status as a result of transferred hours. However, health and welfare benefits provided for any other employee on paid leave status will continue for the requesting employee for as long as they remain on paid status.
- (7) Any transferred sick leave hours unused by the requesting employee shall be returned to all transferring employees' sick leave accrual balances on a pro-rated basis.
- (8) Copies of approved requests and approved transfers of hours must be sent to the finance and management information department, accounting division, for implementation and to the office of personnel.

(Ordinance No. 81-116, Sec. 38. Amended by Ordinance No. 82-139, Sec. 2; Ordinance No. 94-523B)

#### 2.02.150 Family Medical Leave

Metro provides family medical leave of up to 12 weeks within a one-year period for eligible employees when a serious health condition requires inpatient care or continuing treatment by a health care provider and makes the employee unable to work, and/or because of the birth of a child, or the placement of a child for adoption or foster care in the employee's home, and/or for the care of family members who suffer serious health conditions. For the purpose of this leave, family members are defined as a seriously-ill spouse, parent, parent-in-law, or child, or a sick minor child requiring home care. At the employee's discretion, the leave shall be paid from accrued personal leaves (including vacation leave, sick leave, compensatory time leave, personal holiday leave), or be unpaid. Except for limited circumstances, family medical leave runs concurrent with other leaves.

- (a) The employee shall be entitled to take family medical leave without being penalized for taking such leave.
- (b) An employee returning from family medical leave shall be reinstated with no greater or lesser right in employment than if the employee has not taken the leave (pursuant to Oregon Laws 1991, chapter 939).



(c) All full-time and part-time employees who have completed at least 180 calendar days of employment while averaging at least 25 hours of work per week are eligible to request the leave.

(d) Employees have the option of using their accumulated leave balances during the family medical leave. Health and welfare coverage will continue at the same level of benefits and contributions for employees on family medical leave as for other benefit-eligible employees. If employees fail to return from leave, except because of their own or a family member's serious health condition or another circumstance beyond their control, Metro can recover health premiums it paid during the leave. These monies may be recovered from the final paycheck if there is one or by a lawsuit.

(e) Eligible employees may take a maximum of 12 weeks of family medical leave within a one-year period. Each one-year period begins on the date of the first day of actual leave taken. Leave may be taken continuously or, under certain circumstances, on a reduced workweek schedule, or intermittently.

(f) When the employee can anticipate that the serious health situation is going to arise, the employee must submit a written request to the Département Directeur and the office of personnel at least 15 days prior to taking the leave. When the employee cannot anticipate the serious health condition of the family member, an oral request can be made to the Département Directeur to be confirmed in writing to the Département Directeur and the office of personnel within three working days.

The employee's written request must contain the following:

- (1) The relationship of the employee to the person needing care.
- (2) The health condition of the family member necessitating the leave, along with a doctor's certification stating such health condition.
- (3) The anticipated length of absence, not to exceed 12 weeks.
- (4) Other family members who are taking family medical leave and when they are taking it or are otherwise available to care for the family member.

(g) Metro is not required to grant this leave of absence during any period of time in which another family member is also taking a family medical leave of absence from their employer, or is otherwise available to care for the family member. If a husband and wife both work for Metro, they can have only 12 weeks of combined leave for birth, placement for adoption or foster care in the employee's home, or caring for a sick parent or parent-in-law, which they can split between them. However, both are entitled to the full 12 weeks for their own illness, or caring for a sick child or spouse.

(h) The employee who takes a family medical leave of absence has a duty to make a reasonable effort to schedule medical treatment or supervision so as to minimize disruption of Metro's operations, subject to the approval of the treating physician.

(i) The former position of an employee on family medical leave shall either remain vacant during the leave, or it may be filled on a temporary basis and considered vacant for reinstatement purposes.



(j) At the conclusion of a family medical leave the employee shall be reinstated to his/her former position unless it has been eliminated due to material changes in Metro's financial or business circumstances, or the circumstances have so changed that the employee cannot be reinstated to his/her former position, in which case the employee shall be reinstated to an equivalent position which is available and suitable. If the circumstances have so changed that the employee cannot be reinstated to the former or an equivalent position, then the employee shall be reinstated to an available suitable position.

(k) Employees who do not return by the date specified may be disciplined up to and including dismissal.

(Ordinance No. 94-523B)

#### 2.02.155 Pregnancy Leave/Transfer

Metro provides temporary transfer or pregnancy leave without pay to eligible employees who are physically unable to perform the duties of their regular position due to pregnancy, child birth, or related medical reasons, without significant risk to the health or safety of the employee or her pregnancy.

(a) The employee shall be entitled to take pregnancy leave or temporary transfer due to pregnancy without being penalized.

(b) The position of an employee on temporary transfer or pregnancy leave shall either remain vacant during the leave, or it may be filled on a temporary basis and considered vacant for reinstatement.

(c) An employee returning from pregnancy leave or temporary transfer shall be reinstated with no greater or lesser rights in employment than if the employee had not taken the leave (pursuant to ORS 659.389).

(d) Subject to these policies, and upon written request, all pregnant employees of Metro are eligible.

(e) Temporary Transfer

(1) Metro shall provide a temporary transfer for the employee if there is an available job which is suitable for the employee and to which the transfer can be reasonably accommodated.

(2) To initiate a transfer, the employee must submit a written request to the Department Director and the office of personnel. The employee's written request must contain the following:

(A) The specific duties affected by the pregnancy.

(B) The reasons why the employee is unable to perform her duties without significant risk to the health or safety of the employee or her pregnancy.

(C) A statement that the employee is physically able to perform available work.



(D) A doctor's opinion/certificate confirming (A), (B) and (C) above to determine whether a transfer is reasonably necessary.

(3) The Department Director or the office of personnel may request an additional independent medical opinion, at Metro expense, within three working days after receipt of the initial medical opinion.

(f) Pregnancy Leave

(1) Metro shall provide a pregnancy leave of absence if no suitable work is available for temporary transfer, and if the leave can be reasonably accommodated.

(2) The period of leave shall be the reasonable period of time during which the employee is disabled from performing any available positions. To initiate a leave of absence, the employee must make the request in writing to her Department Director and the office of personnel. The leave request must include the period of time for which the leave is requested. The leave request must also address the employee's disability from performing other available work:

(A) If the employee previously requested a temporary pregnancy transfer, she must state whether a transfer was offered to her, and if a transfer was offered, the employee must explain why she is disabled from performing those job duties;

(B) If the employee did not request temporary pregnancy transfer, she must explain why she is disabled from performing any available job duties known to her; and

(C) A doctor's opinion/certificate confirming (A) or (B) above.

(3) The Department Director or the office of personnel may request an additional independent opinion, at Metro expense, within three working days after receipt of the initial medical opinion.

(4) Employees have the option of using their accumulated leave balances during pregnancy leave. If the employee chooses to utilize accumulated balances, benefits will be continued as long as the leave is continued on paid status. If the employee chooses to take leave without pay, health and welfare coverage will continue at the same level of benefits and contributions as for other benefit-eligible employees to the extent the employee qualifies for family medical leave, otherwise, benefits only continue as long as the leave is continued on paid status. If employees fail to return from leave, except because of their own or a family member's serious health condition or another circumstance beyond their control, Metro can recover health premiums it paid during the leave. These monies may be recovered from the final paycheck if there is one or by a lawsuit. If the employee chooses to take leave without pay, benefits will be paid through the last day of the month following the month in which the leave without pay commences.



- (5) If, during the course of the leave, another position which the employee is qualified to perform becomes available, Metro will within three working days offer the available position to the employee, unless a physician has determined that the employee must remain on leave for a fixed or minimum period of time and the job becomes available during that period of time, or unless a physician has determined that the employee is disabled from performing any job duties for an indefinite period of time.

(g) If, during the course of pregnancy leave or transfer, the employee regains the ability to perform the duties of her former position she shall within three working days of her knowledge of her regained ability notify Metro. Metro shall restore the employee to her former position within 10 working days of notification by the employee, unless the position has been eliminated due to changed circumstances, in which case the employee will be reinstated to an available equivalent position. If no equivalent positions are available, the employee shall be reinstated to an available and suitable position.

(h) If, at any time during the course of pregnancy leave or transfer, the employee is released by her treating physician to perform the duties of her regular position, she must provide the written release to her Department Director and the office of personnel within three working days of the release. Metro will, within 10 working days of receipt of notice of release, restore the employee to her former position unless, the position has been eliminated due to changed circumstances, in which case the employee will be reinstated to an available equivalent position. If no equivalent positions are available, the employee shall be reinstated to an available and suitable position.

(i) Employees who do not follow timelines established in this policy or do not return by the date specified may be disciplined up to and including dismissal.

(Ordinance No. 94-523B)

#### 2.02.160 Parental Leave

Metro provides parental leave of up to 12 weeks for eligible employees who have become parents. At the employee's discretion, the leave shall be paid from accrued vacation time or accrued sick leave, or be unpaid.

(a) The employee shall be entitled to take parental leave without being penalized for taking leave.

(b) When the employee returns from the leave, he or she must be restored to the former or an equivalent job, without loss of seniority, service credits, etc. If the employee cannot be reinstated to the former or equivalent job because the employer's circumstances have changed, the employee must be reinstated to any other position that is available and suitable.

(c) All employees who have completed 90 days of service are eligible to request the leave. If the period of leave occurs during any probationary period, the probationary period shall be extended for the period of the leave.

(d) Employees have the option of using their accumulated leave balances during pregnancy leave. If the employee chooses to utilize accumulated balances, benefits will be continued as long as the leave is continued on paid status. If the employee chooses to take leave without pay, health and welfare



coverage will continue at the same level of benefits and contributions as for other benefit-eligible employees to the extent the employee qualifies for family medical leave, otherwise, benefits only continue as long as the leave is continued on paid status. If employees fail to return from leave, except because of their own or a family member's serious health condition or another circumstance beyond their control, Metro can recover health premiums it paid during the leave. These monies may be recovered from the final paycheck if there is one or by a lawsuit. If the employee chooses to take leave without pay, benefits will be paid through the last day of the month following the month in which the leave without pay commences.

(e) Employees are entitled to a maximum of 12 weeks unpaid parental leave. Such entitlement begins on the date of birth of the child, or on the date of the taking of physical custody of a newly adopted child.

(f) A request shall be submitted simultaneously to the Department Director and the office of personnel 30 calendar days before the occurrence of the event. The request must be in writing and contain the following information:

- (1) The employee's intent to take parental leave beginning on a date certain more than 30 days from the date of the request.
- (2) The anticipated date of birth of the parent's child; or
- (3) The anticipated date that the parent will obtain physical custody of a newly adopted child under six years of age.
- (4) The dates when the parent or if both parents request parental leave the dates which each parent will commence and terminate his or her portion of the parental leave.
- (5) Failure to submit a written request in accordance with (1) above may result in a reduction of leave time by three weeks as a penalty for untimely notice of leave.

(g) Employees who return from parental leave by the date listed in the written request on file will be restored to their former position without loss of seniority or vacation credits. If circumstances change so that the employee's former job is no longer available, that worker will be reinstated to an equivalent position or any other position that is available and suitable. Employees who do not return may be disciplined.

(Ordinance No. 94-523B)

#### 2.02.165 Leave of Absence Without Pay

All regular employees may be granted leave of absence without pay and without employee benefits for a period not to exceed six months provided such leave can be scheduled without adversely affecting the operations of Metro. Such leave may be extended in writing by the Chief Operating Officer Executive Officer once up to an additional six months. Requests for leave of absence without pay shall be in writing, shall be directed to the Department Director and shall contain reasonable justification for approval. Requests of 10 days or more shall require the approval of the Chief Operating Officer Executive Officer or his/her designee. The approved request shall be filed in the office of personnel. The



employee may elect to continue employee benefits, and upon such election, premiums for such extended coverage shall be paid by the employee. Such coverage shall be subject to any restriction which may exist in each applicable benefit policy or plan.

(Ordinance No. 81-116, Sec. 39. Amended by Ordinance No. 94-523B)

2.02.170 Other Leaves of Absence with Pay

(a) Funeral Leave. A maximum of three days leave with pay shall be allowed a permanent, regular status employee to attend the funeral of the employee's immediate family member.

- (1) If travel is required, up to four additional days (chargeable to sick leave) may be allowed upon request to the employee's Department Director.
- (2) Under special circumstances and upon the death of a person other than the employee's immediate family member, paid leave as described in (a) above to attend a funeral may be granted at the sole discretion of a Department Director at the request of the employee.
- (3) When an employee participates in a funeral service he/she will be granted four hours time off with pay and chargeable to any accrued leave balance, or without pay if the employee has no accrued leave balances, to attend such funeral service subject to the approval of the Department Director.

(b) Witness or Jury Duty. Any permanent, regular status employee shall be granted leave with pay and without loss of any benefits when called for jury duty or subpoenaed as a witness, subject to the following provisions:

- (1) The employee granted such leave shall pay all money, except travel allowance, received for his/her service as a juror or witness to Metro.
- (2) An employee serving as a juror or witness who does not serve for an entire day must return to work as otherwise scheduled.
- (3) Where an employee is required to serve as juror or witness on a scheduled day off or vacation day, and such day cannot reasonably be rescheduled, he/she may retain the fee paid for service as a juror or witness on his/her day off or vacation day.
- (4) Attendance in court as assigned including the time required going to the court and returning to the work site.

(c) Military Leave. Employees shall be granted military leave and right to reinstatement as required by applicable federal or state law.

- (1) Employees who fail to return to duty and/or request reinstatement with Metro within the time period allowed by applicable law shall be deemed to have resigned.



- (2) Employees who take military leave during a probationary period must serve out the remainder of their probationary period upon reinstatement in order to become regular employees.

(d) Alternative Duty. Any permanent, regular status employee who serves as a volunteer in the Peace Corps or U.S. Public Health Service, or other recognized federal volunteer programs as approved by the Department Director and the Chief Operating Officer~~Executive Officer~~, shall be granted approved unpaid leave during the service period.

- (1) Upon returning the employee shall have the right to be reinstated to the position held before the leave was granted.
- (2) Failure of the employee to return to work within 90 days of the termination of the service shall be cause for dismissal.

(e) Administrative Leave. Administrative leave is authorized paid leave for non-represented employees who work in classifications which are exempt from overtime pay. A Department Director may be granted administrative leave in recognition of his/her overtime exempt status upon approval by the Chief Operating Officer~~Executive Officer~~. Other non-represented regular status employees who work in classifications which are exempt from overtime pay may also be granted such leave at the discretion of their Department Director. Such leave shall not be cumulative from year to year, shall be compensable only in the form of leave time, and shall not exceed 40 hours in a fiscal year. Time not worked because of such leave shall not affect accrual of vacation or sick leave.

(Ordinance No. 81-116, Sec. 40. Amended by Ordinance No. 91-426, Sec. 3; Ordinance No. 94-523B)

#### 2.02.175 Preamble--Conduct, Discipline, Termination and Appeal

Nothing contained in this chapter precludes a supervisor from establishing work rules not inconsistent with this chapter for efficient operation and administration of the job site, or precludes a supervisor from having private discussions with employees. These discussions may be in the form of assignment, instruction or any other job-related communication. Any disciplinary action may be grieved by non-represented employees under the grievance procedure established in this chapter.

(Ordinance No. 81-116, Sec. 20. Amended by Ordinance No. 94-523B)

#### 2.02.180 Disciplinary Actions

- (a) Disciplinary actions shall include only the following:
  - (1) Oral or written reprimand;
  - (2) Suspension;
  - (3) Reduction in pay;
  - (4) Transfer;
  - (5) Demotion; and



(6) Termination from employment.

Any of these disciplinary actions may be utilized. It may not be necessary in every circumstance that the discipline be taken progressively. Disciplinary actions shall occur in a manner that is least likely to embarrass employees before other employees or the public, although it is recognized that this may not always be possible depending on the circumstances.

(b) Metro reserves the right to discipline or terminate an employee whenever:

- (1) The employee's performance is unsatisfactory; or
- (2) Metro feels discipline or termination is appropriate for other reasons; or
- (3) Whenever it is determined that such action is in the best interests of Metro.

(c) The following are some examples (but not all) of the types of conduct which will result in disciplinary action. The listing of these examples is for illustrative purposes, and in no way limits Metro's authority and discretion to discipline or terminate employees pursuant to paragraph (a) of this section:

- (1) Abandonment of position.
- (2) Absence from duty without leave.
- (3) Abuse of leave privileges.
- (4) Below standard work performance.
- (5) Discourteous treatment of the public or other employees, including but not limited to intentional tortious conduct.
- (6) Possessing, using, transferring, offering or being under the influence of any intoxicants or narcotics during working hours.
- (7) Fraud in securing appointment or promotion.
- (8) Insubordination, including but not limited to, refusal or failure to follow the directive of a supervisor or other designated management staff, failure to comply with an established work rule or procedure, or discourteous behavior toward members of management.
- (9) Misuse of Metro property, funds or records.
- (10) Neglect of duty.
- (11) Willful deceit.
- (12) Any conviction by a court of law which demonstrates an impaired ability to properly perform work for Metro, or which would cause embarrassment or inconvenience for Metro.



- (13) Violation of Metro ordinances, regulations and directives.
- (14) Willful violation of established safety policies.
- (15) Inability to get along with fellow employees.
- (16) Any falsification of information during the employment application or employment appointment process, regardless of when discovered.
- (17) Unlawful harassment or discrimination.
- (18) Theft, including personal or public property.
- (19) Sleeping on the job.
- (20) Gambling on Metro premises, including but not limited to card games, dice games.
- (21) Violation of this chapter, established work rules, or other management directives.

(d) Procedure for Suspension, Reduction in Pay, Transfer, Demotion or Termination. The supervisor will review information gathered with the office of personnel prior to the supervisor taking any suspension without pay, reduction in pay, transfer, demotion or termination action. If a basis for discipline exists:

- (1) An employee may be suspended with pay, by the Département Directeur, pending disciplinary action.
- (2) A written notice of contemplated disciplinary action (suspension, reduction in pay, transfer, demotion, or dismissal) shall be delivered to the affected employee in person or by mail. This notice shall state the reasons for the proposed action and will include:
  - (A) The alleged conduct by the affected employee.
  - (B) The violation(s).
  - (C) A date, time, and place for the affected employee to have an opportunity to address the violation(s) at a pre-disciplinary meeting. Employees may, at their expense, be represented by an attorney or other person of their choice in a pre-disciplinary meeting.
- (3) Upon completion of the pre-disciplinary meeting, a written notice of the actual disciplinary action taken, if any, shall be delivered to the affected employee in person or by mail. This notice shall state the disciplinary action taken, the violation(s), and the effective date of the disciplinary action. This notice shall be a permanent part of the affected employee's personnel record.



- (4) No failure by Metro to follow any of the procedures described herein shall be grounds for invalidating disciplinary action, including termination, which is otherwise deserved on the merits. Additionally, the Personnel Director may, in his/her discretion, dispense with all or part of these procedures, with or without notice to the employee.

(e) The affected employee may grieve the final disciplinary action pursuant to the grievance procedure established in this policy. In the case of a termination action the grievance shall be filed at Step 2 of the Grievance Procedure in this chapter with the Department Director, with a copy to the Personnel Director.

(Ordinance No. 81-116, Sec. 21. Amended by Ordinance No. 94-523B)

#### 2.02.185 Layoff

(a) If there is a reorganization, changes in the organization, lack of work or lack of funds, or other reasons not reflecting discredit on employees, the Chief Operating Officer ~~Executive Officer~~ may lay off employees. When layoffs occur, temporary employees in affected classes shall be terminated first, with or without prior notice; then employees in their initial probationary period in affected classes shall be terminated, with or without prior notice; and finally regular employees in affected classes not in their initial probation shall be given a minimum of two weeks written notice of their layoff from Metro employment.

(b) Laid off employees shall be placed on a layoff list and may be recalled from the layoff list to a vacant position within the classification from which they were laid off for one year following layoff and prior to internal recruitment for the vacant position. It is the employee's obligation to keep the office of personnel informed of any change of address. If the office of personnel attempts to contact the employee by mail and the letter is returned, the employee's name will be removed from the layoff list.

(c) When an employee on the layoff list rejects an offered appointment to a vacant position in the same classification from which they were laid off, the employee's name will be removed from the layoff list.

(Ordinance No. 81-116, Sec. 14. Amended by Ordinance No. 94-523B)

#### 2.02.190 Resignation

Any employee may resign from Metro by presenting an oral or written resignation to the supervisor, manager, or Department Director. An oral resignation shall be confirmed in writing by the supervisor to the resigning employee. To resign in good standing, an employee must give a minimum of two weeks notice of resignation, unless because of extenuating circumstances the supervisor, manager, or Department Director agrees to permit a shorter period of notice. The resignation shall provide an effective date which shall be the last day actually worked, and shall be forwarded to the office of personnel by the supervisor. If an employee who has resigned seeks to rescind the resignation, such rescission only may be granted by the affected Department Director at his/her sole discretion. All compensatory time for non-exempt employees only, and vacation leave credits earned and not used, up to the 250-hour limit, shall be paid.

(Ordinance No. 81-116, Sec. 15. Amended by Ordinance No. 94-523B)



#### 2.02.195 Personnel Records

(a) An official personnel file will be maintained by the office of personnel for each employee of Metro. The personnel file will constitute the official record of an individual's employment with Metro.

(b) No information that reflects critically upon an employee shall be placed in an employee's personnel record without giving a copy to the employee.

(c) Access to the personnel file shall be limited to the employee, management staff, and the staff of the office of personnel. Management staff must have job-related reasons to have access to job-related information in an employee's file upon request to the Personnel Director. Employees may review their personnel files in the office of personnel during regular business hours. Employees may authorize in writing a person(s) to review their personnel files. Employees have the right to copies of material in their personnel files upon request. Personnel records will leave the office of personnel only under the procedures established by the office of personnel.

(d) Information in personnel files will be treated as exempt from public disclosure to the extent provided by the Oregon Public Records Law.

(Ordinance No. 81-116, Sec. 12. Amended by Ordinance No. 94-523B)

#### 2.02.200 Grievance Procedure

It is the policy of Metro to provide for an orderly process whereby non-represented permanent employees may have their dissatisfactions considered fairly and rapidly without fear of reprisal. Every effort should be made to first find an acceptable solution by informal means with the first-line supervisor.

(a) Definition. A grievance is defined as a written expression of an alleged violation of this chapter of the Code, submitted by an employee(s) for the purpose of obtaining adjustment.

(b) Procedure

- (1) An employee who believes a grievance exists which has not been resolved by informal means must reduce the grievance to writing. The written grievance must contain:
  - (A) A clear and complete account of the action or inaction which adversely affected or affects the employee.
  - (B) The specific provision(s) of this chapter believed to have been violated or misapplied to the employee.
  - (C) The date of the circumstances giving rise to the grievance and the date of the employee's first knowledge of those circumstances, if later.
  - (D) The remedy sought by the employee to resolve the grievance.
- (2) The employee must present the written grievance to his/her supervisor within 15 calendar days of the occurrence of the circumstances giving rise to the grievance or the employee's first knowledge of those circumstances. The supervisor shall



discuss the grievance with the employee and attempt to resolve it. If the written grievance is not resolved within five calendar days from the date of submission of the written grievance to the supervisor, it may be submitted within another five calendar days to the employee's Department Director.

- (3) The Department Director and the employee will attempt to resolve the grievance within five calendar days from the date of submission of the written grievance to the Department Director. If the grievance remains unresolved after the five calendar day period, the employee may submit it within another five calendar days to the Chief Operating Officer ~~Executive Officer~~.
- (4) The Chief Operating Officer ~~Executive Officer~~ will review and investigate the grievance, as necessary. The Chief Operating Officer ~~Executive Officer~~ will respond to the grievant within 15 calendar days from the date the grievance was submitted to the Chief Operating Officer ~~Executive Officer~~. The decision of the Chief Operating Officer ~~Executive Officer~~ shall be final and binding.

(c) Any or all time limits specified in these rules may be waived by mutual consent of all parties. Likewise, any step in the procedure may be waived by mutual consent of all parties. Mutual consent shall be confirmed in writing.

(d) Any grievance not taken to the next step by the grievant within the prescribed number of days after receipt of a response shall be deemed resolved.

(Ordinance No. 81-116, Sec. 22. Amended by Ordinance No. 94-523B)

#### 2.02.205 Service Awards

The Chief Operating Officer ~~Executive Officer~~ shall provide a service award program for permanent Metro employees.

(Ordinance No. 81-116, Sec. 50. Amended by Ordinance No. 94-523B)

#### 2.02.210 Education, Training and Development Policy

(a) Education and Development. All regular full-time employees, upon successful completion of the six-month probationary period, are encouraged to pursue educational opportunities or development programs which are directly related to the employee's work and which will enhance the employee's job-related skill level.

- (1) A full-time employee who registers for courses which are judged to be of direct and significant benefit to Metro may receive some reimbursement for expenses incurred by the employee while taking approved courses provided that:
  - (A) The course is submitted to the employee's Department Director for approval at least 30 days prior to proposed enrollment, and the course is approved by the Department Director.
  - (B) The course is taken on the employee's own time.



- (C) The amount of reimbursement is at the Ddepartment Director's discretion and is subject to departmental budgetary limitations and priorities.
- (D) The employee receives a grade of "C" or better or a "pass" grade if the class is graded on a "Pass-Fail" basis. Metro will make reimbursement within 30 days after proof of satisfactory completion of the course.
- (E) The employee is not receiving reimbursement for tuition from other sources.
- (F) The tuition reimbursement per course shall not exceed the tuition rate for a similar course at Portland State University.
- (G) The tuition reimbursement for any single course shall not exceed the tuition rate for a three-hour graduate level course at Portland State University.
- (H) The total tuition reimbursement to an employee shall not exceed \$1,000 in any fiscal year.
- (2) In lieu of tuition reimbursement, the Ddepartment Director may approve time off with pay so an employee may attend courses or development programs which are directly related to the employee's current position and will result in improved job performance or skills.
- (3) Normally, the cost of textbooks and technical publications required for such courses or development programs shall be the responsibility of the employee. However, the Ddepartment Director may elect to reimburse the employee for textbooks and publications for such courses. If the employee is reimbursed, the textbooks and publications shall be the property of Metro and shall be returned to the Ddepartment Director upon completion of the educational courses or development programs.

(b) Training. Metro may develop and implement its own training and development programs or may obtain and implement training and development programs to be conducted by person(s) other than Metro employees.

- (1) The Ddepartment Director may temporarily change an employee's work assignment for a period not to exceed 90 work days, without posting, so that such employee can participate in training and development provided.
- (2) If an employee is required to participate in any training and development program, it shall be considered time worked for pay purposes. All tuition, texts, training materials, and other expenses incident to such required participation shall be assumed by the department.
- (3) If an employee desires to participate in any training and development program in which their participation is not required, time off to attend must be approved by



the Department Director. All tuition, texts, training materials, and other expenses incident to such non-required participation shall be assumed by the employee, however, the Department Director may elect to reimburse the employee for textbooks and publications for such courses. If the employee is reimbursed, textbooks and publications shall be the property of Metro and shall be returned to the Department Director upon completion of the training or development program.

- (4) Metro shall notify employees of available training and development programs provided by Metro.

(Ordinance No. 81-116, Sec. 42. Amended by Ordinance No. 94-523B; Ordinance No. 95-594A, Sec. 1)

#### 2.02.215 Drug/Alcohol Abuse Policy

(a) An employee who believes that he/she has a problem involving the use of alcohol or drugs can ask the supervisor or the office of personnel staff for confidential assistance. No discipline or discrimination will result from an employee asking for such assistance, although a "reentry" or performance contract will be required of an employee once the problems have been identified or assessed and a treatment program started. Failure to sign or to live up to the performance contract or treatment program obligations will be grounds for discipline, including termination.

Metro also agrees to work jointly with the employee to identify all Metro and, if applicable, union benefits and benefit programs that may be available to help deal with the problem, such as leaves of absence, sick pay, short-term or long-term disability pay and health insurance. Any continuing rehabilitation treatment will be paid for by the employee and whatever employee coverage for such treatment that is provided by the existing benefits package. The request for assistance and any later treatment program will be kept as confidential as possible under all the factual circumstances.

Although Metro recognizes that alcohol and drug abuse can sometimes be successfully treated and it is willing to work with employees who may suffer from such problems, it is the employee's responsibility to seek such assistance BEFORE drug or alcohol problems lead to on-the-job safety or misconduct incidents, or violations of this policy and to corresponding disciplinary action. AFTER a violation of this policy occurs, or AFTER a drug- or alcohol-related accident, an employee's willingness to seek Metro or outside assistance will NOT "excuse" the violation and generally will have no bearing on the determination of an appropriate disciplinary action.

#### (b) Prohibited Conduct

- (1) Alcohol. The possession, transfer, sale, offering, consumption or being under the influence of any intoxicating liquor while on Metro property is prohibited. **IMPORTANT:** The conduct prohibited includes consumption of any intoxicating liquor prior to reporting to work or during breaks or lunch period or on the job. For purposes of this provision, "under the influence" shall be defined as a blood alcohol content of .02 or higher.
- (2) Drugs. The possession, transfer, sale, offering, consumption or being under the influence of any narcotic, hallucinogen, stimulant, sedative, or drugs (except as authorized and prescribed by a physician and then only if reported to the



supervisor prior to beginning work) while on Metro property or time (such as on customer's premises).

EXCEPTION. The use of medically-prescribed or over-the-counter drugs during working hours is approved, and an employee shall have no obligation to inform his or her supervisor of such usage unless the prescribed or over-the-counter drug contains a warning notice of possible impairment which may prevent an employee from performing his or her job safely and adequately; for example, operating mechanical equipment. An employee must inform his or her supervisor that he/she is taking prescribed or over-the-counter drugs which contain a warning of possible impairment prior to beginning work each day he or she uses the medication.

IMPORTANT. The conduct prohibited by this rule includes consumption of any such substance prior to reporting to work or during breaks or lunch period or on the job. An employee who tests "positive" for any such substances by screening and confirmation tests, including an employee who tests positive as the result of an authorized prescribed substance that was not reported to the supervisor prior to beginning work, will be deemed "under the influence" for the purposes of this rule.

The only exception is that less than 50 nanograms of THC, the active ingredient in marijuana, will not be considered a positive test.

(c) Right to Test. When Metro reasonably suspects that an employee has consumed or is under the influence of alcohol or any other substance or is otherwise in violation of this policy, Metro may require that the employee submit to appropriate tests for alcohol or prohibited drugs or substances in his/her system, including urinalysis. Failure to promptly give written consent, without qualification, to such testing and failure to provide samples for such testing will be grounds for immediate suspension pending further investigation and consideration, and for possible discipline, including termination.

Metro will bear the expense of all testing under this provision requested by Metro. A positive test must be confirmed by a second test which uses a different methodology than the one which was used for the initial positive result. An employee subject to testing will, upon request, receive a sample of the tested substance so that the employee can submit it to an independent lab (one chosen by the employer) for verification.

An employee determined to have violated this rule for the first time will not automatically be subject to discipline or discharge depending on the circumstances of the violation and whether he or she agrees to complete an approved substance abuse program. Second or subsequent violations of this rule may result in discipline, up to and including discharge.

The results of all investigations, tests and discipline will be kept strictly confidential to the extent permitted by law, except that such information will be made available on request by the employee.

(Ordinance No. 94-523B)



#### 2.02.220 Smoking Policy

Smoking (cigarettes, pipes and cigars) is prohibited inside all Metro facilities. Notwithstanding the provisions of this section, smoking is prohibited in any public meeting as defined in ORS 192.710.

(Ordinance No. 89-285, Sec. 1. Amended by Ordinance No. 94-523B)

#### 2.02.225 Conferences, Membership and Conventions

Attendance at conferences, conventions or other meetings at Metro's expense shall be authorized by the Chief Operating Officer~~Executive Officer~~. Authorization shall be granted on the basis of an employee's participation in or the direct relation of his/her work to the subject matter of the meeting. Members of professional societies may be permitted to attend meetings of their society when such attendance is considered to be in the best interest of Metro. Metro shall pay for professional or trade memberships for employees when deemed appropriate by the Chief Operating Officer~~Executive Officer~~ or his/her designee limited, however, to the availability of budgeted funds.

(Ordinance No. 81-116, Sec. 41. Amended by Ordinance No. 94-523B)

#### 2.02.230 Employee Organizations and Representation

Employees of Metro have the right to form, join and participate in the activities of labor organizations of their own choosing for the purpose of representation and collective bargaining on matters relating to wages, hours and working conditions in accordance with the Oregon Revised Statutes and Regulations of the State Employment Relations Board.

(Ordinance No. 81-116, Sec. 17. Amended by Ordinance No. 94-523B)

#### 2.02.235 Political Activity

(a) Nothing contained within this chapter shall affect the right of the employee to hold membership in and to support a political party, to vote as they choose, to privately express their opinions on all political subjects and candidates, to maintain political neutrality and to attend political meetings. An employee must exercise all due caution in such activities to prevent public misunderstanding of such actions as representing Metro, or to bring discredit to Metro, the Ceouncil~~Executive Officer~~, or his/her supervisor.

(b) No official, employee or any other person shall attempt to coerce, command or require any Metro employee to influence or give money, service or other thing of value to aid or promote any political committee or to aid or promote the nomination or election of any person to public office.

(c) No public employee shall solicit any money, influence, service or other thing of value or otherwise promote or oppose any political committee or promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office-holder while on the job during working hours. However, nothing in this section is intended to restrict the right of a public employee to express personal political views.  
(ORS 260.432)

(Ordinance No. 81-116, Sec. 18. Amended by Ordinance No. 94-523A)



2.02.240 Ethical Requirements for Employees, Officers, Elected and Appointed Officials

(a) The purpose of this section is to establish a Code of Ethics for Metro public officials which is consistent with current public policy established by the Oregon Legislative Assembly. Failure to comply with the provisions of this Code shall be grounds for disciplinary action for employees of Metro.

(b) "Public official" means any employee, officer, elected official or appointed member of a board, commission or committee of Metro.

(c) All public officials of Metro shall strictly comply with the following requirements:

- (1) No public official shall use official position or office to obtain financial gain for the public official, other than official salary, honoraria or reimbursement of expenses, or for any member of the household of the public official, or for any business with which the public official is associated.
- (2) No public official or candidate for office or a member of the household of the public official or candidate shall solicit or receive, whether directly or indirectly, during any calendar year, any gift or gifts with an aggregate value in excess of \$100 from any single source who could reasonably be known to have a legislative or administrative interest in any governmental agency in which the official has or the candidate if elected would have any official position or over which the official exercises or the candidate, if elected, would exercise any authority.
- (3) No public official shall solicit or receive, either directly or indirectly, and no person shall offer or give to any public official any pledge or promise of future employment, based on any understanding that such public official's vote, official action or judgment would be influenced thereby.
- (4) No public official shall further the personal gain of the public official through the use of confidential information gained in the course of or by reason of the official position or activities of the public official in any way.
- (5) No person shall offer during any calendar year any gifts with an aggregate value in excess of \$100 to any public official or candidate therefor or a member of the household of the public official or candidate if the person has a legislative or administrative interest in a governmental agency in which the official has or the candidate if elected would have any official position or over which the official exercises or the candidate if elected would exercise any authority.

(d) The ~~Auditor~~Executive Officer, and every member of the ~~Council~~Council of Metro, and the ~~Portland Metropolitan Area Local Government Boundary Commission~~ shall be required to comply with the reporting requirements established by ORS 244.060, including the filing of a Statement of Economic Interest on an annual basis as required by state law. A copy of the Statement of Economic Interest shall be filed with the ~~Council~~Clerk at the time of filing with the appropriate state agency.

(e) The Chief Operating Officer, the Metro Attorney, the Chief Financial Officer, and all All members of the Metropolitan Exposition-Recreation Commission and all Department Directors



employees filling positions requiring council confirmation as set forth in section 2.02.080(e) shall file annually with the Council Clerk a Statement of Economic Interest which is substantially consistent with that required by ORS 244.060.

(f) Public officials shall comply with the following requirements regarding the declaration of potential conflicts of interest and recording the notice of a potential conflict:

- (1) If the public official is an elected public official or an appointed public official serving on a board or commission, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official.
- (2) If the public official is any other appointed official subject to this chapter, notify in writing the person who appointed the public official to office of the nature of the potential conflict, and request that the appointing authority dispose of the matter giving rise to the potential conflict. Upon receipt of the request, the appointing authority shall designate within a reasonable time an alternate to dispose of the matter, or shall direct the official to dispose of the matter in a manner specified by the appointing authority.
- (3) Nothing in subsection (1) of this section requires any public official to announce a potential conflict of interest more than once on the occasion which the matter out of which the potential conflict arises is discussed or debated.
- (4) Nothing in this section authorizes a public official to vote if the official is otherwise prohibited from doing so.
- (5) When a public official gives notice of a potential conflict of interest, the potential conflict shall be recorded in the official records of the public body.

(Ordinance No. 89-305A, Sec. 3. Amended by Ordinance No. 94-523B)

#### 2.02.245 Zoo Visitor Services Employees

(a) Purpose. The purpose of this section is to establish personnel policies pertaining to the conditions of employment of Zoo visitor services worker employees; to promote efficiency, economy, and public responsiveness in the operation of the Zoo visitor services division; and to provide that the employees covered by this section shall be subject to proper conduct, the satisfactory performance of work, and the availability of funds. Other sections of this chapter apply to visitor services employees, however, in the event of a conflict between this section and other sections of this chapter, this section shall govern.

~~(b) This section does not constitute a contract of employment. In order to meet future challenges and to continue to improve the working environment for all zoo visitor services employees, the council retains the flexibility to change, substitute, interpret and discontinue the policies and benefits described herein, at any time, with or without notice to employees. No contract of employment can be created, nor can an employee's status be modified, by any oral or written agreement, or course of conduct, except by a written agreement signed by the division manager, zoo director or his/her designee, the personnel director, and the Executive Officer. Whenever a question arises as to the meaning or~~



interpretation of any policy or practices of the zoo visitor services division, the interpretation given by the Executive Officer and/or his/her designee(s) shall be final and binding. [Duplicated elsewhere.]

(be) Definitions

- (1) The visitor services worker classification is divided into two definitions and nothing contained in this section shall be construed as any guarantee of hours worked per day or per week:

- (A) Seasonal Visitor Services Worker employee: Employees who are employed on a seasonal basis. They will be scheduled regularly during the peak seasons and scheduled as needed and as available during the remainder of the year.

The probationary period for seasonal visitor services employees is the initial 30 workdays of employment, and an additional probationary period shall not be required at a subsequent reinstatement, if the reinstatement is within one year of termination in good standing. Visitor services employees serving their initial probationary period may be disciplined or terminated without cause, with or without prior notice. However, nothing in this paragraph shall be construed as implying or requiring that cause must exist for the discipline or termination of a seasonal status employee who has completed the initial probationary period.

- (B) Regular Visitor Services Worker employee: Employees who are employed on a year-round basis in the visitor services division of the Oregon Zoo Metro-Washington Park Zoo and regularly scheduled to work 20 or more hours each week, as provided by the current adopted budget.

- (2) "Director" means director of the Oregon Zoo Metro-Washington Park Zoo.

- (3) Seasons are defined as April through the first week in September (Labor Day) and the second week in September through March.

(cd) Application of Personnel Policies. All visitor services worker employees shall be subject to this section and to all other Zzoo personnel policies and regulations not inconsistent with this section.

(de) Recruitment and Appointment for Seasonal Visitor Services Worker Employees

- (1) In-house recruitment to fill seasonal visitor services vacancies is not required and is at the discretion of the visitor services manager.
- (2) Recruitment to fill vacancies shall include appropriate forms of announcements to attract qualified applicants and to comply with Affirmative Action goals.
- (3) At the beginning of each season a general recruitment will be initiated. The recruitment will remain open until the beginning of the following season. A list



of qualified applicants will be developed by the visitor services manager pursuant to these visitor services worker rules, from which visitor services workers will be appointed. Applicants will be appointed from this list on an as-needed basis only. If the seasonal list is not exhausted, those not hired but remaining on the list must go through the next season's selection process to be considered for hiring. The visitor services manager will maintain the list and will determine who will be appointed.

- (4) Employees who leave in good standing may, within one year of termination, be reinstated without going through a recruitment process.

(ef) Recruitment and Appointment for Regular Visitor Services Worker Employees

- (1) In-house recruitments to fill regular visitor services worker vacancies are open only to current seasonal visitor services worker employees which will be the first means used. If no one applies, then the position may be filled with a current seasonal employee who shall be appointed by the visitor services manager.
- (2) In-house recruitments to fill vacancies as described in (1) above, shall include posting of such vacancies for at least five calendar days within the visitor services division.
- (3) Regular visitor services worker employees will be eligible to apply in-house for all vacant regular (non-visitor services worker) positions within Metro.

(fg) Status of Seasonal Visitor Services Worker Employee Seasonal visitor services worker employees will be eligible to compete for in-house recruitments of a regular, non-visitor services worker position, if they have worked 40 hours per week for three consecutive months and were hired through a competitive process for or had been reinstated to the position they currently hold.

(gh) Benefits

- (1) Benefits required by law such as Workers' Compensation and Social Security will be paid for all visitor services employees. Seasonal visitor services worker employees will not receive any other benefits.
- (2) Seasonal visitor services worker employees will not be paid for holidays not worked. Designated holidays shall be considered as normal workdays.
- (3) Regular visitor services worker employees appointed to one of the regular visitor services worker positions will receive a full benefit package when working a minimum of 20 hours per week.

(hi) Performance Evaluation. Performance evaluations will be performed at least once during the initial 30 workday probationary period.



(ij) Disciplinary Action

- (1) Nothing contained in this section precludes the visitor services manager or Zdirector from establishing work rules not inconsistent with this section for efficient operations and administration of the job site, or precludes the manager from having private discussions with employees. These discussions may be in the form of assignment, instruction, or any other job-related communication.
- (2) It is appropriate, though not always necessary in every circumstance, that disciplinary actions be taken progressively. Disciplinary actions will take into consideration the degree, severity, and frequency of the offense and/or circumstances surrounding the incident. Any disciplinary action shall be done in a manner that is least likely to embarrass the employee before other employees or the public. Copies of disciplinary actions shall be placed in the employee's personnel file. Any disciplinary action may be grieved under the grievance procedure established in Cchapter 2.02 of the Code.
- (3) The following are some examples (but not all) of the types of conduct which will result in disciplinary action. The listing of these examples is for illustrative purposes:
  - (A) Abandonment of position.
  - (B) Absence from duty without leave.
  - (C) Abuse of leave privileges.
  - (D) Below standard work performance.
  - (E) Discourteous treatment of the public or other employees.
  - (F) Intoxication during working hours.
  - (G) Fraud in securing appointment or promotion.
  - (H) Insubordination.
  - (I) Misuse of Metro property, funds or records.
  - (J) Neglect of duty.
  - (K) Willful deceit.
  - (L) Any conviction by a court of law which demonstrates an impaired ability to properly perform work for the division.
  - (M) Violation of Metro Code, ordinances and regulations, established work rules and directives, including those directives defined in the Visitor Services Worker Handbook.



- (4) Dismissal. Should the actions of an employee indicate the dismissal of the employee may be necessary, the visitor services manager will review the proposed termination with the Ppersonnel Ddirector, including a review of any response or explanation by the employee. If the dismissal action is appropriate, the visitor services manager will seek authorization from the Zzoo Ddirector to proceed with the dismissal. The employee shall be notified in writing of the dismissal action. The notice will become a permanent part of the employee's personnel file. Payroll shall be notified to prepare the final check.

(jk) Promotion. Eligibility for assignment to visitor services worker 2 and 3 classifications shall be established by the visitor services manager and shall be subject to in-house recruitment established in (f)(1-3) above upon determination that an employee has acquired or possesses the knowledge, skill and ability required for the position.

(kl) Wage Rates

- (1) Visitor services worker employees will be paid at a rate in the pay plan recommended by the visitor services manager and the Ppersonnel Ddirector, and approved by the Chief Operating Officer Executive Officer and the Council.
- (2) The step range for each employee shall be established on the basis of individual qualifications and work assignment. It will be the general practice to appoint new visitor services worker employees at the beginning step of the visitor services worker 1 salary range. Exceptions approved by the Chief Operating Officer Executive Officer may be made to allow hiring above the beginning step. Total hours of previous work experience with the Zzoo and the quality of that work will be considered in determining the step for previous employees reemployed at the Zzoo in subsequent seasons.
- (3) Eligibility for a wage increase shall be at the discretion of the visitor services manager and after successful completion of the initial probationary period.
- (4) Section 2.02.160 of the Metro Code (Salary Administration Guidelines) shall not apply to any visitor services worker employees.

(lm) Reporting and Hours of Work

- (1) Because the number of seasonal visitor services worker employees needed at a given time depends upon weather conditions, such employees may be relieved from duty prior to the end of a scheduled workday or may be directed to not report for duty on a scheduled workday. The Ddirector or his/her designee shall establish appropriate procedures for regulating reporting during inclement weather.
- (2) Work schedules will be posted, and will be subject to subsection (1) above. No employee will be called to work for less than three hours in one day.



(mn) Rest and Meal Period

- (1) A rest period of 10 minutes with pay will be provided during each work period of four hours.
- (2) A non-paid lunch period of 30 minutes shall be provided. Whenever possible, such meal period shall be scheduled in the middle of the shift.

(Ordinance No. 81-123, Sec. 1 and 2. Amended by Ordinance No. 87-221, Sec. 1 and 2; Ordinance No. 89-269, Sec. 1; Ordinance No. 89-269; Ordinance No. 92-467A, Sec. 1; Ordinance No. 94-523B)

2.02.250 Volunteers

A volunteer is an individual serving in a non-paid voluntary status. Volunteers are not considered employees of Metro and are not subject to the provisions of this chapter, except as otherwise provided by law.

(Ordinance No. 94-523B)

2.02.255 Acknowledgment of Receipt of Personnel Policies

All permanent employees shall be given a copy of this chapter of the Code and shall acknowledge receipt by signing the following statement:

"I acknowledge that I have received a copy of the Metro Code, Chapter 2.02, which outlines my working conditions, privileges and obligations as an employee. This chapter constitutes the general policies of Metro and may be supplemented by more specific policies. Further, I understand that this chapter is necessarily subject to change. I understand that no contract of employment can be created, nor can an employee's status be modified by any oral or written agreement (except a valid collective bargaining agreement), representation, or course of conduct. Lastly, I understand that these policies do not in any way constitute a contract of employment, either express or implied."

\_\_\_\_\_  
Print Employee Name

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Social Security Number

(Ordinance No. 94-523B)



### 2.02.300 Personnel Rules for Represented Employees

Sections 2.02.300 to 2.02.499 of this Metro Code shall be known as and may be cited as the "Metro Personnel Rules for Represented Employees". As used in Sections 2.02.300 to 2.02.499, references to "rules" or "chapter" shall be deemed to be references to these Metro Personnel Rules for Represented Employees.

(Ordinance No. 94-523B)

### 2.02.305 Purpose

The purpose of this chapter is:

(a) To provide and maintain a system of personnel administration for all represented employees in which the appointment and retention of persons in Metro employment shall be achieved on the basis of promoting the public welfare and implementing Metro's responsibilities;

(b) To establish and maintain a position classification plan which shall group all positions into classifications based upon their duties and responsibilities;

(c) To provide for a compensation plan which shall include for each classification a minimum and/or maximum salary rate and such intermediate salary rates as the Council considers necessary and equitable;

(d) To promote efficiency, economy, and public responsiveness in the operation of Metro;  
and

(e) To provide that the employees covered by these rules shall be subject to proper employee conduct, the satisfactory performance of work, and the availability of funds.

(f) The provisions in this chapter do not constitute a contract of employment. Moreover, in order to meet future challenges, the Council retains the flexibility to change, substitute, and discontinue the policies and benefits described herein. No person shall be deemed to have a vested interest in, or legitimate expectation of, continued employment with Metro, or any policy or benefit described herein or otherwise generally followed by Metro. No contract of employment can be created, nor can an employee's status be modified, by any oral or written agreement, or course of conduct, except by a written agreement signed by the Chief Operating Officer and the Executive Officer and the employee, and subject to the any approval by the Metro Council ~~requirements for contracts established by the Metro Code.~~

(g) Nothing contained in this section or elsewhere in the chapter shall be construed as any guarantee of hours worked per day or per week.

(h) This chapter shall apply to all represented employees. Employees who are in certified or recognized bargaining units shall have all aspects of their wages, hours, and working conditions determined by collective bargaining agreements, except with regard to the recruitment and selection of applicants for initial appointment to a position, and except as addressed in this chapter. If a conflict exists between this chapter and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.



(i) Where a collective bargaining agreement contains any type of grievance resolution procedure, that procedure, including any procedural and/or substantive limitations placed upon it by the collective bargaining agreement, shall be the sole and exclusive remedy for employees in that bargaining unit.

(Ordinance No. 94-523B)

#### 2.02.310 Administration of the Rules

The Chief Operating Officer ~~Executive Officer~~ shall be responsible for:

- (a) Administering or delegating the administration of all the provisions of this chapter.
- (b) Reviewing and recommending to the Council necessary changes to this chapter.
- (c) Publishing a Personnel Procedures Manual to implement the provisions of this chapter.

(Ordinance No. 94-523B)

#### 2.02.315 Amendment

Administrative amendments which deal solely with correcting grammatical or typographical errors, or correcting position titles to reflect properly processed reclassification and title changes, or correcting departmental name changes to accurately reflect current organizational structure may be approved by the Chief Operating Officer ~~Executive Officer~~. All proposed amendments to this chapter and/or benefit changes will be required to be adopted by the Council. Copies of proposed amendments shall be given to union(s) representative at least 30 days prior to the Council meeting in which they are to be considered.

(Ordinance No. 94-523B)

#### 2.02.320 Separability

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter.

(Ordinance No. 94-523B)

#### 2.02.325 Definitions of Personnel Terms

For the purposes of this chapter unless the context requires otherwise the following terms shall have the meanings indicated:

- (a) Chief Operating Officer means the person holding the position of Chief Operating Officer established by Section 2.20.010 of the Metro Code.
- (ba) "Council" means the elected governing body of Metro.



- (cb) "Department" means a major functional unit of Metro as designated by the Chief Operating Officer.
- (de) "Department Director" means a person designated by the Chief Operating Officer to be responsible for the administration of a department or his/her designee.
- (ed) "Dismissal" means the termination of employment for cause (see Termination).
- (fe) "Division" means a major functional unit of a department.
- (gf) "Employee" means an individual who is salaried or who receives wages for employment with Metro.
- ~~—(g) "Executive Officer" means the elected Executive Officer of Metro or his/her designee.~~
- (h) "Exempt position" means a position exempt from mandatory overtime compensation.
- (i) "Fiscal year" means a 12-month period beginning July 1, and ending June 30.
- (j) "Full-time" means a position in which the scheduled hours of work are 40 hours per week and which is provided for in the adopted budget.
- (k) "Non-exempt" position means a position that is eligible for overtime compensation.
- (l) "Part-time" means a position in which the scheduled hours of work are less than 40 hours per week but at least 20 hours or more per week and which is provided for in the adopted budget.
- (m) "Permanent employee" means an employee who is appointed to fill a budgeted position and who is not temporary or seasonal. However, the term permanent does not confer any form of tenure or other expectation of continued employment.
- (n) "Permanent position" means a budgeted position which is not temporary or seasonal. However, the term permanent does not confer any form of tenure or other expectation of continued employment.
- (o) "Personnel action" means the written record of any action taken affecting the employee or the status of his/her employment.
- (p) "Personnel Director" means the employee appointed by the Chief Operating Officer ~~Executive Officer~~ to administer the provisions of this chapter regardless of whether the person is also a ~~Department~~ Director.
- (q) "Personnel file" means an employee's official personnel file which is kept in the office of personnel.
- (r) "Probationary period" means a continuation of the screening process during which an employee is required to demonstrate fitness for the position to which the employee is appointed or promoted. Successful completion of any probationary period is for Metro's internal screening process only and does not confer any form of tenure or other expectation of continued employment.



(s) "Reclassification" means a change in classification of a position by raising it to a class with a higher rate of pay, reducing it to a class with a lower rate of pay, or changing it to another class at the same rate of pay, based upon the duties currently assigned to an existing position or to be assigned for a vacant position. If the position is filled, the incumbent employee is reclassified along with the position.

(t) "Regular employee" means an employee who has successfully completed the required initial probationary period occupying a permanent position.

(u) "Represented employee" means an employee who is in a recognized or certified bargaining unit.

(v) "Resignation" means voluntary separation from employment.

(w) "Status" refers to the standing of an employee.

(x) "Termination" means the cessation of employment with Metro, whether or not for cause.

(Ordinance No. 94-523B. Amended by Ordinance No. 95-602A, Sec. 1)

#### 2.02.330 Position Classification Plan

(a) The purpose of the classification plan is to provide an inventory of specifications for each classification. The plan shall be developed and maintained so that all positions substantially similar with respect to duties, responsibilities, authority and qualifications are included within the same class, and so that the same range of compensation will apply. Each permanent position shall be allocated to an appropriate classification on the basis of the duties and responsibilities of the position.

(b) Classification titles shall be used in all personnel, budget and financial records.

(c) The classification plan shall cover permanent full-time and permanent part-time positions, as adopted and amended by the Council.

(d) The Chief Operating Officer ~~Executive Officer~~ or his/her designee shall establish administrative procedures to implement the classification and pay plans. The Chief Operating Officer ~~Executive Officer~~ may make administrative changes to classification specifications, title, and classification numbers.

(Ordinance No. 94-523B)

#### 2.02.335 New Positions

Any new positions added to the budget require Council approval.

(Ordinance No. 94-523B)

#### 2.02.340 New Classifications

Any new classification added to the classification plan requires Council approval.



(Ordinance No. 94-523B)

2.02.345 Reclassification of Existing Positions

Reclassification of an existing position from one existing classification to another existing classification may be approved by the Chief Operating Officer ~~Executive Officer~~ provided the reclassification can be accomplished with the limitations of the current budget.

(Ordinance No. 94-523B)

2.02.350 Pay Plans

Pay plans for represented employees are developed through collective bargaining and are subject to ratification by the Council. The Chief Operating Officer ~~Executive Officer~~, Personnel Director, and labor relations officer will meet with designated Councilors prior to the expiration date of collective bargaining contracts to discuss fiscal direction regarding pay and benefits for negotiations with the unions.

(Ordinance No. 94-523B)

2.02.355 Salary Administration

(a) Upon initial appointment to a position, each employee should receive a salary at or 5 percent above the beginning salary rate of the salary range for the class to which the position is allocated. Appointment at or 5 percent above the beginning salary rate should be the general practice, with appointments above that level being the exception for outstanding qualifications and experience, and subject to departmental personal services budget resources and approval of the hiring Department Director with concurrent notification to the Chief Operating Officer ~~Executive Officer~~.

(b) When an employee is reclassified to a position in a classification with a higher maximum salary rate, the employee shall be placed on the beginning salary rate of the salary range or receive an increase of 5 percent, whichever is greater.

(c) A reclassified employee shall not serve a probationary period. An employee reclassified to a position in a classification with a higher maximum salary rate shall not receive a salary increase after completion of six months in the new classification. The employee's anniversary date shall reflect the effective date of the reclassification.

(d) When an employee is reclassified to a position in a classification with a lower maximum salary rate, the employee's salary rate shall not be reduced as long as the employee's current salary rate is within the lower salary range. If the employee's salary rate is above the new salary range, the employee's rate of pay shall remain the same (red-circled) until annual adjustments to the pay plan bring the employee's rate within the new classification range. At that time, the employee will become eligible for merit increases.

(e) When an employee is voluntarily demoted to a position in a classification with a lower maximum salary rate, the employee's salary rate shall not be reduced as long as the employee's current salary rate is within the lower salary range. If the employee's salary rate is above the new salary range, the employee's salary will be reduced to the highest rate of the new range. In no case, shall an employee's current salary rate be increased upon voluntary demotion.



(Ordinance No. 94-523B)

2.02.360 Pay Policies

(a) Permanent employees shall be paid according to the pay plan adopted by the Ceouncil and administered by the Chief Operating Officer ~~Executive Officer~~.

(b) Employees shall be paid twice monthly.

(c) In the event the normal payday falls on a holiday, payday shall occur the workday before the holiday. If the normal payday falls on a Saturday or a Sunday, payday shall be the prior Friday.

(d) Payroll procedures shall be established and implemented by the finance and management information department, accounting division.

(e) Payroll deductions will be made for income tax withholding, Workers' Compensation insurance and employee contributions to employee benefits, and may be made for the United Way Fund, payments to the employee's credit union and other agencies as approved by the Chief Operating Officer ~~Executive Officer~~ at the request of the employee;

- (1) Charitable solicitations of Metro employees while on the job during working hours shall be conducted in compliance with this section. No other solicitations of Metro employees while on the job during working hours by a charitable organization shall be permitted.
- (2) The Chief Operating Officer ~~Executive Officer~~ with consultation of Metro employees shall by executive order establish rules and procedures to implement this section including procedures for applications, time and length of solicitation campaigns and payroll deductions. The procedures shall specify that all solicitations shall be made during a single campaign period lasting no longer than 30 days and that employees may sign payroll deduction cards for charitable donations only during a two-week period following the end of the solicitation campaign period. The Chief Operating Officer ~~Executive Officer~~ once each year shall certify all charitable organizations recognized by Metro for the purpose of conducting a fund drive among the employees of Metro. The Chief Operating Officer's ~~Executive Officer's~~ action shall be based on the criteria stated in subsection (3) of this section.
- (3) Charitable organizations recognized to conduct a fund drive among Metro employees while on the job during working hours shall:
  - (A) Be a fund-raising organization which raised funds for 10 or more charitable agencies.
  - (B) Disburse funds only to agencies whose charitable activities are primarily in the geographical areas of Metro and which have an office located within Metro ~~the district~~.



- (C) Be exempt from taxation under Internal Revenue Service Code Section 501(c)(3).
  - (D) Be in compliance with the Charitable Trust and Corporation Act and the Oregon Solicitation Act (ORS 128.618 through 128.898). All charitable organizations who have made the required filings under such laws and have no enforcement action pending against them shall be presumed to be in compliance with such laws.
  - (E) Have a policy prohibiting discrimination in employment and fund distribution with regards to race, color, religion, national origin, handicap, age, sex and sexual preference in the charitable organization and all its grantee agencies.
  - (F) Provide an audited annual financial report to Metro for distribution to its employees 60 days prior to the charitable campaign.
- (4) Payroll deductions for employee charitable contributions shall be allowed only for charitable organizations in compliance with this section.

(Ordinance No. 94-523B)

#### 2.02.365 Affirmative Action Policy

(a) Policy Statement. Metro states as its policy a commitment to provide equal employment opportunities without regard to race, color, religion, national origin, sex, age, disability, sexual orientation, or marital or familial status, except where a bona fide occupational qualification exists.

(b) Affirmative Action Program. The Council has adopted an affirmative action policy and program which is set forth in a separate document which is available throughout Metro facilities. All employees are encouraged to familiarize themselves with Metro's affirmative action policies.

(Ordinance No. 94-523B)

#### 2.02.370 Nepotism

Notwithstanding Metro's affirmative action policy and program, no member of an employee's family (husband, wife, son, daughter, mother, father, brother, sister, in-laws of any kind, aunt, uncle, niece, nephew, stepparent, or stepchild) shall be employed in a position of exercising supervisory, appointment, or grievance adjustment authority over the other family member.

(Ordinance No. 94-523B)

#### 2.02.375 Internal Recruitment

A regular employee who has successfully completed his/her initial probationary period may apply for vacant positions and will be considered as an internal applicant. All applications will be considered without prejudice to their present positions. Regular, regular part-time (and temporary employees) who apply will be given first consideration in filling a vacant position. Notice of internal recruitment shall be posted not less than five working days to allow for receipt of applications.



(Ordinance No. 94-523B)

#### 2.02.380 Probationary Period

The probationary period shall be a continuation of the screening process and shall provide the supervisor an opportunity to observe the employee's work, to instruct and aid the employee in adjustment to the position, and to reject any employee who does not demonstrate fitness for the position. The successful completion of probation is for Metro's internal screening process only, and does not confer any form of tenure or other expectation of continued employment.

(a) Reclassification. No employee's position shall be reclassified until such time as he/she has successfully completed his/her initial six-month probationary period in the classification into which he/she was hired. Employees whose positions are reclassified, upon successful completion of the initial probationary period, shall not serve an additional probationary period.

(b) Demotions. An employee must have completed his/her initial six-month probationary period prior to requesting a voluntary demotion, and shall not serve a new probationary period upon demotion.

(c) Any authorized leave without pay during any probationary period will extend the probationary period by the amount of time the employee is on such leave.

(Ordinance No. 94-523B)

#### 2.02.385 Job Share

Any full-time position may be designated as a job share position by the Chief Operating Officer ~~Executive Officer~~ at the request of a Department Director. A job share position is a full-time position which is shared by two employees. Benefits for such position shall be apportioned between the position occupants in proportion to time worked by each; however, such apportioning may be altered upon written agreement of position occupants and approval by the Personnel Director. In no event, however, shall the benefits of a job share position exceed the benefits of any other full-time position.

(Ordinance No. 94-523B)

#### 2.02.390 Orientation

All new permanent employees shall be provided with a copy of this chapter and insurance plans and Metro shall periodically provide them with orientation sessions.

(Ordinance No. 94-523B)

#### 2.02.395 Workers' Compensation Insurance

(a) All employees shall be covered for medical expenses and disability benefits for compensable injuries or illness resulting from employment.

(b) Payment of medical expenses and lost time disability benefits is determined by the Workers' Compensation administration in accordance with ORS Chapter 656.



(c) The cost of Workers' Compensation insurance shall be paid by Metro with the exception of the employee contribution mandated by the Workers' Compensation Law of the State of Oregon.

(d) During an employee's absence due to an on-the-job injury or occupational illness, the employee may utilize sick leave or vacation credits to augment any benefits paid by the Workers' Compensation fund.

(Ordinance No. 94-523B)

#### 2.02.400 Transfers

All vacant positions are subject to normal recruitment procedures.

(a) Involuntary Transfer. A lateral transfer of an incumbent employee without the consent of the incumbent employee may be made due to operational needs or as a result of disciplinary action, but the incumbent employee must be given 10 calendar days prior notice. The incumbent shall be transferred with the position.

(Ordinance No. 94-523B)

#### 2.02.405 Sick Leave Transfer

Under normal circumstances leave accruals are not transferable. However, upon written request of a regular employee to the Chief Operating Officer~~Executive Officer~~, the voluntary transfer of sick leave hours may be authorized on a limited, carefully monitored basis as follows:

(a) Each request will be reviewed and approval granted or denied on a case by case basis by the Chief Operating Officer~~Executive Officer~~.

(b) Requests must be due to a catastrophic, long-term, or chronic illness of the requesting employee only.

(c) The requesting employee must have no more than forty (40) hours, combined accrued sick leave hours and accrued vacation leave hours, at the time of the request.

(d) Upon approval per (1) above, the requesting employee, or another employee he/she has designated, may initiate a request to Metro employees for the transfer of accrued sick leave hours.

(e) Employees wanting to voluntarily transfer accrued sick leave hours to the requesting employee may do so only as follows:

- (1) The transferring employee's Director must authorize the transfer of hours by signature, such authorization will indicate the transfer of hours can be accomplished within the departmental fiscal year budget.
- (2) The transfer of accrued sick leave hours cannot exceed a total of 40 hours per transferring employee for each individual requesting employee for each fiscal year.



- (3) Under no circumstances shall the transferring employee's sick leave balance be reduced to below 120 hours of accrued sick leave because of the voluntary transfer of sick leave hours to another employee.

(f) Normal leave accruals will not continue for requesting employees while they are on paid leave status as a result of transferred hours. However, health and welfare benefits provided for any other employee on paid leave status will continue for the requesting employee for as long as they remain on paid status.

(g) Any transferred sick leave hours unused by the requesting employee shall be returned to all transferring employees' sick leave accrual balances on a pro-rated basis.

(h) Copies of approved requests and approved transfers of hours must be sent to the finance and management information department, accounting division for implementation and to the office of personnel.

(Ordinance No. 94-523B)

#### 2.02.410 Family Medical Leave

Metro provides family medical leave of up to twelve (12) weeks within a one-year period for eligible employees when a serious health condition requires inpatient care or continuing treatment by a health care provider and makes the employee unable to work, and/or because of the birth of a child, or the placement of a child for adoption or foster care in the employee's home, and/or for the care of family members who suffer serious health conditions. For the purpose of this leave, family members are defined as a seriously-ill spouse, parent, parent-in-law, or child, or a sick minor child requiring home care. At the employee's discretion, the leave shall be paid from accrued personal leaves (including vacation leave, sick leave, compensatory time leave, personal holiday leave), or be unpaid. Except for limited circumstances, family medical leave runs concurrent with other leaves.

(a) The employee shall be entitled to take family medical leave without being penalized for taking such leave.

(b) An employee returning from family medical leave shall be reinstated with no greater or lesser right in employment than if the employee has not taken the leave (~~pursuant to Oregon Laws 1991, chapter 939~~).

(c) All full-time and part-time employees who have completed at least 180 calendar days of employment while averaging at least 25 hours of work per week are eligible to request the leave.

(d) Employees have the option of using their accumulated leave balances during the family medical leave. Health and welfare coverage will continue at the same level of benefits and contributions for employees on family medical leave as for other benefit-eligible employees. If employees fail to return from leave, except because of their own or a family member's serious health condition or another circumstance beyond their control, Metro can recover health premiums it paid during the leave. These monies may be recovered from the final paycheck if there is one, or by a lawsuit.

(e) Eligible employees may take a maximum of 12 weeks of family medical leave within a one-year period. Each one-year period begins on the date of the first day of actual leave taken. Leave



may be taken continuously or, under certain circumstances on a reduced workweek schedule, or intermittently.

(f) When the employee can anticipate that the serious health situation is going to arise, the employee must submit a written request to the Department Director and the office of personnel at least 15 days prior to taking the leave. When the employee cannot anticipate the serious health condition of the family member, an oral request can be made to the Department Director to be confirmed in writing to the Department Director and the office of personnel within three working days.

The employee's written request must contain the following:

- (1) The relationship of the employee to the person needing care.
- (2) The health condition of the family member necessitating the leave, along with a doctor's certification stating such health condition.
- (3) The anticipated length of absence, not to exceed 12 weeks.
- (4) Other family members who are taking family medical leave and when they are taking it, or are otherwise available to care for the family member.

(g) Metro is not required to grant this leave of absence during any period of time in which another family member is also taking a family medical leave of absence from their employer, or is otherwise available to care for the family member. If a husband and wife both work for Metro, they can have only 12 weeks of combined leave for birth, placement for adoption or foster care in the employee's home, or caring for a sick parent or parent-in-law, which they can split between them. However, both are entitled to the full 12 weeks for their own illness, or caring for a sick child or spouse.

(h) The employee who takes a family medical leave of absence has a duty to make a reasonable effort to schedule medical treatment or supervision so as to minimize disruption of Metro's operations, subject to the approval of the treating physician.

(i) The former position of an employee on family medical leave shall either remain vacant during the leave, or it may be filled on a temporary basis and considered vacant for reinstatement purposes.

(j) At the conclusion of a family medical leave, the employee shall be reinstated to his/her former position, unless it has been eliminated due to material changes in Metro's financial or business circumstances, or the circumstances have so changed that the employee cannot be reinstated to his/her former position, in which case the employee shall be reinstated to an equivalent position which is available and suitable. If the circumstances have so changed that the employee cannot be reinstated to the former or an equivalent position, then the employee shall be reinstated to an available suitable position.

(k) Employees who do not return by the date specified may be disciplined up to and including dismissal.

(Ordinance No. 94-523B)



#### 2.02.415 Pregnancy Leave/Transfer

Metro provides temporary transfer or pregnancy leave without pay to eligible employees who are physically unable to perform the duties of their regular position due to pregnancy, child birth, or related medical reasons, without significant risk to the health or safety of the employee or her pregnancy.

(a) The employee shall be entitled to take pregnancy leave or temporary transfer due to pregnancy without being penalized.

(b) The position of an employee on temporary transfer or pregnancy leave shall either remain vacant during the leave, or it may be filled on a temporary basis and considered vacant for reinstatement.

(c) An employee returning from pregnancy leave or temporary transfer shall be reinstated with no greater or lesser rights in employment than if the employee had not taken the leave (~~pursuant to ORS 659.389~~).

(d) Subject to these policies, and upon written request, all pregnant employees of Metro are eligible.

(e) Temporary Transfer

(1) Metro shall provide a temporary transfer for the employee if there is an available job which is suitable for the employee and to which the transfer can be reasonably accommodated.

(2) To initiate a transfer, the employee must submit a written request to the ~~D~~department ~~D~~director and the office of personnel. The employee's written request must contain the following:

(A) The specific duties affected by the pregnancy.

(B) The reasons why the employee is unable to perform her duties without significant risk to the health or safety of the employee or her pregnancy.

(C) A statement that the employee is physically able to perform available work.

(D) A doctor's opinion/certificate confirming (a), (b), and (c) above, to determine whether a transfer is reasonably necessary.

(3) The ~~D~~department ~~D~~director or the office of personnel may request an additional independent medical opinion, at Metro expense, within three working days after receipt of the initial medical opinion.

(f) Pregnancy Leave

(1) Metro shall provide a pregnancy leave of absence if no suitable work is available for temporary transfer, and if the leave can be reasonable accommodated.



- (2) The period of leave shall be the reasonable period of time during which the employee is disabled from performing any available positions. To initiate a leave of absence, the employee must make the request in writing to her Ddepartment Director and the office of personnel. The leave request must include the period of time for which the leave is requested. The leave request must also address the employee's disability from performing other available work:
- (A) If the employee previously requested a temporary pregnancy transfer, she must state whether a transfer was offered to her, and if a transfer was offered, the employee must explain why she is disabled from performing those job duties.
- (B) If the employee did not request temporary pregnancy transfer, she must explain why she is disabled from performing any available job duties known to her.
- (C) A doctor's opinion/certificate confirming (a) or (b) above.
- (3) The Ddepartment Director or the office of personnel may request an additional independent opinion, at Metro expense, within three working days after receipt of the initial medical opinion.
- (4) Employees have the option of using their accumulated leave balances during pregnancy leave. If the employee chooses to utilize accumulated balances, benefits will be continued as long as the leave is continued on paid status. If the employee chooses to take leave without pay, health and welfare coverage will continue at the same level of benefits and contributions as for other benefit-eligible employees to the extent the employee qualifies for family medical leave, otherwise, benefits only continue as long as the leave is continued on paid status. If employees fail to return from leave, except because of their own or a family member's serious health condition or another circumstance beyond their control, Metro can recover health premiums it paid during the leave. These monies may be recovered from the final paycheck if there is one, or by a lawsuit. If the employee chooses to take leave without pay, benefits will be paid through the last day of the month following the month in which the leave without pay commences.
- (5) If, during the course of the leave, another position which the employee is qualified to perform becomes available, Metro will, within three working days, offer the available position to the employee, unless a physician has determined that the employee must remain on leave for a fixed or minimum period of time and the job becomes available during that period of time, or unless a physician has determined that the employee is disabled from performing any job duties for an indefinite period of time.

(g) If, during the course of pregnancy leave or transfer, the employee regains the ability to perform the duties of her former position, she shall, within three working days of her knowledge of her regained ability, notify Metro. Metro shall restore the employee to her former position within 10 working days of notification by the employee, unless the position has been eliminated due to changed



circumstances, in which case the employee will be reinstated to an available equivalent position. If no equivalent positions are available, the employee shall be reinstated to an available and suitable position.

(h) If, at any time during the course of pregnancy leave or transfer, the employee is released by her treating physician to perform the duties of her regular position, she must provide the written release to her Department Director and the Personnel Director with three working days of the release. Metro will, within 10 working days of receipt of notice of release, restore the employee to her former position, unless the position has been eliminated due to changed circumstances, in which case the employee will be reinstated to an available equivalent position. If no equivalent positions are available, the employee shall be reinstated to an available and suitable position.

(i) Employees who do not follow timelines established in this policy or do not return by the date specified may be disciplined up to and including dismissal.

(Ordinance No. 94-523B)

#### 2.02.420 Parental Leave

Metro provides parental leave of up to 12 weeks for eligible employees who have become parents. At the employee's discretion, the leave shall be paid from accrued vacation time or accrued sick leave, or be unpaid.

(a) The employee shall be entitled to take parental leave without being penalized for taking leave.

(b) When the employee returns from the leave, he or she must be restored to the former or an equivalent job, without loss of seniority, service credits, etc. If the employee cannot be reinstated to the former or equivalent job because the employer's circumstances have changed, the employee must be reinstated to any other position that is available and suitable.

(c) All employees who have completed 90 days of service are eligible to request the leave. If the period of leave occurs during any probationary period, the probationary period shall be extended for the period of the leave.

(d) Employees have the option of using their accumulated leave balances during pregnancy leave. If the employee chooses to utilize accumulated balances, benefits will be continued as long as the leave is continued on paid status. If the employee chooses to take leave without pay, health and welfare coverage will continue at the same level of benefits and contributions as for other benefit-eligible employees to the extent the employee qualifies for family medical leave, otherwise, benefits only continue as long as the leave is continued on paid status. If employees fail to return from leave, except because of their own or a family member's serious health condition or another circumstance beyond their control, Metro can recover health premiums it paid during the leave. These monies may be recovered from the final paycheck if there is one, or by a lawsuit. If the employee chooses to take leave without pay, benefits will be paid through the last day of the month following the month in which the leave without pay commences.

(e) Employees are entitled to a maximum of 12 weeks unpaid parental leave. Such entitlement begins on the date of birth of the child, or on the date of the taking of physical custody of a newly adopted child.



(f) A request shall be submitted simultaneously to the Department Director and the office of personnel 30 calendar days before the occurrence of the event. The request must be in writing and contain the following information:

- (1) The employee's intent to take parental leave beginning on a date certain more than 30 days from the date of the request.
- (2) The anticipated date of birth of the parent's child, or
- (3) The anticipated date that the parent will obtain physical custody of a newly adopted child under six years of age.
- (4) The dates when the parent, or if both parents request parental leave, the dates which each parent will commence and terminate his or her portion of the parental leave.
- (5) Failure to submit a written request in accordance with (1) above may result in a reduction of leave time by three weeks as a penalty for untimely notice of leave.

(g) Employees who return from parental leave by the date listed in the written request on file will be restored to their former position without loss of seniority or vacation credits. If circumstances change so that the employee's former job is no longer available, that worker will be reinstated to an equivalent position or any other position that is available and suitable. Employees who do not return may be disciplined.

(Ordinance No. 94-523B)

#### 2.02.425 Preamble--Conduct, Discipline, Termination and Appeal

Nothing contained in this chapter precludes a supervisor from establishing work rules not inconsistent with this chapter for efficient operation and administration of the job site, or precludes a supervisor from having private discussions with employees. These discussions may be in the form of assignment, instruction, or any other job-related communication. Any disciplinary action may be grieved by represented employees under the grievance procedure established in the collective bargaining agreement.

(Ordinance No. 94-523B)

#### 2.02.430 Disciplinary Actions

Disciplinary actions shall include only the following: oral or written reprimand, suspension, reduction in pay, demotion and termination from employment. Any of these disciplinary actions may be utilized. It may not be necessary in every circumstance that the discipline be taken progressively.

(a) The following are some examples (but not all) of the types of conduct which will result in disciplinary action. The listing of these examples is for illustrative purposes, and in no way limits Metro's authority and discretion to discipline or terminate employees pursuant to paragraph (A) of this section:

- (1) Abandonment of position.



- (2) Absence from duty without leave.
- (3) Abuse of leave privileges.
- (4) Below standard work performance.
- (5) Discourteous treatment of the public or other employees, including but not limited to intentional tortious conduct.
- (6) Possessing, using, transferring, offering or being under the influence of any intoxicants or narcotics during working hours.
- (7) Fraud in securing appointment or promotion.
- (8) Insubordination.
- (9) Misuse of Metro property, funds or records.
- (10) Neglect of duty.
- (11) Willful deceit.
- (12) Any conviction by a court of law which demonstrates an impaired ability to properly perform work for Metro.
- (13) Violation of Metro ordinances, regulations and directives.
- (14) Willful violation of established safety policies.
- (15) Any falsification of information during the employment application or employment appointment process, regardless of when discovered.
- (16) Unlawful harassment or discrimination.
- (17) Theft, including personal or public property.
- (18) Sleeping on the job.
- (19) Gambling on Metro premises, including but not limited to card games, dice games, but not including employee pools.
- (20) Violation of this chapter, established work rules, or other management directives.

(b) Procedure for Suspension, Reduction in Pay, Demotion or Termination. The supervisor will review information gathered with the office of personnel prior to the supervisor taking any suspension without pay, reduction in pay, demotion or termination action. If a basis for discipline exists:

- (1) An employee may be suspended with pay, by the Department Director, pending disciplinary action.



- (2) A written notice of contemplated disciplinary action (suspension, reduction in pay, demotion, or dismissal) shall be delivered to the affected employee in person or by mail. This notice shall state the reasons for the proposed action and will include:
  - (A) The alleged conduct by the affected employee.
  - (B) The violation(s).
  - (C) A date, time, and place for the affected employee to have an opportunity to address the violation(s) at a pre-disciplinary meeting. Employees may be represented by the union in a pre-disciplinary meeting.
- (3) Upon completion of the pre-disciplinary meeting, a written notice of the actual disciplinary action taken, if any, shall be delivered to the affected employee in person or by mail. This notice shall state the disciplinary action taken, the violation(s), and the effective date of the disciplinary action. This notice shall be filed in the affected employee's personnel file.

(c) The affected employee may grieve the final disciplinary action pursuant to the grievance procedure established in the collective bargaining agreement.

(Ordinance No. 94-523B)

#### 2.02.435 Resignation

Any employee may resign from Metro by presenting an oral or written resignation to the supervisor, manager, or Department Director. An oral resignation shall be confirmed in writing by the supervisor to the resigning employee. To resign in good standing, an employee must give a minimum of two weeks notice of resignation, unless because of extenuating circumstances the supervisor, manager, or Department Director agrees to permit a shorter period of notice. The resignation shall provide an effective date which shall be the last day actually worked, and shall be forwarded to the office of personnel by the supervisor. If an employee who has resigned seeks to rescind the resignation, such rescission only may be granted by the affected Department Director at his/her sole discretion. All compensatory time for non-exempt employees only, and vacation leave credits earned and not used, up to the 250-hour limit, shall be paid.

(Ordinance No. 94-523B)

#### 2.02.440 Service Awards

The Chief Operating Officer ~~Executive Officer~~ shall provide a service award program for Metro employees.

(Ordinance No. 94-523B)



#### 2.02.445 Education Opportunities

(a) All regular and regular part-time employees are encouraged to pursue educational opportunities which are directly related to the employee's work and which will enhance the employee's job-related skill level.

(b) Employees who register for courses which are judged to be of direct and significant benefit to Metro may receive some reimbursement for expenses incurred by the employee while taking approved courses. Procedures for application and amount awarded are contained in the Personnel Procedures Manual.

(c) Normally the cost of textbooks and technical publications required for such courses shall be the responsibility of the employee. If Metro purchases any of the textbooks and publications for such courses, said textbooks and publications shall become the property of Metro.

(Ordinance No. 94-523B)

#### 2.02.450 Smoking Policy

Smoking (cigarettes, pipes and cigars) is prohibited inside all Metro facilities. Notwithstanding the provisions of this section, smoking is prohibited in any public meeting as defined in ORS 192.710.

(Ordinance No. 94-523B)

#### 2.02.455 Conferences, Membership and Conventions

Attendance at conferences, conventions or other meetings at Metro's expense shall be authorized by the Chief Operating Officer ~~Executive Officer~~. Authorization shall be granted on the basis of an employee's participation in or the direct relation of his/her work to the subject matter of the meeting. Members of professional societies may be permitted to attend meetings of their society when such attendance is considered to be in the best interests of Metro. Metro shall pay for professional or trade memberships for employees when deemed appropriate by the Chief Operating Officer ~~Executive Officer~~ or his/her designee limited, however, to the availability of budgeted funds.

(Ordinance No. 94-523B)

#### 2.02.460 Employee Organizations and Representation

Employees of Metro have the right to form, join and participate in the activities of labor organizations of their own choosing for the purpose of representation and collective bargaining on matters relating to wages, hours and working conditions in accordance with the Oregon Revised Statutes and Regulations of the State Employment Relations Board.

(Ordinance No. 94-523B)

#### 2.02.465 Political Activity

(a) Nothing contained within this chapter shall affect the right of the employee to hold membership in and to support a political party, to vote as they choose, to privately express their opinions on all political subjects and candidates, to maintain political neutrality and to attend political meetings.



An employee must exercise all due caution in such activities to prevent public misunderstanding of such actions as representing Metro, or to bring discredit to Metro, the Ceouncil, Chief Operating Officer ~~Executive Officer~~ or his/her supervisor.

(b) No official, employee or any other person shall attempt to coerce, command or require any Metro employee to influence or give money, service or other thing of value to aid or promote any political committee or to aid or promote the nomination or election of any person to public office.

(c) No public employee shall solicit any money, influence, service or other thing of value or otherwise promote or oppose any political committee or promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office holder while on the job during working hours. However, nothing in this section is intended to restrict the right of a public employee to express personal political views. (ORS 260.432)

(Ordinance No. 94-523B)

#### 2.02.470 Acknowledgment of Receipt of Personnel Policies

All permanent employees shall be given a copy of this chapter of the Code and shall acknowledge receipt by signing the following statement:

"I acknowledge that I have received a copy of the Metro Code, Chapter 2.02, which outlines my working conditions, privileges and obligations as an employee. This chapter constitutes the general policies of Metro and may be supplemented by more specific policies. Further, I understand that this chapter is necessarily subject to change. I understand that no contract of employment can be created, nor can an employee's status be modified by any oral or written agreement (except a valid collective bargaining agreement), representation, or course of conduct. Lastly, I understand that these policies do not in any way constitute a contract of employment, either express or implied."

\_\_\_\_\_  
Print Employee Name

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Social Security Number

(Ordinance No. 94-523B)

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## **GOVERNMENTAL AFFAIRS COMMITTEE REPORT**

CONSIDERATION OF **ORDINANCE NO. 02-965A**, FOR THE PURPOSE OF AMENDING CHAPTER 2.02 PERSONNEL RULES OF THE METRO CODE TO CONFORM TO THE METRO CHARTER AMENDMENTS ADOPTED ON NOVEMBER 7, 2000, AND DECLARING AN EMERGENCY

---

Date: December 2, 2002

Presented by: Councilor Monroe

**Committee Recommendation:** At its December 2, 2002, meeting, the Governmental Affairs Committee voted 3-0 to recommend Council adoption of Ordinance No. 02-965A. Voting in favor: Councilors Bragdon, Monroe, and Burkholder. Voting against: None. Absent: None.

**Background:** Dan Cooper, General Counsel, presented the staff report. He noted that a technical correction had been made to bring the code in alignment with the intent of Metro's Transition Plan. Under the current ordinance, positions in the Council and Executive offices are considered unclassified and exempt from the code. As this ordinance was prepared, no exemptions were included except for staff in the Auditor's Office. To allow Council the flexibility of making some positions unclassified, language has been inserted to allow the Chief Operating Officer to designate some positions serving the Council as exempt, provided that the Council President has given written approval of the exemption, with a 10-day prior notice to Council.

**Committee Issues/Discussion:** Councilor Monroe agreed that the correction is critical, and may help to avoid potential labor issues. Mr. Cooper stated that there is no guarantee that such issues will not arise, but hopefully this will make for an easier process.

Councilor Burkholder asked how the Council Office would assure that employees are treated fairly. Mr. Cooper stated that exemption from the personnel policies does not exempt them from other protective employment laws.

**Key Public Testimony:** There was none



Agenda Item Number 7.1

**Resolution No. 02-3247, For the Purpose of Allowing a one-time exemption to the Personnel Rules limiting retroactivity on Merit Pay increases to one year.**

Metro Council Meeting  
Tuesday, December 10, 2002  
Metro Council Chamber



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ALLOWING A ONE-	)	RESOLUTION NO. 02-3247
TIME EXCEPTION TO THE PERSONNEL RULE	)	
LIMITING RETROACTIVITY ON MERIT PAY	)	Introduced by Mike Burton, Executive Officer
INCREASES TO ONE YEAR	)	

WHEREAS, Metro Code Section 2.02.060 allows for the granting of merit pay increases based on performance for Metro employees; and

WHEREAS, Metro's salary administration policies require department directors to submit completed performance evaluations to Human Resources to implement such merit pay increases; and

WHEREAS, in the event that department directors are unable to submit these evaluations by the affected employee's anniversary date, Metro Code Section 2.02.060 permits merit pay increases retroactive to the employee's anniversary date not to exceed one year of retroactivity; and

WHEREAS, due to changes in supervisor assignments, management structure and competing work demands, the performance appraisals for 8 employees were not completed in time to allow them to be considered for merit pay increases in 2000 and 2001; and

WHEREAS, the overdue performance evaluations have now been completed and it appears that the performance of 8 affected employees warrants consideration for retroactive merit pay increases beyond the one year limit allowed by Code; now therefore

BE IT RESOLVED, that the Metro Council allows an exception to Metro Code Section 2.02.060 limiting the retroactivity of merit pay increases so that the 8 employees listed in Exhibit A may be granted merit pay increases retroactive to their individual anniversary dates as listed, subject to the approval of the Executive Officer.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2002

\_\_\_\_\_  
Carl Hosticka, Presiding Officer

Approved as to Form:

\_\_\_\_\_  
Daniel B. Cooper, General Counsel



Exhibit A  
Resolution #: 02-3247

**Metro Merit Pay Cost**  
**(Employees with Performance Review Past Due for 12 Months or More)**  
**(Cost Reflects Differences between Pay Received and Actual Amounts due)**

			FY 2000 (Cost includes merit pay % plus COLA)		FY 2001 (Cost includes merit pay % plus COLA)		FY 2002 Adjustment to Cost of Living (1)		Total Cost
Department Name	Employee	Review Date	%	Cost	%	Cost	%		00-02
Executive Office	#1	10/1/2000	4%	2,096	to the top of the range (less than 3%)	4,040	N/A	1,133	7,269
General Counsel	#2	8/14/2000	5%	1,833	to the top of the range (less than 3%)	248	N/A	0	2,081
Planning	#3	7/1/2000	5%	3,461	5%	1,614	N/A	413	5,488
Planning	#4	1/1/2001	to the top of the range (less than 1%)	240	N/A (top out)	486	N/A	124	850
Planning	#5	1/1/2001	to the top of the range (less than 1%)	73	N/A (top out)	156	N/A	42	271
Planning	#6	7/1/2001	N/A		to the top of the range (less than 5%)	3,001	N/A	768	3,769
Planning	#7	8/1/2001	N/A		to the top of the range (less than 2%)	1,342	N/A	374	1,716
REM	#8	6/29/2001	4%	8	4%	2,122	N/A	1,172	3,302
Grand Total:									24,746

(1) Adjustment reflects a higher base on which COLA would have been applied.

(2) Reflect final adjustment of cost based on employee receiving a 8% merit pay increase in FY 2002 in an effort to bring performance review current.

(3) Ditto



## **GOVERNMENTAL AFFAIRS COMMITTEE REPORT**

CONSIDERATION OF **RESOLUTION NO. 02-3247**, FOR THE PURPOSE OF ALLOWING A ONE-TIME EXEMPTION TO THE PERSONNEL RULE LIMITING RETROACTIVITY ON MERIT PAY INCREASES TO ONE YEAR

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Date: November 19, 2002

Presented by: Councilor Monroe

**Committee Recommendation:** At its November 19, 2002, meeting, the Governmental Affairs Committee voted 2-0 to recommend Council adoption of Resolution No. 02-3247. Voting in favor: Councilors Bragdon and Monroe. Voting against: None. Absent: Councilor Burkholder.

**Background:** Lilly Aguilar, Human Resources Director, presented the staff report. She stated that the resolution is intended to address performance evaluations for certain non-represented employees that were not conducted in the year due. The Human Resources department conducted an agency-wide audit of the status of performance evaluations, and found that eight employees had outstanding performance evaluations with potential retroactive merit pay. The matter was discussed with Cabinet, and they recommended that the Executive Officer request a one-time exemption to existing code to allow these employees to be brought up to date, with the proviso that future evaluations would not be allowed to be delayed beyond the one year stated in the code. These performances were not completed in a timely manner due to workload and supervisory changes. The total cost for this exemption would be under \$25,000.

**Committee Issues/Discussion:** Councilor Bragdon commented that he felt employees needed the kind of feedback provided by annual performance evaluations, and that he hoped this practice would not be continued. Ms. Aguilar replied that it would not; this would be a one-time exemption, and the managers would be keeping much closer tabs on pending reviews.

**Key Public Testimony:** There was none.



## **STAFF REPORT**

### **IN CONSIDERATION OF RESOLUTION NO. 02-3247, FOR THE PURPOSE OF A ONE-TIME EXCEPTION TO THE SALARY ADMINISTRATION RULES REGARDING RETROACTIVITY OF MERIT PAY INCREASES**

---

Date: October 31, 2002

Prepared by: Lilly Aguilar

#### **Proposed Action**

Resolution No. 02-3247 requests a one-time waiver of Metro Code Section 2.02.060 relating to salary administration to allow merit pay increases for 8 employees to be granted retroactively more than one year.

#### **ANALYSIS/INFORMATION**

##### **1. Existing Law**

Under Metro Code 2.02.060 merit pay increases are awarded on an employee's anniversary date and are granted once a performance appraisal is approved and submitted to Human Resources by the department director. If the evaluation is not completed by the anniversary date, any merit increase assigned is retroactive to the affected employee's anniversary date not to exceed one year of retroactivity.

##### **2. Background**

In a review of the status of performance evaluations, the Departments identified employees who were not considered for merit pay increases in 2000 and 2001 because their annual performance evaluations were not completed in a timely manner. The Departments have now completed the evaluations and have recommended merit increases for 8 employees retroactive to 2000 and 2001. Metro Code 2.02.060 prohibits retroactive merit increases beyond the employee's most recent anniversary date or one year. This resolution permits a one-time waiver of the code restriction so that employees who earned merit pay increases in 2000 and 2001 may receive them. No other employees have been deprived of merit pay increases due to overdue performance evaluations. The waiver is limited to the 8 employees listed in Exhibit A.

##### **3. Budget Impacts**

The total costs, anticipated not to exceed \$25,000, to implement resolution No. 02-3247 will be covered by the respective departments' FY 02-03 adopted budget. No additional allocation of funds is required.

#### **RECOMMENDED ACTION**

The Executive Officer recommends passage of Resolution No. 02-3247 in order that employees have the opportunity to be made whole.



Agenda Item Number 7.2

**Resolution No. 02-3248**, For the Purpose of Approving the Revised Public Involvement Planning Guide on Behalf of the Metro Committee on Citizen Involvement (MCCI).

Metro Council Meeting  
Tuesday, December 10, 2002  
Metro Council Chamber



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE REVISED	)	RESOLUTION NO. 02-3248
PUBLIC INVOLVEMENT PLANNING GUIDE ON	)	
BEHALF OF THE METRO COMMITTEE FOR	)	INTRODUCED BY REX BURKHOLDER,
CITIZEN INVOLVEMENT (MCCI)	)	COUNCIL LIAISON TO MCCI

WHEREAS, the Metro Council adopted Citizen Involvement Principles in February 1997; and

WHEREAS, the Metro Council adopted the Transportation Public Involvement Plan in July 1995; and

WHEREAS, the Metro Committee for Citizen Involvement (MCCI) created a document called the Public Involvement Planning Guide (PIPG) for the purpose of assisting Metro department staff in planning for and coordinating citizen involvement at Metro based on and including the Citizen Involvement Principles; and

WHEREAS, the original PIPG was approved by the Metro Council on July 2, 1998; and

WHEREAS, the PIPG required that it be reviewed by Metro departments and MCCI one year after adoption and every two years thereafter; and

WHEREAS, on November 21, 2001, MCCI approved MCCI Resolution No. 01-001 to establish a temporary PIPG Review Committee, consisting of MCCI members and Metro staff, to review and revise the PIPG; and

WHEREAS, the revised PIPG, presented by the PIPG Review Committee, was adopted by MCCI on June 19, 2002:

BE IT RESOLVED that the Metro Council approves the revised PIPG as presented by MCCI.

ADOPTED BY THE METRO COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2002.

\_\_\_\_\_  
Carl Hosticka, Presiding Officer

Approved as to Form

\_\_\_\_\_  
Daniel B. Cooper, General Counsel



# **PUBLIC INVOLVEMENT PLANNING GUIDE**



**METRO**

**COMMITTEE FOR CITIZEN INVOLVEMENT**



## Public Involvement Planning Guide Purpose Statement

Metro  
Principles of  
Citizen  
Involvement  
*Adopted by Metro  
Council  
February, 1997*

Metro's Public Involvement Planning Guide (PIPG) is intended to support and encourage broad-based public participation in the development and review of programs and projects carried out by Metro departments. The PIPG details public participation methods that Metro departments are expected to follow in order to ensure citizen involvement efforts are proactive and provide for early and active participation by the region's citizens and interest groups. The PIPG incorporates Metro Citizen Involvement Principles and citizen involvement policies outlined in Metro's Regional Urban Growth Goals & Objectives (RUGGOs) and Oregon Statewide Planning Goals, as shown below:

*Metro believes that effective citizen involvement is essential to good government. Elected officials, staff and citizens all play important roles in governing the region. Cooperation among Metro government, local governments and citizens results in the best policy decisions. Therefore, Metro commits to promote and to sustain a responsive citizen involvement environment. To carry out our commitment we adopt these guiding principles:*

1. *Value active citizen involvement as essential to the future of the Metro region.*
2. *Respect and consider all citizen input.*
3. *Encourage opportunities that reflect the rich diversity of the region.*
4. *Promote participation, based on citizen involvement opportunities, of individuals and of community, business, and special interest groups.*
5. *Provide communications to encourage citizen participation in Metro processes that are understandable, timely and broadly distributed.*
6. *Provide citizens with an opportunity to be involved early in the process of policy development, planning, and projects.*
7. *Organize involvement activities to make the best use of citizens' time and effort.*
8. *Provide financial and staff support to Metro's Office of Citizen Involvement.*
9. *Sustain ongoing networking among citizens, local governments, Metro officials and staff.*
10. *Respond to citizens' perspectives and insights in a timely manner.*
11. *Coordinate interdepartmental and inter-jurisdictional activities.*
12. *Evaluate the effectiveness of Metro citizen involvement.*

RUGGOs  
*Goal 1, Objective 1*

*Citizen Participation: Metro shall develop and implement an ongoing program for citizen participation in all aspects of the regional planning program. Such a program shall be coordinated with local programs for supporting citizen involvement in planning processes and shall not duplicate those programs.*



## Statewide Planning Goals

*Metro Committee for Citizen Involvement (MCCI): Metro shall establish a Metro Committee for Citizen Involvement to assist with the development, implementation and evaluation of its citizen involvement program and to advise the Metro Policy Advisory Committee (MPAC) regarding ways to best involve citizens in regional planning activities.*

*Notification: Metro shall develop programs for public notification, especially for (but not limited to) proposed legislative actions that ensure a high level of awareness of potential consequences as well as opportunities for involvement on the part of affected citizens, both inside and outside of its districts' boundaries.*

### **Goal 1: Citizen Involvement**

Oregon's land-use planning system is citizen-created and citizen-guided. Once the statewide goals were created, communities were required to involve citizens in planning to meet those goals. Citizen involvement programs must have the following components:

- An officially recognized committee for citizen involvement (CCI), with broad geographic and interest representation;
- Appropriate levels of publicity;
- Opportunities for citizens and their elected and appointed officials to communicate with one another;
- Technical information in a clear, understandable form;
- Ways for involved citizens to receive responses from policy-makers; and
- Enough funding for continued citizen involvement programs.

Citizen involvement is an ongoing process. It is as important in using and changing land-use plans as it was in the creation of the original plans.

## Contents

Section 1:	Introduction
Section 2:	Scope of the Public Involvement Planning Guide (PIPG)
Section 3:	Developing a Public Involvement Plan Outline (PIPO)
Section 4:	Implementation, Effective Date & Future Plan Review
Section 5:	Relationship to Local Involvement

### Appendices

Appendix A:	Public Involvement Plan Outline (PIPO)
Appendix B:	Subcommittee Chair PIPO Review and Compliance Checklist
Appendix C:	Reminders for Various Steps in the Citizen Involvement Process
Appendix D:	Examples of Interested and Affected Parties
Appendix E:	Examples of Notification Methods
Appendix F:	Examples of Opportunities for Citizen Involvement



## **Section 1: Introduction**

The goal of Metro public involvement planning is to seek out and provide opportunities for innovative, proactive, broad-based, early and continuing public participation for Metro projects, programs and decision-making processes. A public involvement plan establishes consistent minimum procedures to accomplish this goal, though procedures beyond these minimums may be applied as warranted and are encouraged. The citizen involvement process should provide for complete information including decision criteria, timely public notice and full access to key decision-making.

Metro recognizes the need for outreach into underserved communities (e.g. disabled, seniors, or those for whom English is a second language) that may not normally have ready access to citizen involvement to encourage and to help remove barriers to public participation.

## **Section 2: Scope of the Public Involvement Planning Guide (PIPG)**

The PIPG is intended to focus on Metro programs, projects and policy decisions. It applies to all Metro departments to encourage public involvement. Prior to carrying out a public involvement plan, departments will be responsible for providing MCCI with a Public Involvement Plan Outline (PIPO) for each of those activities that requires a public involvement component. MCCI members will work with department staff, in an advisory capacity, to help develop an effective public involvement strategy that is appropriate to the scale of the project, is within the budgetary constraints of the project, and reflects Metro's Principles of Citizen Involvement.

## **Section 3: Developing a Public Involvement Plan Outline (PIPO)**

The purpose of the PIPO is to provide clear project goals along with specific timelines and opportunities for citizen involvement at all key decision points. The PIPG and the PIPO allow for flexibility, which is intended to encourage innovation in both the method and process of public involvement. A PIPO will be written for programs, projects and policy decisions that require detailed public interaction in the decision-making process. Additionally, a PIPO will be written for those activities that are of sufficient complexity to warrant clear and understandable public information. In order to proactively identify programs, projects or policy decisions that warrant the creation of a PIPO, the Office of Citizen Involvement (OCI) and MCCI will use information generated by the Metro departments during the annual budget making process (See Appendix A for the PIPO form).

The OCI, MCCI and Metro department staff share the responsibility for creating, implementing and evaluating citizen involvement at Metro. The three groups will respond quickly to each other's requests, working through OCI staff, and will work in tandem to identify potential problems, increase cross-awareness of significant issues, set joint priorities and otherwise proactively communicate what may be needed to make the project a success. To that end, any PIPO should be reviewed with the appropriate MCCI subcommittee before being implemented (See Appendix B for the Subcommittee Chair Review and Compliance Checklist).

Each PIPO should incorporate and be consistent with the Principles of Citizen Involvement. The PIPO may be fully defined at the beginning of the process or it may be developed and refined throughout the process as more information is gathered. The following guidelines will assist department staff in developing citizen involvement in such a way that Metro goals and objectives for citizen involvement will be met.



## **1. Notification Events**

- a. Broadly announce the initial public meeting or other activity used to kick off a public outreach/involvement effort to the program's targeted audience. Ensure that the announcement occurs early enough in the process to allow public input on initial decisions such as problem definition, goal setting and determination of objectives and alternatives to be studied.
- b. Include a statement of the initial policy decision on work scope and alternatives to be studied in the notification of key decision points (decisions that will have a tremendous impact on the remainder of the project and/or decisions regarding the final outcome). . Make citizens aware of the availability of draft or preliminary recommendations. Outline dates for decisions by advisory committees and final adoption by the Metro Council as well as other milestones in the process.
- c. Consider other citizen involvement opportunities, such as public hearings, meetings, workshops and other outreach efforts to reach citizens, educate them on issues and give them the opportunity to become involved. Ensure that notices contain all basic meeting information such as time, location, timeline for citizen comments and type of action being taken. Make notices very broad-based in an effort to reach many citizens.
- d. Establish a structure to ensure that MCCI members monitoring a certain project receive notice as soon as possible regarding unexpected changes to the project.

## **2. Timeliness of Notification**

Give 45 days notice for projects, considering that advance notification will depend on the project and its timeline. Give as much advance notice as possible to community organizations.

Publish and send the project work plan, with specific dates and timelines, to affected groups and interested citizens. Start public notification early and continue through the entire process.

## **3. Notification Recommendations**

- Post notices for public involvement opportunities on Metro's website and encourage program or project partners to post notices on their respective websites.
- Publicize notices of public hearings, meetings, available information and other activities in a newspaper of general circulation and through other media such as radio and television, as needed.
- Reach out to and involve those traditionally underserved and take time to consider special needs they may have. Network with other community organizations and/or community leaders to find under-represented populations or groups who will be affected by the change.
- Mail to affected and interested persons and groups using a list that is updated as the project progresses. Use email lists whenever possible. Notify neighborhood associations, Citizen Participation Organizations (CPO's) and other community organizations whenever possible.

## **4. Content of Notifications**

Make notifications easy to understand and provide adequate information and/or indicate how additional information can be obtained. Include information on the Americans with Disabilities Act (ADA) access and availability of information in other languages. To the extent possible, ensure that notifications of citizen involvement opportunities identify and describe the following information:



- The purpose, location and time of meetings including who is holding the event, to whom comments will be made and how they will be used. If possible, provide information on public transit modes and a phone number where additional information can be obtained.
- The meeting agenda, including a description of the meeting format and a list of issues of regional significance that will be open for discussion. Indicate times scheduled for public comments and specify when they will occur in the course of the meeting.
- An explanation of either what information will be considered/reviewed (and how informational materials can be obtained) or what action is being undertaken and an explanation of the process. This will help identify who may be interested/concerned by showing major issues of interest.
- Clarification on how the meeting fits into the full process and time line of public comment on the project. Offer other avenues for public comment and note public comment opportunities that will occur in the future. Offer an explanation of how decisions under consideration may affect the region.
- The length(s) of the comment period for written/oral comments and the nature of the comments (formal testimony or informal comments) being accepted. State which Metro staff may be contacted by telephone, in writing or by other means, to offer comments and/or suggestions. Ensure additional citizen input if significant differences arise between draft and final plans as the result of amendments.
- Any process that may be available for supplementing or modifying the final plan or program (including identification of an anticipated time schedule for the next plan/program update).

## **5. Schedule of Meetings**

Schedule meetings, open houses, informational workshops and hearings to allow the greatest opportunity for attendance with broad regional representation by the general public and interested groups (e.g. evening, lunch or weekend meetings) based on available department staff, funding and other necessary resources.

## **6. Access to Meetings**

Conduct meetings and hearings in locations that are fully ADA accessible and convenient to alternative modes of transportation. Consider outreach for underserved communities when selecting a meeting location.

## **7. Meeting Communication**

Make information available in languages relevant to the local populations. Services for the hearing impaired should be offered, though interpreters need not be present if not requested.

- Summarize technical and policy information so it is easily understood and usable by the public. Include a glossary of terms and have knowledgeable persons available at all public meetings and hearings to answer technical and policy questions. Provide full public access to technical data and analysis, by request, and provide for regional distribution of the information.
- Provide opportunity for the public to initiate ideas as well as respond to plans, programs and project ideas proposed by Metro.



## 8. Comment and Review Periods

Provide adequate time for public review of draft documents and department staff recommendations prior to opportunities for comment or testimony. The length of comment period and review periods should vary based on the nature of the plan or program.

## 9. Form and Use of Public Comment

Identify minimum standards of citizen involvement for a particular project. Solicit input from a broad range of sources. As appropriate and whenever possible, use public comments to revise work scopes, plans and programs. Update summaries of comments received and forward to the advisory committees and policy makers considering the programs or projects. Comments submitted to Metro during the review period shall be made part of the record of any final decision. Any individuals making comments (oral or written) should identify any group or organization they represent.

## 10. Feedback/Response to Public Comment

- Respond to public comment in a timely manner, addressing comments and concerns in common groups rather than individually, as appropriate.
- Make a general summary of public comments and agency responses available to participants in the regional planning process and maintain a complete record with copies of transcripts of all public input for public review.

## 11. Evaluation/Refinement of Citizen Involvement Process

Evaluate the effectiveness of the citizen involvement process upon completion of major planning efforts so refinements can be made as needed.

# Section 4: Implementation, Effective Date & Future Plan Review

**Implementation:** The PIPG establishes minimum standards for citizen involvement opportunities. However, failure to comply with the procedures contained in this plan shall not, in and of itself, render any decisions or actions invalid. It is recognized that each planning activity is unique and that there may be special circumstances (e.g. an extremely short time frame) where strict adherence to these guidelines may not be possible.

Questions related to citizen involvement should be directed to MCCI, the OCI or appropriate Metro staff. Any issues or concerns related to public involvement activities should be resolved by MCCI and department staff. Unresolved issues may be forwarded to the Metro Council for consideration.

**Effective Date & Future Plan Review:** The PIPG became effective upon acknowledgment and adoption by the Metro Council on July 2, 1998. The PIPG was revised on \_\_\_\_\_ and the revision was adopted by the Metro Council on \_\_\_\_\_. Each department will utilize the PIPG for actions and policy decisions.

Metro departments, the OCI and MCCI will periodically review and evaluate the effectiveness and workability of the PIPG at least once every two years. The goal will be to modify or improve the PIPG to increase effectiveness and feasibility. All modifications will be presented to the Metro Council for adoption. Amendments to the PIPG will require a 45 day public comment period prior to adoption.



## **Section 5: Relationship to Local Involvement**

Metro encourages local jurisdictions throughout Clackamas, Multnomah, and Washington counties to develop local citizen involvement plans for policy and decision making. Metro offers to work cooperatively on PIPGs, especially when issues are Metro-related, because sharing successful citizen involvement methods for implementation of specific regional policies and issues can stretch limited resources and create better citizen involvement throughout the region. Metro hopes to see situations where local jurisdictions cooperate with one another and/or Metro to coordinate functions, host meetings, provide information or otherwise involve citizens in government at all levels.



## Appendix A: Public Involvement Plan Outline (PIPO)

PIPO Date/Update: \_\_\_\_\_

Staff Contact: \_\_\_\_\_

Department: \_\_\_\_\_

### Project

Project name \_\_\_\_\_

Goal(s) of project \_\_\_\_\_

\_\_\_\_\_

### Audience

Main audience \_\_\_\_\_

Methods of communicating with/involving this audience \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Secondary audiences \_\_\_\_\_

Methods of communicating with/involving these audiences \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Underserved groups to be considered \_\_\_\_\_

### Deadlines

Key dates and milestones for public involvement activities (a schedule may be attached to this outline)

\_\_\_\_\_

\_\_\_\_\_

Final program or project implementation/policy decision date \_\_\_\_\_

### MCCI Feedback

Evaluation by MCCI and the OCI \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(See Appendix C for Reminders for Various Steps in the Citizen Involvement Process)



## Appendix B: Subcommittee Chair PIPO Review Checklist

The purpose of this form is to assist MCCI members in determining the need for a PIPO and to provide documentation of plan development, routing, and approval.

Does the proposed program, project or policy decision meet any of these thresholds?

- ☐ Required by the funding agency
- ☐ Affects the public in terms of change in cost or service level
- ☐ Significant aim is public education or information gathering
- ☐ Requires Comprehensive Plan or land use change
- ☐ Expected to generate controversy or interest

If one or more of these thresholds are met, the subcommittee should determine whether the program, project or policy decision warrants review. If the subcommittee selects the activity for review, a PIPO should be attached to this form prior to routing. Staff may choose to include a PIPO as part of their activity even when not required. In all cases, this form should be routed to the MCCI subcommittee to inform them of the activity and the staff's determination as to whether a PIPO is needed at least 45 days prior to the implementation of said program, project or policy decision.

### Routing Information:

Completed on \_\_\_\_\_ by \_\_\_\_\_

Staff Contact Name \_\_\_\_\_ Phone # \_\_\_\_\_

### MCCI Subcommittee:

☐ REM ☐ Growth Management ☐ Parks ☐ Transportation ☐ Other

Date presented to subcommittee: \_\_\_\_\_

Subcommittee Action: ☐ Concurs ☐ Concurs with the following suggestions \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Opposed PIPO or lack of PIPO because: \_\_\_\_\_

\_\_\_\_\_

Date presented to MCCI Regular Committee: \_\_\_\_\_

MCCI Regular Committee Action: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

PIPO scheduled for Subcommittee Review on: \_\_\_\_\_

(See Appendix C for Reminders for Various Steps in the Citizen Involvement Process)



## **Appendix C: Reminders for Various Steps in the Citizen Involvement Process**

### Material Development:

- Will notices include the date, time, location and contact information for activities?
- Will materials be clear, detailed, concise and in lay terms?
- Will special consideration or accommodation be made, as needed, for materials in different languages or formats (i.e. Braille, large print)?
- Will acronyms be spelled out and a glossary included for technical information?

### Mailings:

- Will the dates of mailing, copies of each mailing, a list of recipients (including local publications, community groups and underserved populations) and a record of all responses (number and content) be kept by staff?

### Meetings:

- Will the meeting locations be geographically balanced and appropriate?
- Will meetings be held in ADA-accessible locations served by public transit?
- Will a copy of the meeting notice, a record of attendees, a copy of any minutes/exhibits, a record of follow-up to participants and a record of the overall meeting outcome be kept by staff?

## **Appendix D: Examples of Interested & Affected Parties**

Mailing lists of interested and affected parties for any program, project or policy decision should be appropriate to that activity's scope, timeline and budget. Lists should be updated to include those who attended events or meetings. Notification lists may include, but are never limited to, the following:

- Adjacent property owners
- Business groups
- Elected officials
- Facility or service providers
- Facility or services users
- Groups normally disenfranchised from the decision making process
- Local jurisdictions (cities and counties)
- Neighborhood associations and CPO's
- Persons or organizations currently relevant to the topic at hand
- Persons previously interested in similar projects or related studies
- Underserved groups

## **Appendix E: Examples of Notification Methods**

Notification methods for citizen involvement may include, but are not limited to, those listed below:

- Advertisements - TV, radio, print
- Billboards
- Direct mail or distribution of flyers or brochures to affected/interested parties
- Distribution of information through the Recycling Information Center, as appropriate
- E-mail
- Fact sheets
- Focus groups
- Informational booths at street fairs or neighborhood festivals
- Informational number or hotline



- Posters
- Press releases
- Public notices
- Public service announcements
- Signage in public places (e.g. buses, schools) or advertise on paper bags (e.g. Fred Meyer, Safeway)
- Survey
- Web page announcements
- Workshops or discussion forums
- Written or oral comments

## Appendix F: Examples of Opportunities for Citizen Involvement

The following examples provide strategy ideas to use when planning for Citizen Involvement:

**Brainstorming** - a simple technique used in a meeting where participants come together in a freethinking forum to generate ideas.

**Citizen Surveys** - a tool to assess widespread public opinion. A survey is administered to a sample group of citizens via a written questionnaire or through personal, phone or electronic interviews. The limited sample of citizens is considered representative of a larger group. Surveys can be formal (scientifically assembled and administered) or informal.

**Citizens Advisory Committee (CAC)** - a representative group of citizen stakeholders that meets regularly to discuss issues of common concern. While CAC's have been used for many years and the technique is not innovative, it can be used very creatively.

**Collaborative Task Force** - a group assigned a time limit to resolve a difficult issue and come to a conclusion that is subject to ratification by official decision-makers. It can be used on a project level or for resolving issues within a project. Its discussion can help agencies understand participants' qualitative values and reactions to proposals. It can aid in development of policies, programs, and services and in allocation of resources.

**Facility Tours** - a method of generally educating interested persons in Metro for the purpose of increasing overall awareness of and intelligence about Metro. This can help to create advocates in the larger community.

**Focus Groups** - tools used to gauge public opinion. Borrowed from the marketing and advertising industry, they define a government service as a product and the public as customers. Focus groups are a way to identify customer concerns, needs, wants and expectations as they inform sponsors of the attitudes and values that customers hold and why. Each focus group involves the meeting of a carefully selected group of individuals convened to discuss and give opinions on a single topic.

**Media Strategies** - tools such as newspapers, radio, TV, videos, billboards, posters, displays and mass mailings (brochures, newsletters, flyers) used to inform the public about projects/programs. Better information enhances public understanding of a project or program and is a good basis of meaningful Citizen Involvement efforts.

**Public Hearings (Oral Comments)** Public hearings are formal events and generally focus on a specific proposal or action. Held prior to a decision point, a public hearing gathers citizen comments and input from all interested parties for public record. Facilitators can be used to effectively guide discussion.

**Public Meetings (Oral Comments)** - provision of an opportunity for information exchange. Public meetings, such as open houses or work sessions, present information in an informal setting to the public in any number of ways and obtain formal or informal input from citizens. Held throughout the planning process, they can be tailored to specific



issues or citizen groups. Facilitators can be used to effectively guide discussion. Further examples of public meetings are as follows:

- **Charrette** - within a specified time limit, participants have an intense work session to reach a resolution to a particular problem or issue.
- **Event Fair** - an event used to interest citizens in a specific issue, project or program at hand. Typically a one-day event, it is often heavily promoted using attractions such as futuristic vehicles or noted personalities to draw participants.

**Telephone Communications** - techniques that make use of two-way telephone communication with the public to obtain information and to give opinions. Its use holds a new set of potential applications for community participation, going beyond question-and-answer techniques toward evolving new multi-media connections with television and computers.

**Visioning** - a tool used to develop a goals statement. Typically, it consists of a series of meetings focused first on shared core values and then on long-range issues. Visioning ultimately results in a long-range plan. With a 20 or 30 year horizon, visioning also sets a strategy for achieving the goal.

**Written Comments** - provision of an opportunity for in-depth and more lengthy consideration and response by the public. A comment period allows interested parties to present their opinion on a particular project without the need for attending meetings or hearings.



## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 02-3248, FOR THE PURPOSE OF APPROVING THE REVISED PUBLIC INVOLVEMENT PLANNING GUIDE ON BEHALF OF THE METRO COMMITTEE FOR CITIZEN INVOLVEMENT (MCCI))

---

NOVEMBER 4, 2002

CARY STACEY (X1539)

#### **Background**

In 1998, MCCI created a guide document relating to citizen involvement for use by department staff at Metro, with the original concept based on the Transportation Public Involvement Plan (PIP) previously adopted by the Metro Council. The PIPG differed from the Transportation PIP in that it was designed for use by all departments and included a Project Public Involvement Plan (PPIP) form.

At its annual retreat on September 8, 2001, MCCI resolved to enhance its role in monitoring Metro activities and advising the Metro Council, and to clarify the relationships between the Council Office, the Office of Citizen Involvement and MCCI. These goals, in conjunction with the PIPG's requirement that it be reviewed on a periodic basis, prompted MCCI Chair Ted Kyle to draft MCCI Resolution 01-001 calling for a PIPG Review Committee, consisting of MCCI members and Metro staff, to work together to improve the PIPG.

The PIPG Review Committee met four times, from February through May 2002, to discuss revisions to the PIPG. Committee members included: Norm Andreen, MCCI Member; John Donovan, Council Communications Officer; Kay Durtschi, MCCI Member; Jim Kimball, MCCI Member; Ron Klein, Public Affairs Specialist; Jan O'Dell, Senior Public Affairs Specialist; Scott Seibert, MCCI Member; and Cary Stacey, MCCI Staff. The final revision was made available to MCCI at its May 15, 2002, meeting. Editing comments received at this meeting were incorporated into the final document, which was presented and adopted at MCCI's June 19, 2002, full meeting.

Significant changes to the PIPG are as follows:

- Inclusion of references to the Office of Citizen Involvement (OCI) in regards to promoting citizen involvement
- Elimination of references to the Executive Officer or Office
- Replacement of the Project Public Involvement Plan Form (PPIP) with a Public Involvement Plan Outline (PIPO)
  - PIPO form eliminates duplicative, limiting or open-ended questions; provides a straightforward and flexible one-page outline usable by all departments
- Replacement of Project Public Involvement Plan (PPIP) Checklist with a PIPO Review and Compliance Checklist
  - New checklist assists MCCI members in determining the need for a PIPO and provides documentation for PIPO development, routing and MCCI approval
- Replacement of Acronym List with Reminders for Various Steps in Citizen Involvement (formerly part of the PPIP Checklist)

The revised PIPG is attached to Resolution 02-3248 as Exhibit A.

#### **Budget impact**

None

#### **Recommendation**

That the Metro Council adopt Resolution 02-3248.



Agenda Item Number 7.3

**Resolution No. 02-3249**, For the purpose of Authorizing the Executive Office to Issue a renewed Metro Solid Waste Facility License for Yard Debris Composting to Grimm's Fuel Company.

Metro Council Meeting  
Tuesday, December 10, 2002  
Metro Council Chamber



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE	)	RESOLUTION NO. 02-3249
EXECUTIVE OFFICER TO ISSUE A RENEWED	)	
METRO SOLID WASTE FACILITY LICENSE	)	Introduced by Mike Burton,
FOR YARD DEBRIS COMPOSTING TO	)	Executive Officer
GRIMM'S FUEL COMPANY, INC.	)	

WHEREAS, Grimm's Fuel Company, Inc., is currently operating under authority of a Metro Yard Debris Compost Facility License to perform yard debris composting; and,

WHEREAS, the Metro Yard Debris Compost Facility License granted to Grimm's Fuel Company, Inc., was for a five-year term and will expire on December 23, 2002; and,

WHEREAS, Grimm's Fuel Company, Inc., has filed an application for renewal of its Yard Debris Composting Facility License in conformance with the requirements of chapter 5.01 of the Metro Code; and,

WHEREAS, Metro staff has analyzed the application and recommended approval of the applicant's request to renew its Yard Debris Composting Facility License; and,

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

BE IT RESOLVED that the Metro Council shall authorize the Executive Officer to grant a renewed Solid Waste Facility License for yard debris composting to Grimm's Fuel Company, Inc., that shall be substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
Carl Hosticka, Presiding Officer

Approved as to Form:

\_\_\_\_\_  
Daniel B. Cooper, General Counsel



**EXHIBIT A**  
**Resolution No. 02-3249**

**METRO SOLID WASTE FACILITY LICENSE**  
**for Yard Debris Composting**

**Number YD- 043-02**  
**Issued to Grimm's Fuel Company, Inc.**

*Issued by*

**Metro**

600 NE Grand Avenue

Portland, OR 97232

Telephone: (503) 797-1650

Issued in accordance with the provisions of Metro Code Chapter 5.01

<b>LICENSEE:</b>  Grimm's Fuel Company, Inc. 1631 South Shore Blvd. Lake Oswego, OR 97034 Telephone: (503)636-3623 Fax: (503)	<b>FACILITY NAME AND LOCATION:</b>  Grimm's Fuel Company, Inc. 18850 SW Cipole Road Tualatin, Oregon 97062
<b>OPERATOR:</b>  Grimm's Fuel Company, Inc. 1631 South Shore Blvd. Lake Oswego, OR 97034 Telephone: (503)636-3623 Fax: (503)	<b>PROPERTY OWNER:</b>  Rod Grimm 1631 South Shore Blvd. Lake Oswego, OR 97034 Telephone: (503)636-3623 Fax: (503)

This license is granted to the licensee named above and may not be transferred without the prior written approval of the Executive Officer. Subject to the conditions stated in this license document, the licensee is authorized to operate and maintain a yard debris composting facility, and to accept the solid wastes and perform the activities authorized herein.

**METRO**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Mike Burton, Metro Executive Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Licensee

\_\_\_\_\_  
Print name and title

\_\_\_\_\_  
Date





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## **1.0 ISSUANCE**

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- |            |                                          |                                                                                                                                                                 |
|------------|------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1.1</b> | <b>Licensee</b>                          | Grimm's Fuel Company, Inc.<br>18850 SW Cipole Road<br>Tualatin, Oregon 97062                                                                                    |
| <b>1.2</b> | <b>Contact</b>                           | Jeff Grimm, Vice President                                                                                                                                      |
| <b>1.3</b> | <b>License Number</b>                    | Metro Solid Waste Facility License Number YD-043-02                                                                                                             |
| <b>1.4</b> | <b>Term of License</b>                   | This license is issued for a term of five (5) years as authorized by Metro Code Chapter 5.01. The term commences from the date this license is signed by Metro. |
| <b>1.5</b> | <b>Facility name and mailing address</b> | Grimm's Fuel Company, Inc.<br>1631 South Shore Blvd.<br>Lake Oswego, OR 97034                                                                                   |
| <b>1.6</b> | <b>Operator</b>                          | Grimm's Fuel Company, Inc.<br>18850 SW Cipole Road<br>Tualatin, Oregon 97062                                                                                    |
| <b>1.7</b> | <b>Facility legal description</b>        | Tax Lot numbers 1800 and 1900<br>Section 21, Township 25, Range 1W<br>Washington County, State of Oregon                                                        |
| <b>1.8</b> | <b>Property owner</b>                    | Rod Grimm<br>18850 SW Cipole Road<br>Tualatin, Oregon 97062                                                                                                     |
| <b>1.9</b> | <b>Permission to operate</b>             | The property owner is the operator of the facility.                                                                                                             |

## **2.0 CONDITIONS AND DISCLAIMERS**

---

- |            |                   |                                                                           |
|------------|-------------------|---------------------------------------------------------------------------|
| <b>2.1</b> | <b>Guarantees</b> | The granting of this license shall not vest any right or privilege in the |
|------------|-------------------|---------------------------------------------------------------------------|





- licensee to receive specific quantities of solid waste at the direction of Metro during the term of the license.
- 2.2 Non-exclusive license** The granting of this license shall not in any way limit Metro from granting other solid waste licenses within the District.
- 2.3 Property rights** The granting of this license does not convey any property rights in either real or personal property, nor does it authorize any injury to private property or invasion of property rights.
- 2.4 No recourse** The licensee shall have no recourse whatsoever against the District or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this license or because of the enforcement of the license or in the event the license or any part thereof is determined to be invalid.
- 2.5 Release of liability** Metro, its elected officials, employees, or agents do not sustain any liability on account of the granting of this license or on account of the construction, maintenance, or operation of the facility pursuant to this license.
- 2.6 Binding nature** The conditions of this license are binding on the licensee. The licensee is liable for all acts and omissions of the licensee's contractors and agents.
- 2.7 Waivers** To be effective, a waiver of any terms or conditions of this License must be in writing and signed by the Metro Executive Officer.
- 2.8 Effect of waiver** Waiver of a term or condition of this License shall not waive nor prejudice Metro's right otherwise to require performance of the same term or condition or any other term or condition.
- 2.9 Choice of law** The License shall be construed, applied and enforced in accordance with the laws of the State of Oregon.
- 2.10 Enforceability** If any provision of this License is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this License shall not be affected.
- 2.11 License not a waiver** Nothing in this license shall be construed as relieving any owner, operator, or licensee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports or other requirements of other regulatory agencies.





- |      |                             |                                                                                                                                                                                                                              |
|------|-----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2.12 | <b>License not limiting</b> | Nothing in this license is intended to limit the power of a federal, state, or local agency to enforce any provision of law relating to the solid waste facility that it is authorized or required to enforce or administer. |
| 2.13 | <b>Definitions</b>          | Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.01.                                                                                                                                       |

### **3.0 AUTHORIZATIONS**

---

- |     |                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-----|-------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3.1 | <b>Purpose</b>                            | This section of the license describes the wastes that the licensee is authorized to accept at the facility, and the activities the licensee is authorized to perform at the facility.                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 3.2 | <b>General conditions on solid wastes</b> | The licensee is authorized to accept at the facility only the solid wastes described in this section. The licensee is prohibited from knowingly receiving any solid waste not authorized in this section.                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 3.3 | <b>General conditions on activities</b>   | The licensee is authorized to perform at the facility only those activities that are described in this section. The licensee is authorized to operate and maintain a yard debris composting facility. In addition, the licensee is authorized to process hogged fuel from wood wastes.                                                                                                                                                                                                                                                                                                                                                                      |
| 3.4 | <b>Authorized materials</b>               | The licensee is authorized to accept source-separated yard debris, leaves from municipal collection programs, landscape waste, and incidental quantities of source-separated pre-consumer vegetative food waste, and other green wastes if specifically authorized by the Director of the Regional Environmental Management Department. The licensee is also authorized to accept clean wood wastes (e.g. untreated lumber and wood pallets). Treated and painted lumber may be accepted for processing into hogged fuel, not for compost feedstocks. No other wastes shall be accepted at the Facility unless specifically authorized in writing by Metro. |

### **4.0 LIMITATIONS AND PROHIBITIONS**

---

- |     |                   |                                                                                                                                                    |
|-----|-------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|
| 4.1 | <b>Purpose</b>    | This section of the license describes limitations and prohibitions on the wastes handled at the facility and activities performed at the facility. |
| 4.2 | <b>Prohibited</b> | The Licensee is prohibited from receiving, processing or disposing of                                                                              |





**waste**

any solid waste not authorized in this License. The licensee shall not knowingly accept or retain any material amounts of the following types of wastes: non-green feedstocks, special wastes as defined in chapter 5.02 of the Metro Code, materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; or any waste prohibited by the DEQ.

- 4.3 No disposal of recyclable materials** Source-separated recyclable materials, yard debris and organic materials accepted at the facility may not be disposed of by landfilling.
- 4.4 Limits not exclusive** Nothing in this section of the license shall be construed to limit, restrict, curtail, or abrogate any limitation or prohibition contained elsewhere in this license document, in Metro Code, or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.

**5.0 OPERATING CONDITIONS**

---

- 5.1 Purpose** This section of the license describes criteria and standards for the operation of the facility.
- 5.2 Qualified Operator** The licensee shall provide an operating staff qualified to carry out the functions required by this license and to otherwise ensure compliance with Metro Code Chapter 5.01.
- 5.3 Operating plan** The licensee shall establish and follow procedures for accepting, managing and processing loads of solid waste received at the facility. Such procedures must be in writing and in a location where facility personnel and the Executive Officer can readily reference them. The licensee may, from time to time, modify such procedures. The procedures shall include at least the following:
- Methods of inspecting incoming loads for the presence of prohibited or unauthorized waste.
  - Methods for managing and transporting for disposal at an authorized disposal site each of the prohibited or unauthorized wastes if they are discovered at the facility.
  - Objective criteria for accepting or rejecting loads.
  - Methods for measuring and keeping records of incoming waste.
  - A general description of any treatment the wastes will receive





- prior to processing (e.g., chipping, shredding) and the maximum length of time required to process each day's receipt of waste into windrows or other piles.
- f. The specifications to which the windrows or other piles will be constructed (width, height, and length) and calculation of the capacity of the facility.
  - g. An estimate of the length of time necessary to complete the composting process.
  - h. Methods for monitoring and adjusting temperature, oxygen level and moisture level of the material during processing.
- 5.4 Capacity** Storage and handling capacities shall not be exceeded. The facility shall have sufficient processing capacity to handle projected incoming volumes of materials. Facility design shall address specific capacity and storage issues, including:
- a. Capacity for incoming wastes waiting to be processed.
  - b. Capacity for proper handling, storage, and removal of hazardous or other non-permitted wastes delivered to or generated by the facility.
  - c. Capacity for finished product storage.
- 5.5 Fire prevention** The operator shall provide fire prevention, protection, and control measures, including but not limited to, temperature monitoring of windrows, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from the composting pad/processing area.
- 5.6 Adequate vehicle accommodation** Vehicles containing landscape waste or yard debris feedstock/waste shall not park or queue on public streets or roads except under emergency conditions. Adequate off-street parking and queuing for vehicles shall be provided.
- 5.7 Managing authorized wastes** All authorized solid wastes received at the facility must be either (a) processed, (b) appropriately stored, or (c) properly disposed of, within a timeframe that avoids creating nuisance conditions or safety hazards.
- 5.8 Storage** Stored materials and solid wastes shall be suitably contained and removed at sufficient frequency to avoid creating nuisance conditions or safety hazards. Storage areas must be maintained in an





orderly manner and kept free of litter.

**5.9 Litter and  
airborne debris**

The licensee shall operate the facility in a manner that is not conducive to the generation of litter and airborne debris. The licensee shall:

- a. Take reasonable steps to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit.
- b. Construct, maintain, and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit.
- c. Keep all areas within the site and all vehicle access roads within  $\frac{1}{4}$  mile of the site free of litter and debris.

**5.10 Odor**

The licensee shall operate the facility in a manner that is not conducive to the generation of odors. The licensee shall establish and follow procedures for minimizing odor at the facility. Specific measures an operator shall take to control odor include but are not limited to adherence to the contents of a required odor minimization plan (see Section 6.0). Such procedures must be in writing and in a location where facility personnel and Metro inspectors can readily reference them. The licensee may modify such procedures from time to time.

**5.11 Vectors**

The licensee shall operate the facility in a manner that is not conducive to infestation of rodents, insects, or other animals capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.

**5.12 Noise**

The licensee shall operate the facility in a manner that controls the creation of excessive noise to the extent necessary to meet applicable regulatory standards and land-use regulations.

**5.13 Water quality**

The licensee shall operate and maintain the facility to prevent contact of solid wastes with stormwater runoff and precipitation. Methods must be consistent with the controlling agency (local jurisdiction and DEQ).

**5.14 Public Access**

Public access to the facility shall be controlled as necessary to prevent unauthorized entry and dumping.

**5.15 Signage**

The licensee shall post signs at all public entrances to the facility,





and in conformity with local government signage regulations. These signs shall be easily and readily visible, legible, and shall contain at least the following information:

- a. Name of the facility
- b. Address of the facility;
- c. Emergency telephone number for the facility;
- d. Operating hours during which the facility is open for the receipt of authorized waste;
- e. Fees and charges;
- f. Metro's name and telephone number 797-1650; and
- g. A list of authorized and prohibited wastes.

**5.16 Complaints**

The licensee shall respond to all written complaints of nuisances (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors). If licensee receives a complaint, licensee shall:

- a. Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of unsuccessful attempts; and
- b. Log all such complaints by name, date, time and nature of complaint. Each log entry shall be retained for one year and shall be available for inspection by Metro.

**5.17 Access to license document**

The licensee shall maintain a copy of this Metro Solid Waste Facility License on the facility's premises, and in a location where facility personnel and Metro representatives have ready access to it.

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**6.0 ODOR MINIMIZATION PLAN**

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**6.1 Purpose**

This section describes the minimum requirements that must be contained in an odor minimization plan.

**6.2 Plan requirements**

The operator shall have an odor minimization plan. The plan must include methods to minimize, manage and monitor all odors, including odors produced by grass clippings. The plan must include:

- a. A management plan that describes the methods that will be used to minimize, manage, and monitor all odors of any derivation including malodorous loads received at the facility;
- b. Procedures for receiving and recording odor complaints, immediately investigating any odor complaints to determine the





cause of odor emissions, and remedying promptly any odor problem at the facility;

- c. Additional odor-minimizing measures, which may include the following:
  - (1) Avoidance of anaerobic conditions in the composting material;
  - (2) Use of mixing for favorable composting conditions;
  - (3) Formation of windrow or other piles into a size and shape favorable to minimizing odors;
  - (4) Use of end-product compost as cover to act as a filter during early stages of composting; and
  - (5) Clean the areas and equipment that come into contact with solid waste on a regular basis.
- d. Specification of a readily-available supply of bulking agents, additives or odor control agents.
- e. Procedures for avoiding delay in processing and managing landscape waste and yard debris during all weather conditions.
- f. Methods for taking into consideration the following factors prior to turning or moving composted material:
  - (1) Time of day;
  - (2) Wind direction;
  - (3) Percent moisture;
  - (4) Estimated odor potential; and
  - (5) Degree of maturity.

**6.3 Grass clippings** Grass clippings must be processed in a timely manner to avoid odors.

## **7.0 RECORD KEEPING AND REPORTING**

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- |            |                            |                                                                                                                                                                                                                                                                     |
|------------|----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>7.1</b> | <b>Purpose</b>             | This section of the license describes the record keeping and reporting requirements. The Licensee shall effectively monitor facility operation and maintain accurate records of the information described in this section.                                          |
| <b>7.2</b> | <b>Feedstocks received</b> | Estimated amount of feedstock received and quantity of product produced at the facility. Records shall be reported to Metro no later than thirty (30) days following the end of each quarter. The report shall be signed and certified as accurate by an authorized |





representative of licensee.

- 7.3 Special occurrences** Records of any special occurrences encountered during operation and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures.
- 7.4 Nuisance complaints** For every nuisance complaint (e.g. odor, noise, dust, vibrations, litter) received, the licensee shall record:
- The nature of the complaint;
  - The date the complaint was received;
  - The name, address, and telephone number of the person or persons making the complaint; and
  - Any actions taken by the operator in response to the complaint.
- Records of such information shall be made available to Metro and local governments upon request.
- 7.5 Regulatory information submittals** The licensee shall submit to Metro duplicate copies of regulatory information submitted to the DEQ and local jurisdictions pertaining to the facility, at the same time as submittal to DEQ and/or a local jurisdiction.

## **8.0 FEES AND RATE SETTING**

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- 8.1 Purpose** This section of the license specifies fees payable by the licensee, and describes rate regulation by Metro.
- 8.2 Annual fee** The licensee shall pay a \$300 annual license fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the license fee at any time by action of the Metro Council.
- 8.3 Fines** Each violation of a license condition shall be punishable by fines as established in Metro Code Chapter 5.01. Each day a violation continues constitutes a separate violation. Metro reserves the right to change fines at any time by action of the Metro Council.
- 8.4 Rates not regulated** The tipping fees and other rates charged at the facility are exempt from rate regulation by Metro.





## **9.0 INSURANCE REQUIREMENTS**

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- |            |                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|------------|----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>9.1</b> | <b>Purpose</b>                         | The section describes the types of insurance that the licensee shall purchase and maintain at the licensee's expense, covering the licensee, its employees, and agents.                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>9.2</b> | <b>General liability</b>               | The licensee shall carry broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy shall be endorsed with contractual liability coverage.                                                                                                                                                                                                                                                                                                                                            |
| <b>9.3</b> | <b>Automobile</b>                      | The licensee shall carry automobile bodily injury and property damage liability insurance.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>9.4</b> | <b>Coverage</b>                        | Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>9.5</b> | <b>Additional insureds</b>             | Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSURED.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>9.6</b> | <b>Worker's Compensation Insurance</b> | The licensee, its subcontractors, if any, and all employers working under this license, are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Licensee shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If licensee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation. |
| <b>9.7</b> | <b>Notification</b>                    | The licensee shall give at least 30 days prior written notice to the Executive Officer of any lapse or proposed cancellation of insurance coverage.                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

## **10.0 ENFORCEMENT**

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- |             |                                  |                                                                                                                                                 |
|-------------|----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>10.1</b> | <b>Generally</b>                 | Enforcement of this license shall be as specified in Metro Code.                                                                                |
| <b>10.2</b> | <b>Authority vested in Metro</b> | The power and right to regulate, in the public interest, the exercise of the privileges granted by this license shall at all times be vested in |





Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such requirements against licensee.

**10.3 No Enforcement Limitations**

Nothing in this license shall be construed to limit, restrict, curtail, or abrogate any enforcement provision contained in Metro Code or administrative procedures adopted pursuant to Metro Code Chapter 5.01, nor shall this license be construed or interpreted so as to limit or preclude Metro from adopting ordinances that regulate the health, safety, or welfare of any person or persons within the District, notwithstanding any incidental impact that such ordinances may have upon the terms of this license or the licensee's operation of the facility.

**11.0 MODIFICATIONS**

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**11.1 Modification**

At any time during the term of the license, either the Executive Officer or the licensee may propose amendments or modifications to this license.

**11.2 Modification, suspension or revocation by Metro**

The Executive Officer may, at any time before the expiration date, modify, suspend, or revoke this license in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:

- a. Violation of the terms or conditions of this license, Metro Code, or any applicable statute, rule, or standard;
- b. Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this license;
- c. Failure to disclose fully all relevant facts;
- d. A significant release into the environment from the facility;
- e. Significant change in the character of solid waste received or in the operation of the facility;
- f. Any change in ownership or control, excluding transfers among subsidiaries of the licensee or licensee's parent corporation;
- g. A request from the local government stemming from impacts resulting from facility operations.
- h. Compliance history of the licensee.





## **12.0 GENERAL OBLIGATIONS**

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- |             |                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-------------|--------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>12.1</b> | <b>Compliance with the law</b>                   | Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility shall be deemed part of this license as if specifically set forth herein. Such conditions and permits include those cited within or attached as exhibits to the license document, as well as any existing at the time of the issuance of the license but not cited or attached, and permits or conditions issued or modified during the term of the license. |
| <b>12.2</b> | <b>Indemnification</b>                           | The licensee shall indemnify and hold Metro, its employees, agents and elected officials harmless from any and all claims, damages, actions, losses and expenses including attorney's fees, or liability related to or arising out of or in any way connected with the licensee's performance or failure to perform under this license, including patent infringement and any claims or disputes involving subcontractors.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>12.3</b> | <b>Deliver waste to appropriate destinations</b> | The licensee shall ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>12.4</b> | <b>Right of inspection and audit</b>             | Authorized representatives of Metro may take soil and water samples and perform such inspection or audit as the Regional Environmental Management Director deems appropriate and shall be permitted access to the premises of the facility during normal working hours upon giving reasonable advance notice (not less than 24 hours). Subject to the confidentiality provisions of this license, Metro's right to inspect shall include the right to review, at an office of licensee located in the Portland metropolitan area, all information from which all required reports are derived including all books, records, maps, plans, income tax returns, financial statements, contracts, and other like materials of licensee that are directly related to the operation of the Facility.                                                                                                                |
| <b>12.5</b> | <b>Confidential information</b>                  | Licensee may identify any information submitted to or reviewed by Metro under this Section 12.0 as confidential. Licensee shall                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |





prominently mark any information which it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro shall treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. Within five (5) days of Metro's receipt, any request for disclosure of information identified by licensee as confidential, Metro shall provide Licensee written notice of the request. Licensee shall have three (3) days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. Licensee shall be responsible for any costs incurred by Metro as a result of Metro's efforts to remove or redact any such confidential information from documents that Metro produces in response to a public records request. Nothing in this Paragraph 12.5 shall limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, such representatives agree to continue to treat such information as confidential and make good faith efforts not to disclose such information.

**12.6 Compliance  
by agents**

The licensee shall be responsible for ensuring that its agents and contractors operate in compliance with this license.



## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 02-3249, FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO ISSUE A RENEWED METRO SOLID WASTE FACILITY LICENSE FOR YARD DEBRIS COMPOSTING TO GRIMM'S FUEL COMPANY, INC.

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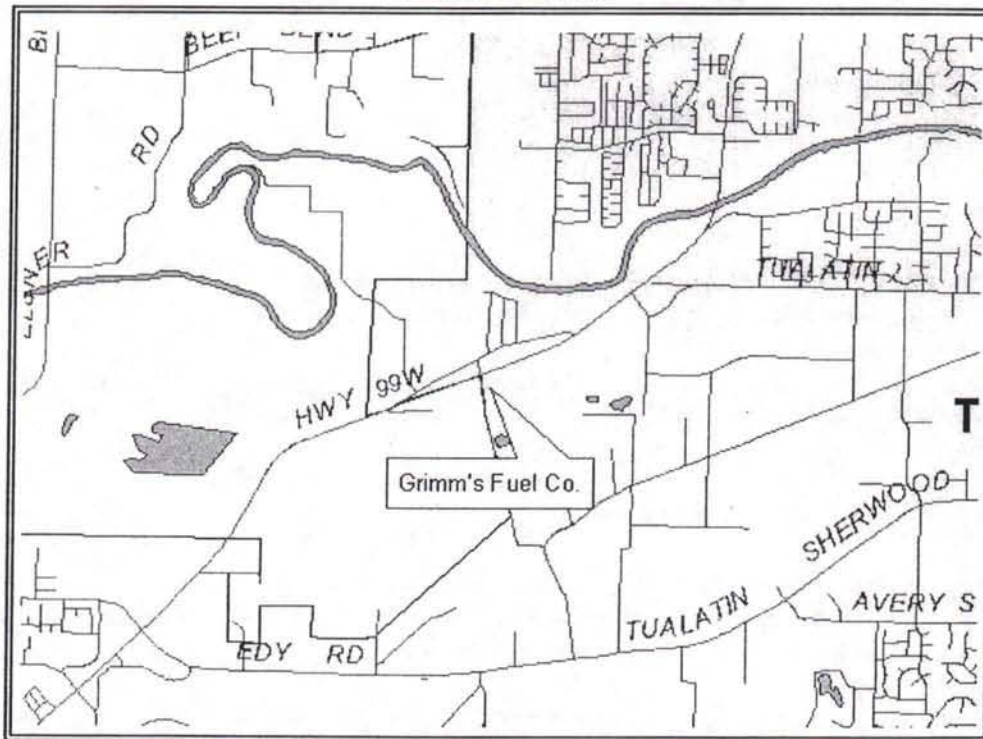
October 30, 2002

Presented by: Terry Petersen

## BACKGROUND

Grimm's Fuel Company, Inc. has been operating under authority of a Metro Compost Facility License since December 23, 1997. The term of the License will expire on December 23, 2002. Approval of Resolution No, 02-3249 will renew the Metro Solid Waste Facility License for yard debris composting with Grimm's Fuel Company, Inc. for an additional five-year term.

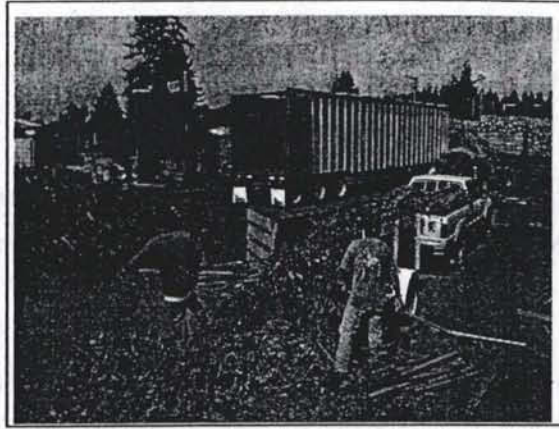
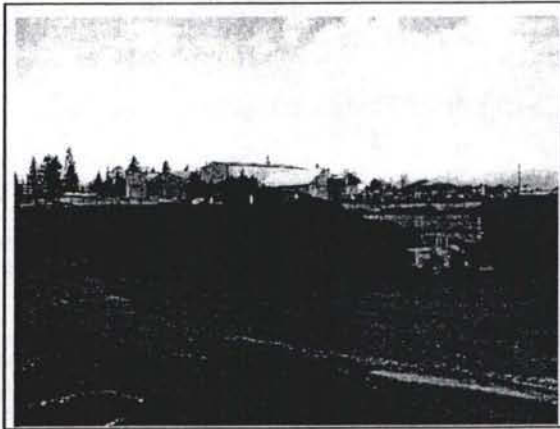
Site Location Map



Grimm's Fuel Company, Inc. is located at 18850 SW Cipole Road in Tualatin, Oregon (Metro Council District 3). The 11-acre site is used for yard debris composting, as well as wood waste and land-clearing debris recycling operations. The facility accepts loads of yard debris and wood wastes from commercial and residential sources and is open to the public. The facility accepts for processing approximately 31,000 tons of yard debris feedstock per year.



Site photographs of yard debris composting activities at Grimm's Fuel Company



Grimm's Fuel Company, Inc. has an excellent operational record with Metro, and provides important yard debris recycling services and products to citizens and businesses in the Metro region.

## ANALYSIS / INFORMATION

### 1. Known Opposition

None.

### 2. Legal Antecedents

*Section 5.01.045 of the Code stipulates that a Solid Waste License is required of any person owning or controlling a facility that processes or reloads yard debris.*

Grimm's Fuel Company, Inc. performs yard debris composting operations as its primary activity and is therefore required to have a Metro Solid Waste Facility License for yard debris composting.

*Section 5.01.060 of the Metro Code stipulates that:*

- (a) Applications for a Certificate, Franchise or License or for renewal of an existing Certificate, Franchise or License shall be filed on forms or in the format provided by the Executive Officer.*

Grimm's Fuel Company, Inc. submitted a License Renewal Application in a format provided by the Executive Officer.

*Metro Code Section 5.01.087(a) provides:*

*Solid Waste Facility Licenses shall be renewed unless the Executive Officer determines that the proposed renewal is not in the public interest, provided that the Licensee files a completed application for renewal accompanied by a payment of an application fee of \$300 not less than 60 days prior to the expiration of the License term, together with a statement of proposed material changes from its initial application for the License and any other information*



*required by the Executive Officer. The Executive Officer may attach conditions or limitations to any renewed License.*

Grimm's Fuel Company, Inc. filed an application for renewal accompanied by payment of an application fee of \$300 in conformance with the provisions of Metro Code section 5.01.087.

The License Renewal Application submitted by Grimm's Fuel Company, Inc., included a description of its composting operation and the feedstocks it accepts. Further, Grimm's operation remains largely unchanged since 1997, the wastes accepted and processing methods conducted at the facility have not substantially changed.

In addition, the applicant provided copies of updated and renewed permits as follows: 1) a renewed Conditional Use Permit (City of Tualatin), 2) a renewed NPDES - Storm Water Discharge Permit (General Permit 1200-Z-DEQ), and 3) an updated Stormwater Pollution Control Plan.

The Executive Officer has reviewed Grimm's renewal application and determines that it is in the public interest and that a renewed Solid Waste Facility License for yard debris composting be granted to Grimm's Fuel Company, Inc. to replace the existing License which will expire on December 23, 2002. The proposed renewed License will be effective for a five-year term.

### **3. Anticipated Effects**

The effect of Resolution No. 02-3249 will be to renew a Metro Solid Waste Facility License for yard debris composting with Grimm's Fuel Company, Inc. This will allow Grimm's Fuel Company to continue to accept yard debris for recycling and operate as a yard debris composting facility.

### **4. Budget Impacts**

None.

## **RECOMMENDED ACTION**

Grimm's Fuel Company, Inc., is an existing facility that has been operating under Metro authority since December 1997. Grimm's Fuel Company, Inc. has an excellent operational record with Metro, and provides important yard debris recycling services and products to citizens and businesses in the Metro region. The Executive Officer finds that a license renewal is in the public interest and therefore recommends approval of Resolution No. 02-3249, to grant a renewed Metro Yard Debris Composting Facility License to Grimm's Fuel Company, Inc., subject to the terms and conditions incorporated into the license document attached as "Exhibit A" to Resolution No. 02-3249.



Agenda Item Number 7.4

**Resolution No. 02-3253, For the Purpose of Adopting an Updated Regional Greenspaces System Concept Map.**

Metro Council Meeting  
Tuesday, December 10, 2002  
Metro Council Chamber



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING AN  
UPDATED REGIONAL GREENSPACES  
SYSTEM CONCEPT MAP

) RESOLUTION NO. 02-3253  
)  
) Introduced by Mike Burton, Executive Officer

WHEREAS, by Resolution No. 92-1637, the Metro Council adopted the Metropolitan Greenspaces Master Plan on July 23, 1992; and

WHEREAS, the Metropolitan Greenspaces Master Plan articulated a vision for a cooperative, interconnected regional system of parks, natural areas, trails and greenways for fish, wildlife and people (the regional system); and

WHEREAS, the Metropolitan Greenspaces Master Plan included a map depicting regional trails and regional natural areas and parks as potential components of the envisioned regional system; and

WHEREAS, the recommendations related to the inventory, protection, and management of the regional system envisioned in the Metropolitan Greenspaces Master Plan were included in Chapter 3 of the Regional Framework Plan, adopted by the Metro Council via Resolution No. 97-715B in 1997; and

WHEREAS, the Regional Framework Plan did not include a map of the envisioned Regional System and instead directed Metro in Policy 3.1.1 to inventory and identify regional parks, natural areas, open spaces, vacant lands, trails and greenways at the watershed level using topographical, geologic and biologic functions and features, i.e. "landscape ecology", to ensure coordinated protection and enhancement of natural functions such as water quality and wildlife habitat across jurisdictional boundaries; and

WHEREAS, the Regional Framework Plan further directed Metro in Policy 3.1.2, to identify corridors that connect regional parks, natural areas, open spaces, trails and greenways including river and stream corridors, utility corridors, abandoned roads and railroads rights of way; and

WHEREAS, the Metro Council has previously adopted an amended map depicting the conceptual regional trails component of the regional system envisioned in the Metropolitan Greenspaces Master Plan and Chapter 3 of the Regional Framework Plan via Resolution No. 02-3192; and

WHEREAS, the Greenspaces Technical Advisory Committee has completed an inventory and a recommended Regional Greenspaces System Concept Map which identifies regional parks, natural areas, open space and the connecting corridors as directed by the Regional Framework Plan; and

WHEREAS, the purposes of the Regional Greenspaces System Concept Map are to:

- A) Clearly portray and reaffirm the long-term vision of a regional system as described in the Metropolitan Greenspaces Master Plan and Chapter 3 of the Regional Framework Plan.
- B) Create a context from which regional funding and protection priorities may be collaboratively developed.
- C) Provide a basis for public land managers to cooperatively discuss roles and responsibilities related to the regional system.



D) Document progress towards achieving the vision over the past decade; and

WHEREAS, the Regional Greenspaces System Concept Map has no regulatory impact and does not establish requirements or obligations for public or private landowners; and

WHEREAS, the Regional Parks and Greenspaces Advisory Committee reviewed the Regional Greenspaces System Concept Map on November 5, 2002 and recommended adoption by the Metro Council; now therefore

BE IT RESOLVED THAT

- 1) The Metro Council approves and adopts the Regional Greenspaces System Concept Map as shown in Exhibit A.
- 2) Metro Council will consider amendments to the map based on the recommendations of the Greenspaces Technical Advisory Committee and the Regional Parks and Greenspaces Advisory Committee when such proposed amendments are shown to meet the criteria attached as Exhibit B.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
Carl Hosticka, Presiding Officer

Approved as to Form:

\_\_\_\_\_  
Daniel B. Cooper, General Counsel



**EXHIBIT A**  
**Resolution No. 02-3253**

**Oversized Map 31" x 44-1/2"**

**REGIONAL GREENSPACES SYSTEM CONCEPT UPDATE**

**FINAL DRAFT 11/21/2002**



**EXHIBIT B**  
**Resolution No. 02-3253**

**Criteria used to evaluate regional parks and natural areas for inclusion in the  
Regional Greenspaces System Concept Map**

Ecological Values

Size of natural area  
Presence of wetlands and waterways  
Connection to other natural areas  
Species "richness" related to 56 species  
from the Oregon Natural Heritage database

Community Values

2015 population forecast within 1/2 mile  
Proximity to regional trail corridors  
Proximity to schools and universities  
Historical and cultural significance



## STAFF REPORT

Consideration of Resolution No. 02-3253 for the purpose of adopting an updated Regional Greenspaces System Concept Map

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Date: November 12, 2002

Prepared by: Charles Ciecko  
Jennifer Budhabhatti

## BACKGROUND

The Metropolitan Greenspaces Master Plan (MGMP), adopted by Resolution No. 92-1637 articulated a vision for a cooperative, interconnected regional system of parks, natural areas, open spaces, trails and greenways for fish, wildlife and people (the regional system). The MGMP included a map that depicted regional trails and regional natural areas as potential components of the envisioned regional system.

The recommendations of MGMP related to the inventory, protection and management of the regional system were subsequently included as policies of the Regional Framework Plan adopted by Ordinance No. 97-715B. The Regional Framework Plan did not include a map of the regional system that visually depicted the concept of the regional system. Instead it called for Metro in Policy 3.1.1 to inventory and identify regional parks, natural areas, open spaces, vacant lands, trails and greenways at the watershed level using topographical, geologic and biologic functions and features, i.e., "landscape ecology," to ensure coordinated protection and natural function such as water quality and wildlife habitat across jurisdictional boundaries.

The Greenspaces Technical Advisory Committee (GTAC), comprised of representatives from local park providers, state and federal agencies, non-profit and special interest groups, completed a process addressing the directives in the Regional Framework Plan. The process included identifying a planning boundary based on subregional watersheds, followed by an inventory of natural areas including an assessment of natural area change over the last decade. The GTAC and the public reviewed ecological and community criteria, as cited in the MGMP, to rate and select regional parks and natural areas components with the highest ecological and community values, to be included in the Regional Greenspaces System Concept Map. These criteria included:

### Ecological Values

Size of natural area  
Presence of wetlands and waterways  
Connection to other natural areas  
Species "richness" related to 56 species  
from the Oregon Natural Heritage database

### Community Values

2015 population forecast within 1/2 mile  
Proximity to regional trail corridors  
Proximity to schools and universities  
Historical and cultural significance

The GTAC reached a consensus on the parks, natural areas, open spaces and connecting corridors which should be included in the conceptual regional system. Discussion then centered on how to depict the connecting corridors. Ultimately, GTAC decided that corridors should be uniformly displayed to best symbolize the regional system concept.



As noted in the resolution, the Regional Greenspaces System Concept Map has no regulatory impact and does not establish requirements or obligations for public or private landowners.

Rather, the primary purposes of the Regional Greenspaces System Concept Map are to:

- A) Clearly portray and reaffirm the long-term vision of a regional system as described in the Metropolitan Greenspaces Master Plan and Chapter 3 of the Regional Framework Plan.
- B) Create a context from which regional funding and protection priorities may be collaboratively developed.
- C) Provide a basis for public land managers to cooperatively discuss roles and responsibilities related to the regional system.
- D) Document progress towards achieving the vision over the past decade.

The Regional Parks and Greenspaces Advisory Committee (RPAGAC) considered the Regional Greenspaces System Map at their November 5, 2002 meeting and unanimously recommended council adoption of the map. The resolution includes a provision regarding future amendments to the Regional Greenspaces System Map when such amendments are found to meet the criteria and are recommended by GTAC and RPAGAC.

## ANALYSIS/INFORMATION

1. **Known Opposition** - None. Thirty letters of support were collected from all members of GTAC.

2. **Legal Antecedents**- On July 23, 1992, Metro Council adopted the Metropolitan Greenspaces Master Plan (Resolution No. 92-1637) that identified the concept of a cooperative, interconnected regional system of parks, natural areas, open spaces, trails and greenways. In 1997, the Metro Council adopted the Regional Framework Plan (Ordinance No. 97-715B) directing Metro to inventory regional parks, natural areas, open spaces, vacant lands, trails and greenways at the watershed level using topographical, geological and biological functions and features, i.e., "landscape ecology," to ensure coordinated protection and natural function such as water quality and wildlife habitat across jurisdictional boundaries

3. **Anticipated Effects** - The Regional Greenspaces System Concept Map has no regulatory impact and does not establish requirements or obligations for public or private landowners.

Rather, the primary purposes of the Regional Greenspaces System Concept Map are to:

- A) Clearly portray and reaffirm the long-term vision of a regional system as described in the Metropolitan Greenspaces Master Plan and Chapter 3 of the Regional Framework Plan.
- B) Create a context from which regional funding and protection priorities may be collaboratively developed.
- C) Provide a basis for public land managers to cooperatively discuss roles and responsibilities related to the regional system.



D) Document progress towards achieving the vision over the past decade

**4. Budget Impacts** - Adoption of the updated Regional Greenspaces System Concept Map has no budget impact.

#### **RECOMMENDED ACTION**

The Executive Officer recommends adoption of Resolution No. 02-3253.



Agenda Item Number 7.5

**Resolution No. 02-3256, For the Purpose of Authorizing the Issuance of a Request for Proposals for Personal Services for the Highway 217 Corridor Study.**

Metro Council Meeting  
Tuesday, December 10, 2002  
Metro Council Chamber



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE	)	RESOLUTION NO. 02- 3256
ISSUANCE OF A REQUEST FOR PROPOSALS	)	
FOR PERSONAL SERVICES FOR THE	)	Introduced by Councilor
HIGHWAY 217 CORRIDOR STUDY		Rex Burkholder

WHEREAS, on August 10, 2000 the Metro Council adopted Metro's 2000 Regional Transportation Plan (RTP) Update as the regional functional plan for transportation under ORS 268.390 and the regional "metropolitan transportation plan" required by federal law as the basis for coordinating federal transportation expenditures; and

WHEREAS, Chapter 6.7.6 of the 2000 Regional Transportation Plan lists specific corridors where a transportation need has been identified and a major corridor planning study is needed to determine the function, mode and general location of an improvement before a project can be fully defined for implementation; and

WHEREAS, due to the large number of corridors that require additional planning and the resources required to undertake these studies, Metro undertook a regional effort to develop a strategy for their completion as part of the Corridor Initiatives Project; and

WHEREAS, on July 26, 2001 the Metro Council adopted Resolution No. 01-3089 endorsing the findings and recommendations of the Corridor Initiatives Project, which included commencing planning efforts for the Highway 217 and Powell/Foster Corridors; and

WHEREAS, on January 3, 2002 Metro submitted a Grant Application to the Federal Highway Administration (FHWA) for \$400,000 under the Value Pricing Pilot Program; and

WHEREAS, on September 24, 2002 Metro executed a three-party Grant Agreement with FHWA and the Oregon Department of Transportation (ODOT) to receive \$400,000 in federal FHWA funds and provide \$100,000 local match that would fund the Value Pricing portion of the Highway 217 Corridor Study; and

WHEREAS, Metro is the project lead for the study, our project partners include FHWA, ODOT, Washington County, TriMet, the Cities of Beaverton and Tigard, and other local jurisdictions; and

WHEREAS, Metro, Washington County and the Cities of Beaverton and Tigard will provide the local match for the study; and

WHEREAS, the study requires consultant assistance for conceptual design and traffic engineering, financial and economic analysis, and public involvement; and

WHEREAS, Metro Code Section 2.04.026 (D) requires Council approval for any contract for personal services for a term greater than 12 months and in an amount greater than \$50,000; now therefore

BE IT RESOLVED, the Metro Council hereby authorizes the issuance of a Request for Proposals (Exhibit A) for a consulting services agreement(s), and authorizes Acting Chief Operating Officer to execute multi-year contract(s) with the most responsive proposer(s) in a form substantially similar to that included in Exhibit A.



ADOPTED by the Metro Council this \_\_\_\_\_ day of December, 2002.

\_\_\_\_\_  
Carl Hosticka, Presiding Officer

Approved as to Form:

\_\_\_\_\_  
Daniel B. Cooper, General Counsel



Request for Proposal  
No. 03-1044-PLAN

# Request for Proposal: Highway 217 Corridor Study

(Includes Architectural & Engineering Services)

**Metro**

**Statement of Proposal due date: \_\_\_\_\_, 4:00 pm/PST**

ODOT - PCMS BID #21561



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ATTACHMENT A – PROPOSAL COVER SHEET

ATTACHMENT B – SAMPLE CONTRACT AND EXHIBITS

ATTACHMENT C – SCOPE OF WORK

ATTACHMENT D – ESTIMATED CONTRACTOR BUDGET



## 1.0 Introduction

Metro (Agency) is seeking one or more Contractor(s) to provide Conceptual Design, Traffic Engineering, Public Involvement and Financial and Economic Analysis services. All firms submitting proposals are referred to as Proposers in this document; after negotiations, the awarded proposer(s) will be designated as Contractor(s). The Contractor(s) will provide assistance with a corridor refinement planning effort for the Highway 217 corridor. The Contractor(s) will provide the above named services in support of development, evaluation and refinement of transportation alternatives for the Highway 217 corridor.

The contract(s) is anticipated to start February 2003 and will cover approximately a one and a half year period. The total current value of the contract(s) are estimated to total approximately \$405,000. A preliminary estimate of contract costs is contained in Attachment D. Agency reserves the right to amend this contract for additional time and/or money contingent upon need and the availability of approved funding.

Multiple Contractors may be hired from this solicitation. There are three separate service areas being solicited as part of this RFP. Proposers may bid on any one or more of the three areas: Conceptual Design and Traffic Engineering, Financial and Economic Analysis and Public Involvement. The Contractor roles are set forth in section 3.0 of this document. Each of the three specialty areas will be evaluated and reviewed separately. In each case, the highest scoring proposal for that specialty will be selected for Contract negotiations.

Contract payment is based on a time and materials reimbursement. The performance is based on deliverable products and outcomes. The anticipated deliverables are described in Section 3. The selected Proposer and the Agency will negotiate the final description of work tasks and deliverables, within the scope of what is advertised here, for inclusion in the contract.

**DUE DATE: Six (6) copies of your Statement of Proposal (SOP) must be received by January 15, 2003 on or before 4:00 p.m. Pacific Standard Time, to:**

Scott Moss  
Administrative Services Department  
Metro  
600 NE Grand Avenue  
Portland, OR 97232

**One (1) copy must bear an original signature. The envelope or a delivery top cover sheet must list the Request For Proposals (RFP) #, the project name, the Contract Administrator's name, and the due date and time.** Mis-deliveries, late, and faxed submittals will not be accepted; please do not wait until the last minute. Proposers must submit their SOP in writing, and must respond to all requirements set forth in the RFP.

One copy of the Cost Proposal should be received by January 15, 2003 on or before 4:00 p.m. Pacific Standard Time, to:

Jodie Kotrlik  
Planning Department  
Metro



600 NE Grand Avenue  
Portland, OR 97232

A pre-proposal conference is scheduled on January 2, 2000, at 10:00 am PST, Metro Regional Center, 600 NE Grand Avenue, Portland OR, room \_\_\_\_\_. Attendance is not mandatory. The purpose of the conference is to explain the RFP requirements and to answer any questions Proposers may have. Proposers are cautioned that the official RFP requirements will change only by written addenda issued by the Agency.

All inquiries, relating to the RFP process, administration, deadline or award, or to the substantive technical portions of the RFP, should be directed to:

Bridget Wieghart  
Corridor Planning  
Metro  
600 NE Grand Avenue  
Portland, OR 97232

Telephone: (503) 797-1775  
FAX: (503) 797-1949  
Email: [wieghartb@metro.dst.or.us](mailto:wieghartb@metro.dst.or.us)

Proposers may submit questions to the person above. Any questions regarding the intent of the work or technical aspects of the work must be submitted in writing (mail, fax or email). **All questions must be received not later than seven (7) days prior to SOP deadline.** Substantive questions and answers will be made available to all known RFP recipients; and when appropriate, revisions, substitutions, or clarifications will be issued as official addenda.

Proposers who believe RFP specifications are unnecessarily restrictive or limit competition may submit a protest to the Contract Administrator. Protests concerning the RFP, including requests for change of particular provisions, specifications, or contract terms and conditions, must be submitted in writing to the Contract Administrator **not later than seven (7) days prior to the close of the RFP.** Any Protest must include the reason for the protest, supported by documented factual information, and any proposed changes to the requirement. Agency will not consider any solicitation protest submitted after the deadline established in the RFP. The Agency will review the protest, and the Contract Administrator shall respond in writing.

When appropriate, revisions, substitutions, or clarifications shall be issued as addenda to the RFP. Changes/modifications to the RFP shall be recognized *only* if in the form of written addenda issued by the Agency. The Agency shall provide mailed copies of any addenda to all known RFP recipients. Anyone who has received a copy of this RFP from somewhere besides directly from Agency will only be alerted to the existence of any addenda by checking with us.

The SOP must be signed by a duly authorized representative empowered to bind the Proposer. Unless subject to a timely protest or otherwise provided in this solicitation, by submitting the SOP, Proposers agree to be bound by the Standard Terms and Conditions for Personal Service Contracts as set out in the attached sample contract (Attachment B), and the requirements specified in this solicitation.

## **2.0 Background**



Oregon Highway (ORE) 217 is the major north-south transportation route for eastern Washington County. For most of its length, it consists of four through lanes and two auxiliary lanes between interchanges. Designated as part of the National Highway System (NHS), traffic volumes have grown significantly with the development of the County. From 1989 to 1998 the daily traffic volume on ORE 217 has increased from 99,600 vehicles per day to 118,200 per day. This represents a 19% increase, or an average of 2.1% per year. Current peak hour volume reaches over 10,500 vehicles per hour or on average about 1,750 vehicles per hour per lane, which represents about 100% of the available capacity.

Recent transportation planning efforts, ODOT's Western Bypass Study, Metro's 2000 Regional Transportation Plan, and the Oregon Highway 217 Initial Improvement Concepts Technical Memorandum, all recognize the need for at least one additional through lane in each direction in this corridor. It has also been concluded that three through lanes plus auxiliary lanes or braided ramps in each direction is the maximum that can fit within the right of way envelope without significant impacts. See the Draft Oregon Highway 217 Corridor Study Background Report (May 16, 2002) for more information on recent studies and related findings.

This work program is designed to facilitate the selection, and promote the implementation, of transportation strategies for Highway 217 between I-5 and US 26. A series of highway improvement alternatives will be developed and analyzed. Engineering and operational characteristics, public acceptance and financial feasibility will be evaluated. Alternatives include bringing this facility to six through lanes throughout its length plus braided ramps or auxiliary lanes. General Purpose and managed lane approaches (including carpool and peak period priced lanes) will be evaluated for the new capacity. Interchange arrangement will be analyzed and refinements proposed. In addition, varying levels of transit service, demand and system management strategies and arterial improvements will be considered as a complement to highway improvements.

A significant public involvement effort is anticipated as part of this study. Separate work programs have been developed to describe the technical and public involvement components, which will be undertaken together. The outreach efforts will be keyed into major technical milestones and information obtained from the public will feed back into the technical effort.

### ***Project Goals and Study Process***

- ◆ Develop an appropriate range of improvement strategies that address corridor transportation needs to the level of detail necessary to commence the appropriate National Environmental Protection Act (NEPA) process and begin more advanced planning.
- ◆ Consider innovative demand and system management and financing approaches, including High Occupancy Vehicle (HOV) lanes and value pricing, and make a determination as to whether they are appropriate for this corridor.
- ◆ Establish a phasing plan that identifies projects and strategies that can be implemented in the near, short and long-term.
- ◆ Build public understanding of, and support for, the selected transportation improvement strategies.

These goals will be accomplished through the following study process:

1. Establish consensus on the problem to be addressed and the objectives for improvements in the corridor, and define measures to evaluate the alternatives.



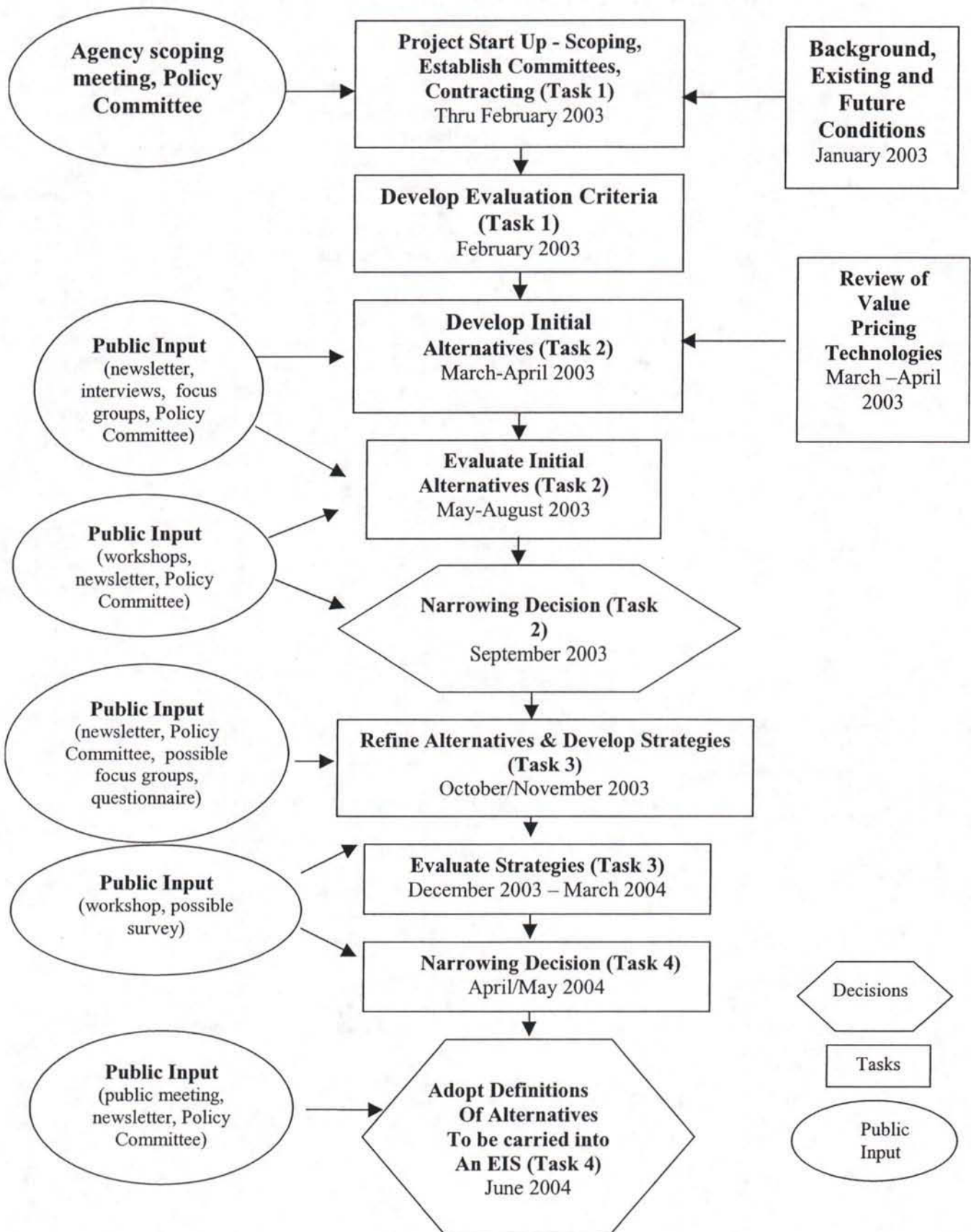
2. The study process will build to the extent possible upon existing work already completed. It will rely heavily on the Initial Concepts Report for background transportation analysis. It will rely on local plans for land use and will not undertake new land use planning. Consideration of new land use issues will be limited to those directly related to the highway facility, such as development of an interchange management plan.
3. Develop a series of comprehensive transportation improvement strategies, given different levels of funding, which are consistent with regional and local plans, and that address the objectives for the corridor plan.
4. Perform an analysis of transportation performance, environmental effects and financial feasibility on the alternatives, which is appropriate for a corridor plan.
5. Refine the range of alternatives and establish phasing and financing plans that allow for implementation of strategies and projects in the near, short and long terms.
6. Undertake a public involvement program that provides timely information and an opportunity for community input to ensure participation of the public in the development and selection of transportation improvement strategies.

Metro is the project lead. Project partners include FHWA, ODOT, Washington County, Tri-Met, the Cities of Beaverton and Tigard, and other appropriate local jurisdictions. It is anticipated that the study will take approximately 17 months after start up activities are complete. At this time it is anticipated that the contract work would commence in February 2003 and be complete in June 2004.

*Figure 1* provides a graphic overview of the anticipated study process if the study determines that the range of promising alternatives coming out of the first evaluation requires a second round of evaluation and refinement before moving into an Environmental Impact Statement (EIS) process. Considering the complexity of the corridor and the alternatives being considered at this point, it would typically be expected that a second round of evaluation would be needed. *Figure 2* provides a shorter alternative that could be implemented if the study determines that the range of alternatives coming out of the first evaluation is sufficiently narrow that they can go directly into an EIS.

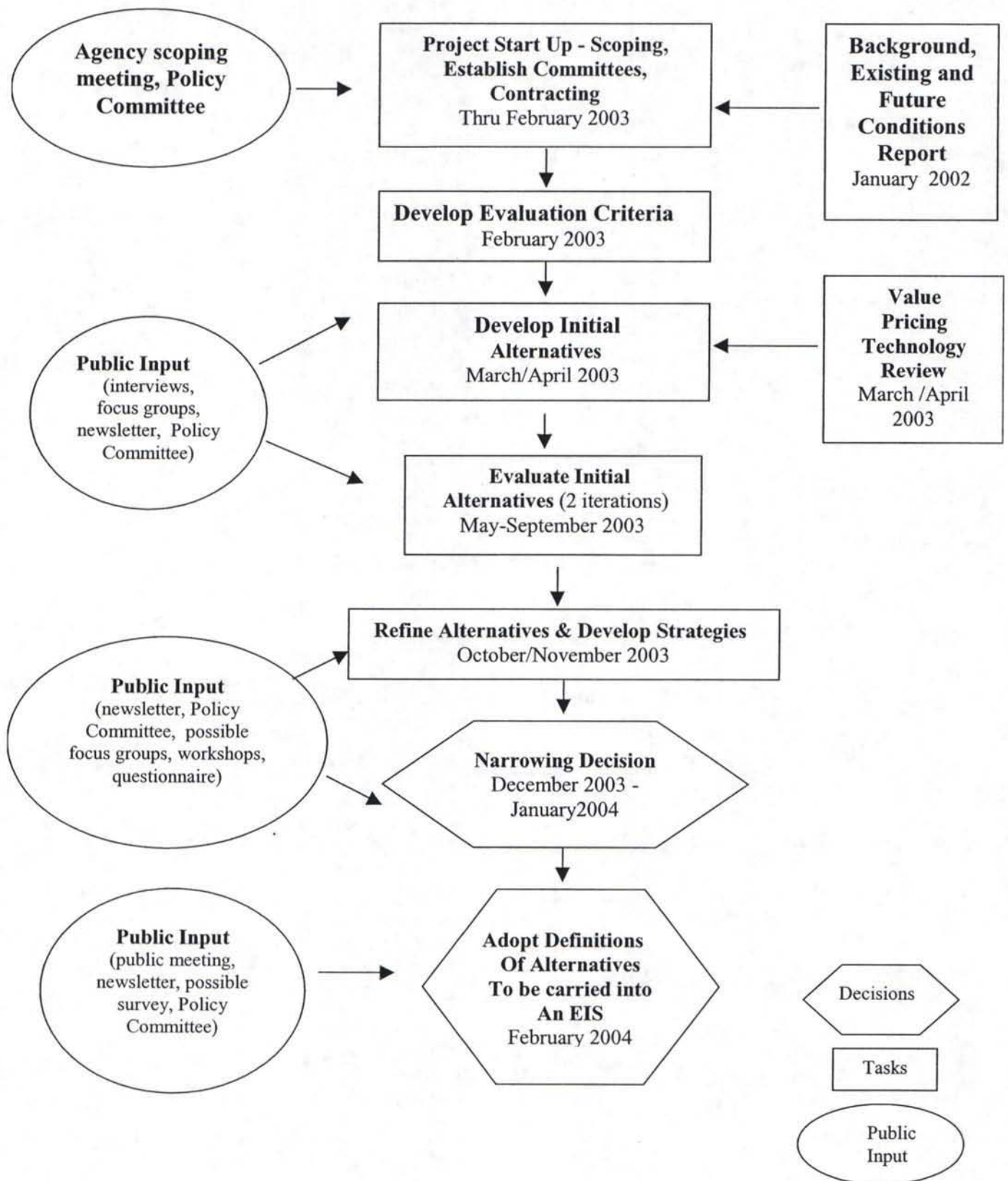


**Figure 1: Study Process**





**Figure 2: Alternative Study Process (If Alternatives Narrow Early)**





### **3.0 *Proposed Work Tasks & Products***

The Scope of Work in Attachment C sets forth the overall scope of work of the entire study, including work by Metro and jurisdictional staff. Metro will serve as the overall project manager, will take the lead on the travel modeling, preparation of public reports, much of the day to day public involvement and staffing of the study advisory committees.

Contractor roles are also detailed in Attachment C. For each task in which consultants will have significant responsibilities, the relevant Contractor specialty/ies is/are highlighted. The contractor deliverables are outlined in a box at the end of each task in which a significant Contractor role is expected. A more detailed schedule of deliverable will be developed as the project progresses, but a schedule of tasks and major milestones is presented in Figure 1 of this document.

The Contractor work falls into three broad categories: Conceptual Design and Traffic Engineering, Finance and Public Involvement. Consultants are permitted to join together into teams to bid on all three elements or to bid separately on one or more of the elements. Below is an overview of each Contractor work area and a list of the tasks from the associated scope of work in which significant participation is expected. Look in the scope work for a complete description.

#### Conceptual Design and Traffic Engineering

This team is responsible for conceptual design and traffic engineering of all alternatives. Conceptual design will build on work already completed by ODOT in the Initial Concepts Report. That work developed three generic alternatives for the purposes of identifying major constraints issues and ballpark costs. This contract will take that work and build on it to develop a number of more specific alternatives to a greater level of detail in a two-phase evaluation process. Key issues to address include design of braided ramps, lane access and operations (including HOV and value priced alternatives), interchange and over-crossings. Products include CAD drawings and capital and operational cost estimates. The traffic engineer will be responsible for analysis of freeway, ramp and intersection operations and development of roadway operation plans (including value priced and carpool lanes).

The Conceptual Design and Traffic Engineering contractor work includes significant participation in the following tasks:

1.9, 1.10, 2.1-2.5, 2.7-2.9, 3.1-3.3 and 3.5-3.8. See the attached scope of work for details.

#### Finance

This team is responsible for a financial and cost/benefit analysis of all alternatives in a two-phase evaluation process. It involves significant coordination with Metro's travel forecasting section in the model specification of peak period pricing alternatives.

The Finance contractor work program includes significant participation in the following tasks:

1.9-1.10, 2.3, .26, 2.7-2.9, 3.1 and 3.7-3.8.



## Public Involvement

This team is responsible for assistance with stakeholder interviews, surveys, focus groups and a series of community workshops. This team is also responsible for provision of strategic advice at several key points during the study. The specific number and nature of the public involvement tasks and elements are subject to change as the project unfolds and public involvement issues and needs are more fully identified (see task 5.1, Evaluation and Refinement of Public Involvement Plan). Considering that the tasks are subject to refinement and change, it is a requirement that the public involvement team include a public involvement firm, with capabilities for stakeholder interviews, strategic advice, facilitation and meeting organization, and a market research Contractor.

Specific tasks that involve significant participation from the Public Involvement Contractor team are:

1.9-1.10, 2.7-2.9, 3.7-3.8, 5.1-5.4, 5.8, 5.14 and 5.17.

See Attachment C for complete Technical and Public Involvement work programs and products.

If Agency determines that any deliverables are not acceptable and that any deficiencies are the responsibility of the Contractor, Agency shall prepare a detailed written description of any deficiencies and an associated time frame for correction, and deliver such notice to Contractor. Contractor shall correct any deficiencies at no cost to the Agency. If the corrective work causes any project delays, the Contractor will submit a plan for regaining the project schedule for remaining work under the Contract, unless otherwise allowed by Agency. If Agency determines the Contract schedule must be modified, a contract amendment will be initiated. If the identified deficiencies have not been corrected within the specified timeline, Agency may, in accordance with Section 13 of this Contract: (i) terminate this Contract without payment or any further obligation or liability of any kind; or (ii) require Contractor to continue to correct the deficiencies, reserving this same right to terminate at any time.

## **4.0 Required Contents for Proposals**

**4.1** Cover Sheet: The Proposal must include a completed Cover Sheet (refer to **Attachment A**).

**4.2** SOP Format and Page Length Limitation:

The SOP must be organized in accordance with the list of scored criteria in this section. The SOP must not exceed 30 pages, *excluding* Cover Sheet, DBE Goal, Tabs, and Index. If a Proposer submits a proposal exceeding this limit, we will forward the pages up to that allowable number, and physically remove and destroy any beyond that number.

One (1) Page is defined as: one side of a single 8-1/2" x 11" page, with 12-point minimum font size for the substantive text. Any page or partial page with substantive text, graphics, charts, resumes, etc., will be counted as one page. Proposers may use their discretion for the font size of other materials (e.g. graphics, charts). Proposers are to submit SOPs on recycled 20# white bond paper without binders or cover-stock, and stapled in the upper left corner.

**4.3** DBE Participation Goal:



Refer to the Agency DBE Program Policy as described in **Contract Exhibit C**.

The assigned Disadvantaged Business Enterprise (DBE) participation goal for this Contract is \_\_\_\_\_ percent (%).

Proposers shall include the name, address and brief description of work proposed to be generally committed to each certified DBE where noted on the Cover Sheet (**Attachment A**.)

Prime Contractors with their own DBE certification will be given credit for meeting the full DBE goal.

#### **4.4    No Fee Schedule**

Costs will not be evaluated as part of the selection process. Costs will be negotiated after a Proposer is selected. The following information about costs will apply after a selection is made.

##### **A.    Salary and Fee Schedule**

An Initial Salary and Fee schedule for any Proposer selected for contract negotiation, must be submitted **no later than three (3) days** after the Proposer's notification of selection. The Initial Salary and Fee schedule must include the Calculation of Overhead Rate, and Breakdown of Billing Rates as set out in Exhibit A part 3 of the attached sample contract. The selected Proposer is advised to complete only the Exhibit A, Part 3 pages labeled either Corporations or Partnerships or Sole Proprietors, as appropriate.

##### **B.    Project Cost Proposal**

A project costs proposal must be **submitted at the same time as the SOP**. The cost proposal shall be submitted in a separate envelope marked Highway 217 Cost Proposal. It shall be addressed to:

Jodie Kotrlik  
Metro  
Planning  
600 NE Grand Avenue  
Portland, OR 97232

The Proposal shall reflect the total cost for the proposed work as set out in Exhibit A part 3, Summary of Estimate for Services of the Attached Contract (Attachment B), or equivalent. It must also include information that identifies the assigned *staff by task and hours* to reflect the total cost for the proposed work. The task/hours/staff breakdown may be submitted in a table format designed by the Proposer.

#### **4.5    MINIMUM QUALIFICATIONS - PASS/FAIL CRITERIA**

Each Proposal must comply with the following Pass/Fail requirements. SOPs not meeting ALL Pass/Fail criteria shall be rejected.

*The Concept Design and Traffic Engineering team must include a Civil Engineer and a Traffic Engineer.*

*The Public Involvement Team must include a market research and multi-service public involvement firm or firms.*



## 4.6 SCORED CRITERIA

Scoring is based on the categories described below, but the Proposer must also describe how they meet any other requirements that may be specified in Sections 2 and 3 of this document.

### 4.6.1 Understanding of Requested Services and Project Approach 30 points

Demonstrate a clear and concise understanding of the project based on existing information. Address general description of the project purpose and key issues. Please explain any special expertise specific to: financial and economic analysis of transportation projects, particularly tolling projects; public involvement associated with HOV, tolling and/or value pricing projects, and; design and operations of HOV, value pricing and tolling projects.

Demonstrate Proposer's approach to completing the tasks and subtasks and key issues identified in the scope of work. Response should include anticipated staffing by level and specialty by task and subtask, team organization and team management structure. Also include the proposed schedule for delivery of major task milestones.

### 4.6.2 Proposer's General Qualifications and Capabilities 20 points

Demonstrate qualifications to complete the requested services. Response must list:

- Projects performed within the last three years, most comparable to the requested services. Include a description of their type, size, and duration. Also, for each project, indicate whether the work was accomplished within the original estimated budget and schedule, or needed to be revised. Briefly explain the reason for any revisions.
- An explanation describing how the company can accommodate the level of work assigned under this contract, including any limitations.
- Current or projected assignments and location of key members, and whether these assignments may conflict with the key members' ability to respond to this project;
- Internal procedures and/or policies related to work quality and cost control, and;
- Short description of experience using this team or these firms on similar or related projects.

### 4.6.3 Project Team and Qualifications 40 points

Demonstrate Proposer's team qualifications and experience relating to the requested services. References listed on the Cover Sheet (**Attachment A**) or other documented references may be used by the Agency during the evaluation of this criterion.

Response should address the following:

- Names of key members who will be performing the work on this project and their responsibilities;
- Qualifications (including any specified licenses or certifications) and relevant individual experience for all persons assigned to work on this project, including sub contractors. Experience should indicate the specific role that the individual played on similar projects;
- Two references for each person assigned to work on this project, including subcontractors;
- Extent of principal involvement;



- Project Manager's experience with similar projects and interdisciplinary teams.

The assessment of qualifications will include such factors as control of costs, quality of work, responsiveness to staff direction, ability to meet schedules and other managerial and attitudinal considerations.

#### 4.6.4 Communication Skills 10 points

Demonstrate the firm and the individual team members' ability to communicate technical information effectively and efficiently with staff, neighborhood groups, elected officials, the general public and other audiences.

## 5.0 Proposal Evaluation & Contractor Selection

### 5.1 Evaluation Process

The selection process shall be administered in accordance with Metro Code and federal procurement procedures for *A&E Services*.

Statements of Proposal submitted on time will be reviewed against the Pass/Fail criteria. SOPs meeting those criteria will be forwarded to an evaluation committee for scoring against the evaluation criteria below and ranking. The outcome of the evaluations may, at the Agency's sole discretion, result in: (a) notice to a Proposer(s) of selection for tentative contract negotiation and possible award; or (b) notice of placement on an interview list (Short-listed) with time and date of the interview. Interviews scores will be combined with the SOP score (50:50). Upon interview completion, a Proposer(s) may be selected for contract negotiation and possible award. The selection process may be canceled if the Agency determines it is in the public interest to do so.

### 5.2 Evaluation Factors Checklist

Each proposal must clearly address both the pass/fail and scored criteria. Evaluation factors and maximum points are presented below.

REQUIRED		
<input type="checkbox"/>	Cover Sheet	
<input type="checkbox"/>	Minimum Qualifications	Pass/Fail
<input type="checkbox"/>	DBE Participation	
SCORED CRITERIA		
EVALUATION CRITERIA	NO. OF PAGES	MAXIMUM SCORE
<input type="checkbox"/> Understanding of Requested Services/Project Approach		30
<input type="checkbox"/> Proposer's General Qualifications and Capabilities		20
<input type="checkbox"/> Project Team and Qualifications		40
<input type="checkbox"/> Communications Skills		10
TOTAL NOT TO EXCEED		100 Points



## **6.0 General Solicitation Information**

- 6.1 Agency may require any clarification it needs to understand the selected Proposer's project approach. Any necessary clarifications or modifications will be made before executing the contract and may become part of the final contract. When a final contract is completed, Proposer shall be designated as Contractor.
- 6.2 The Contractor will be required to complete a Time & Materials Personal Services Contract (**as shown in the sample contract, Attachment B**).
- 6.3 The Contractor will be required to provide certificates of insurance (**as shown in the sample contract, Attachment B**).
- 6.4 The Contractor must have Workers' Compensation Insurance covering work to be performed in Oregon. Prior to contract execution, the Contractor must also submit documents and certifications addressing other insurance, non-collusion, tax law, debarment and conflict of interest requirements.
- 6.5 Payment for any contract entered into as a result of this RFP will be made upon receipt of the Contractor's billing statement for work completed to date, as described in Contract Exhibit A, Part 2. This statement must include a summary of progress made through the date of billing, and will not be submitted more frequently than once a month. All billings will be processed through Agency.
- 6.6 ORS 60.701 requires that foreign corporations be registered by the State of Oregon, Office of the Secretary of State, before conducting business in the state. A foreign corporation (ORS 60.001) means a corporation-for-profit incorporated under a law other than the law of the state of Oregon.
- 6.7 Agency reserves the right to reject any or all SOPs for good cause if it is in the public interest, and is not liable for any costs a Proposer incurs while preparing or presenting the SOP or further evaluation stages. All SOPs will become part of the public file without obligation to Agency.  
  
Agency reserves the right to cancel the solicitation upon a good cause finding if it is in the public interest to do so.
- 6.8 The Contractor will be required to assume responsibility for all services outlined in the RFP and finalized in the contract, whether the contractor, a representative or subcontractor produces them. Agency considers the prime contractor responsible for any and all contractual matters, including performance of work and the stated deliverables.
- 6.9 Contractors must use recyclable products to the maximum extent economically feasible in the performance of the contract work set forth in this document and ORS 279.555.
- 6.10 Public Records: This RFP and one copy of every SOP received in response to it, together with copies of all documents pertaining to the award of a contract, shall be kept by the Agency and made a part of a file or record which shall be open to public inspection following the selection process. If a SOP contains any information that is considered a trade secret under ORS 192.501(2), each sheet of such information must be marked with the following legend:



"This data constitutes a trade secret under ORS 192.501(2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192."

The Oregon Public Records Law exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies only "unless the public interest requires disclosure in the particular instance." ORS 192.501(2). Therefore, nondisclosure of documents or any portion of a document submitted as part of a SOP may depend upon official or judicial determinations made pursuant to the Public Records Law.

Identifying the SOP in whole as a trade secret is not acceptable. Failure to identify a portion of the SOP as a trade secret shall be deemed a waiver of any future claim of that information as a trade secret.

- 6.11 Selection protest: Every Proposer who submits a proposal shall be notified of its selection status. Any proposer who claims to have been adversely affected or aggrieved by the selection of a competing proposer(s) must submit a written protest within seven (7) calendar days after receiving the initial award notification, naming the selected proposer. The Agency shall not consider any protest submitted after the deadline established in this section.
- 6.12 The cost, price and statement of work of the project will be negotiated, within the overall intent described in this RFP, with the selected Proposer. If negotiations are not successful, Agency may terminate negotiations with the top selection and may begin negotiations with the next highest ranked Proposer, or cancel the solicitation.



# Highway 217 Corridor Planning Study

## Scope of Work

### Technical Work Program

#### *1.0 Project Development*

A series of tasks will be initiated at the outset of the study to refine the scope, establish review committees, sign Intergovernmental Agreements, obtain consultants, set goals and prepare background materials. Study organization tasks will proceed concurrently with initial technical analysis.

*Responsibility: Metro will lead the tasks below with input from project partners. Consult review is required in Task 1.10, as described there.*

#### *1.1 Establish Advisory Committees and Decision-Making Structure*

A committee and decision-making structure will be established from public agencies, citizens and businesses. It will include representatives from the surrounding local jurisdictions, commercial centers, residential communities and service agencies, which may be affected by the improvements. Other large and medium sized employers and citizens with specific transportation, environmental and other related interests will also be represented on the committees. Prompt review and active involvement from the Oregon Department of Transportation and federal and state environmental agencies is essential for the success in meeting schedules set for the study. A proposed committee structure is outlined below.

- **Technical Advisory Committee (TAC)**

A TAC will be formed to provide expertise and input from technical representatives of the Cities of Beaverton, Tigard, Lake Oswego, Washington County, FHWA, ODOT, Tri-Met, federal and state environmental agencies and Metro. Additionally, other municipal jurisdictions that may be affected by the various alternatives will be contacted and added to the TAC as appropriate. It will meet frequently, at least once a month, throughout the study to review and provide input on all major work products.

Senior staff from participating agencies and jurisdictions will meet periodically to provide overall advice on project direction. They will convene as needed, either separately or in combination with the TAC, at key decision points or when specific issues arise.

- **Policy Committee**

A policy committee will be established to provide project oversight, make policy decisions and ensure on-going public input into the study process. The policy committee



will also make final study recommendations on narrowing of alternatives, and carry them forward for approval from the appropriate local, regional and state bodies.

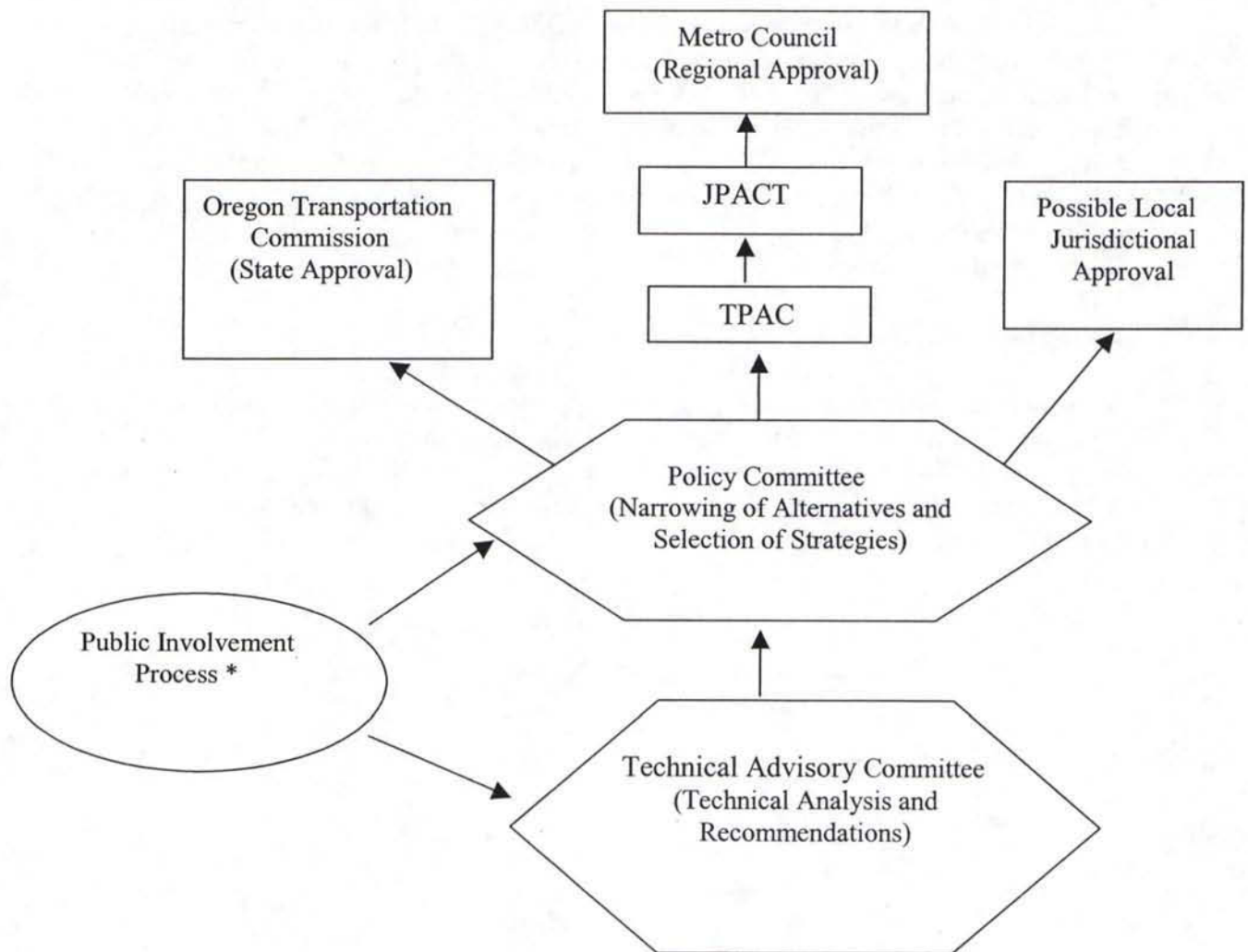
The Policy Committee will be comprised of a combination of elected officials and citizens from the corridor. Citizen representatives may be drawn from commercial and industrial companies in the study corridor, neighboring residential communities and environmental and transportation interests. Elected officials will include local state legislators, county commissioners, a Metro Councilor, Mayors and other local elected officials. An ODOT and an FHWA representative will be included. A meeting schedule will be established at the study outset with approximately twelve meetings over the final 18 months of the study process

### ***Decision-Making Structure***

The decision-making structure is graphically represented in **Figure 3**. In this structure, the Policy Committee would be the primary decision making body for the study. Based on input from the TAC and the public involvement process, the Policy Committee would select alternatives for further study and make recommendations to local, regional and state elected officials.



**Figure 3: Study Decision-Making Process**



\* Public involvement will occur at major decision points. Primarily, public input will come through the Policy Committee. Reports and key findings will be reviewed by the appropriate committees.



## ***1.2 Goal Setting***

At the outset, the project will host an agency kick-off meeting, including federal and state regulatory agencies, to fully consider their interests in the development of the scope, schedule and budget for the study. Following that meeting, a session will be held with the project advisory committees that will seek to establish a united series of objectives for any possible Highway 217 alternatives.

## ***1.3 Revise Scope and Budget***

Based on input from FHWA, local partners, consultants and other agencies, the scope will be revised and the schedule and budget updated accordingly.

## ***1.4 Execute FHWA/ODOT IGA(s)***

This agreement results from Metro's submission of a Value Pricing Program grant application to FHWA. Metro and ODOT are signatories to this agreement with FHWA. The budget, scope and schedule are tied to the FHWA grant approval process. A separate IGA between Metro and ODOT is anticipated in order to provide for ODOT participation in the engineering review of the project.

## ***1.5 Intergovernmental Agreements***

Any Intergovernmental Agreements that will be needed to provide funding for the corridor study will be drafted by Metro staff and signed by the respective parties. It is anticipated that IGAs to provide local match and staff participation will be needed with the Cities of Beaverton and Tigard and Washington County. An IGA with ODOT is anticipated to ensure staff participation and provide a funding for a limited Engineering review.

## ***1.6 Draft Requests for Proposals (RFPs)***

A draft request for proposal (RFP) will be written by Metro staff, in order to solicit consultant contracts for the tasks in this work program that the contractor team will be responsible for. The TAC will review the RFP(s) to ensure completeness.

## ***1.7 Select Contractor(s)***

Metro will develop a consultant selection team with the advice of the project partners. The selection team will develop criteria for selecting the Contractor team(s) that can best accomplish the work tasks outlined in the RFP. The consultant selection team will review the proposals from the consultants and schedule time for a presentation from Proposers. The selection team will then select the most qualified team(s)



### ***1.8 Negotiate/Execute Contracts with the Selected Proposers(s)***

Metro will also negotiate, execute and administer all contracts with the selected Contractor(s) for the Highway 217 Corridor Study.

### ***1.9 Background, Existing and Future Conditions Report***

Metro staff will develop a background, existing and future conditions report. The report will draw extensively from recent studies. It will pull together all relevant engineering constraints information, key findings, and travel demand analysis from these studies. This report will build largely on the Oregon Highway 217 Initial Improvement Concepts Technical Memorandum. This report will also incorporate travel and land use information from recent studies such as the Washington Square Regional Center Plan, local transportation system plans, and the Interstate 5/ Highway 217 Interchange Sub-Area Transportation Plan.

Additional data will only be developed as needed to address open issues or update to reflect changed conditions. For example, it is anticipated that one new model run of a future 2020 no-build alternative will be conducted as part of this analysis in order to reflect changes to the population and employment assumptions in the corridor travel shed since the Initial Concepts Report. Analysis of results in terms of overall demand will be conducted as an aid to the development of alternatives.

*Responsibility: Metro will develop draft and final reports with review and comment by advisory committees and all project Contractors specialties.*

<i>Contractor Deliverable: Memoranda summarizing comments on Background, Existing and Future Conditions Report(s).</i>
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### ***1.10 Develop Comprehensive Evaluation Criteria***

The evaluation criteria shall include transportation performance measures as well as measures to address impacts to the built and natural environments. These criteria may be expanded or reduced as the result of meetings with the study's advisory committees and input from public processes. Criteria could include:

- Financial Feasibility, including Capital and Operating Costs and Revenue Potential of the option.
- Travel Performance including traveler benefits and costs and overall societal costs.
- Transportation Impacts on the arterial and collector system around Highway 217.
- Safety.
- Equity.
- Consistency with State, Regional and local Land Use and Transportation Plans and Policies.
- Community Effects including environmental, employment, freight and neighborhood effects.
- Public Acceptance.



*Responsibility: Metro will develop the criteria with review and comment by project advisory committees and **all project Contractors specialties**.*

*Contractor Deliverable: Memoranda summarizing comments on evaluation criteria.*

## **2.0 Develop an Initial Range of Alternatives**

This task develops the range of alternatives to a level where they can be evaluated technically and be reviewed by the project's technical and policy committees.

### **2.1 Value Pricing Technology Review**

Explore relevant technologies for design and operation of value priced and High Occupancy Toll (HOT) lanes and value priced ramp meter bypasses. Research will cover current, best practices and emergent technologies that are expected to be available for implementation in the project timeframe. The review will focus on key issues that were identified in the Oregon Highway 217 Initial Improvement Concepts report. Issues to be covered include, but are not limited to, new technologies for barrier-less priced lanes, techniques for lane separation and enforcement, direct drop in ramps vs. merge weave access to value priced and HOT lanes, intermediate access to value priced lanes and priced ramp meter bypasses. This information will be used to help identify and develop feasible value pricing alternatives that respond to facility needs. A literature review will be conducted as part of this task. A report summarizing the findings of the task and recommendations as to most appropriate technology for value pricing alternatives in this corridor will be prepared.

*Responsibility: The **Conceptual Design and Traffic Engineering Contractor** will complete this task with oversight by Metro and review by project advisory committees.*

*Contractor Deliverables: Draft and final reports summarizing results of Value Pricing Technology Review.*

### **2.2 Identify Initial Alternatives**

Based on the Background, Existing and Future Conditions Report Report (Task 1.9), the Oregon Highway 217 – Initial Improvement Concepts report, and the Value Pricing technology review (Task 2.1), the study will develop an initial range of alternatives.

The potential range of alternatives could include:

- No Build, assuming specific corridor definition, horizon year and RTP-level of improvements and transportation demand management programs to serve as a basis for comparison.
- Highway Expansion (to six lanes plus auxiliary lanes or braided ramps)
  - General Purpose lanes



- High Occupancy Vehicle (HOV) lanes
- Value Pricing (value priced or HOT lanes and priced ramp meter bypasses)
- Highway Expansion plus Transportation System Management, Transportation Demand Management (TDM), transit and arterial improvements

In recognition of the important function that Highway 217 plays in terms of connecting key land uses, the alternatives will address access to regional centers and employment and industrial areas. In addition, local Transportation System Plans have developed proposals for overcrossings and other connectivity improvements within the regional centers vis a vis Highway 217. The study will consider and, if needed, build on these connectivity improvements.

The development of alternatives will also build on the Initial Concepts report and seek to address key issues for further study that it identified. For example, highway expansion alternatives will be for 6 lanes and will address the need for braided ramps and interchange management. Due to the high level of congestion in the corridor, the Transportation System Management (TSM), transit and arterial alternatives will build on a base level of highway improvements. Consideration will also be given to provision of direct ramp connections to I-5 and US 26 for HOV and VALUE PRICED lane alternatives as recommended by that study. Direct drop in ramps, ramp meter bypasses and innovative techniques such as barrier-less lane separation technologies reviewed in task 2.1 will also be considered for HOV and priced alternatives, in order to optimize these options and address the issues highlighted in the Initial Concepts report.

The exact configuration and number of alternatives in this initial task will be determined in conjunction with the project advisory committees. It is currently anticipated that 3-4 value pricing alternatives or variants will be developed and compared to 3-4 non-value pricing alternatives (including HOV lanes) during tasks 2.3-2.7. Alternatives will be developed in consultation with ODOT engineers and will consider ODOT standards. Deviations from ODOT standards will be noted.

*Responsibility: Metro staff will lead this task with significant assistance from the Conceptual Design and Traffic Analysis Consultants and participation from the advisory committees. Metro will be primarily responsible for to day contact with the advisory committees. Metro and the Consultants will work together to develop an initial list of alternatives, obtain input from the advisory committees and refine the list.*

*Contractor Deliverables: Draft and final memoranda to project advisory committees describing alternatives. Line drawings illustrating cross sections and key aspects of alternatives. Definition of Alternatives Report which incorporates input from advisory committees.*

### **2.3 Travel Forecasts for the Alternatives**

The alternatives will need to be developed into auto and transit networks for Metro's travel forecasting model based on the defined corridor at a specified planning year. It is anticipated that several of the alternatives will need to have full travel demand model runs that include a redistribution of trips and mode choice, along with the trip assignments for the 2-hour PM peak.



Full demand model runs were not performed for any of the alternatives examined in the Highway 217 Initial Improvement Concepts report. That analysis relied on RTP demand model runs, which had different capacities and did not optimize transit or include HOV or VALUE PRICED lanes.

*Responsibility: Metro will conduct the travel forecasts. Metro staff will work with the study partners and the **Conceptual Design and Traffic Engineering** and **Financial Analysis Contractors** to define the major elements of the future year roadway and transit networks. The Consultants will also work with Metro to resolve coding issues with respect to modeling value pricing and HOV alternatives. The responsibilities for the analysis of travel demand and model outputs are as follows:*

*Metro will have primary responsibility for:*

- *Summarizing overall corridor travel demand*
- *Preparing select zone and select link analyses as needed*
- *Summarizing the performance of the transit system associate with each alternative.*

*The **Traffic Engineering Contractor** will have primary responsibility for:*

- *Freeway and ramp operations analysis*
- *Analysis of impacts to adjacent arterial and collector roadways.*

*Contractor Deliverables: Participation in meetings to define networks and resolve coding issues. Traffic Engineering Results Memorandum summarizing performance of each alternative, particularly with reference to criteria and measures defined in 1.1.*

## **2.4 Conceptual Design (Phase I)**

A conceptual level of design and engineering work will be completed for each of the alternatives in order to allow comparison against evaluation criteria at a system level. Design and engineering work will build upon work already completed as part of the Initial Concepts Report. It is anticipated that significant engineering work will be needed to resolve open issues identified in that report and to address issues related to new alternatives. Work on interchanges, ramp connections, etc, is expected through this task and task 3.2 that will bring alternatives to the level of detail necessary to commence the appropriate NEPA process and will be carried forward into that process. Implementation issues related to construction and operation of value priced alternatives (type and location of equipment, enforcement technology, lane separation techniques, etc.) will be addressed.

*Responsibility: **Conceptual Design Contractor.***

*Contractor Deliverable:*

- *Drawings on arial and GIS maps for presentation and preliminary assessment of impacts on the built and natural environment.*
- *Operation Plan.*

## **2.5 Preliminary Cost Estimates**



Sketch level cost estimates will be developed for each of the alternatives. The preliminary cost estimates would be developed for both capital and operating costs. The cost estimates will build on the information developed in the Initial Improvement Concepts report. They will incorporate all major design elements of each alternative (pavement, ramps, reconfiguration of overpasses, etc.) at a sketch level. Operational costs for highway (including value pricing), transit, TDM and TSM elements will also be developed.

*Responsibility: **Conceptual Design Contractor** will be responsible for developing capital and operations costs of all roadway elements and related equipment and preparing final costs summary for each alternative. Tri-Met will develop capital and operational costs for transit components and provide to Contractor.*

**Contractor Deliverables: Draft and final Capital and Operational Cost Estimates.**

## **2.6 Preliminary Financial Analysis**

A financial analysis of the potential revenue sources and user fees that would be used to fund the construction and operation of alternatives will be completed. This financial analysis will consider traditional sources, such as state gas taxes and federal funds, along with any projected value pricing revenues and local funding sources. In addition, a cost benefit analysis of the overall time saving and economic impacts will be created for each alternative. This analysis will be at a sketch level.

*Responsibility: **Financial Analysis Contractor** will be responsible for this task. The Proposers may propose its own approach or may utilize the approach that Metro used in the past. However, the formulas must be integrated with EMME2 such that the alternatives may be modeled without significant impediments. Metro will provide the Contractor with the model results in an agreed upon format for post-processing and/or further analysis.*

**Contractor Deliverables:**

- Meetings and memos documenting development of modeling networks.
- Post-processing model or spreadsheet.
- Report (including spreadsheets demonstrating results) with financial feasibility and cost benefit for each alternative.

## **2.7 Conceptual Built Impacts and Issues and Results Memoranda**

Technical memos will be completed that consolidate the information obtained about preliminary impacts to the built and natural environment, transportation performance and other results. These technical memos will rely on the information obtained in the Initial Concepts Report and the Background, Existing and Future Conditions Report and tasks 2.1 - 2.6.

*Responsibility: Metro staff will lead this task with input from **all Contractor Specialties** and participation from the advisory committees.*

**Contractor Products:**



- *Review and comments on draft results memorandum prepared by Metro*
- *Provision of and possible reformatting of graphics from 2.1-2.6 for inclusion in results memorandum.*

## **2.8 Select Alternatives for Further Study/Narrowing Decision**

Using the study's criteria, the study will reduce the initial list of possible alternatives to the most feasible series of alternatives. These alternatives will be carried forward for refinement and evaluation of costs, benefits and impacts. At this narrowing decision point, the study committees will also determine whether the anticipated additional round of evaluation is required. If the range of alternatives emerging after the first round of evaluation is sufficiently narrow, some of the tasks in 3.0 may be consolidated and/or condensed.

At least one value pricing alternative will be carried through the first round of evaluation (Initial Range of Alternatives, Task 2). If during Task 2.8, a decision is made that no value pricing alternatives should be carried into the detailed round of evaluation (Task 3 – Refine and Evaluate Transportation Improvement Strategies), the value pricing portion of the study would be brought to a close. Under this scenario, the shorter study schedule ("Figure 2: Alternative Study Process") would be followed. After this decision, no value pricing funds would be used for additional work beyond the final report. Remaining funds may be returned to FHWA.

At this point, Metro would confer with its project partners about the need for additional refinement or wrap up work for the remaining, non-value pricing, alternatives. If additional work is identified, Metro would work with the partners to develop a limited scope of work for a short refinement phase that can be accomplished with remaining project funds (including Metro and local jurisdiction match). This work could include refining the alternative(s) and developing implementation strategies. At the end of the study a final narrowing decision would be made as to definitions of alternatives to be carried into an EIS.

*Responsibility: The advisory committees will select the alternatives for further study. Metro staff and **all Contractor Specialties** will provide support to the advisory committees.*

### **Contractor Deliverables:**

- *Presentations of results from tasks 2.1-2.6 to advisory committees.*
- *Meetings with Metro staff and/or memos/other documentation to respond to additional information requests related to contractor products in tasks 2.1-2.6.*

## **2.9 Prepare Evaluation Report**

A final evaluation report will be written illustrating the performance of each of the alternatives against the evaluation criteria. It will also provide documentation of how the initial list of alternatives was narrowed to a smaller set of alternatives for further study.

*Responsibility: Metro staff will lead this task with input from **all Contractor Specialties** and the advisory committees.*



*Contractor Deliverables:*

- *Review and comments on draft Evaluation Report prepared by Metro*
- *Provision, and reformatting, of graphics from 2.1-2.6 for inclusion in report.*

### ***3.0 Refine and Evaluate Transportation Improvement Strategies***

Note: If the range of alternatives emerging after the first round of evaluation is sufficiently narrow, some of the tasks in 3.0 may be consolidated and/or condensed.

The purpose of the following tasks is to refine and evaluate the alternatives that were selected for further study in task 2.8 to a point that their performance against the study evaluation criteria can be compared with each other and a no-build scenario. The level of detail will be greater than that of the section 2 (above). These tasks should allow for the development and selection of a small group (no more than three) comprehensive transportation strategies to forward into an EIS process.

The following information will be developed for each alternative:

- Travel Demand Forecasts including performance of the facility and impact on the existing and planned local transportation network
- Conceptual Engineering
- Highway and Transit Operating Plans
- Capital Costs
- Operating and Maintenance Costs
- Environmental Review
- Financial Analysis and Phasing Plan

#### ***3.1 Travel Demand Forecasting***

Metro's Travel Forecasting Section will provide travel projections for the planning year of 2020 and, possibly beyond, using the latest travel demand model for the different highway/transit alternatives, including a No-Build. Travel forecast analysis will include: auto, truck, HOV, and transit volumes; congestion levels, speed and other information needed to assess the impacts of the various scenarios during the 2-hour AM and 2-hour PM peak periods, and the 1-hour mid-day. The model will also be used to assess the demand and revenues under value pricing alternatives.



The Traffic Analysis Contractor will be responsible for the same areas of as in Task 2.3, but at a more detailed level. For each strategy, the Traffic Analysis Consultant will provide an analysis of traffic operations at key interchanges, ramps, intersections and other selected locations in the corridor through the use of a traffic simulation model. The combination of the travel demand model and other models (such as FREQ) will provide valuable data on the effectiveness of the transportation improvement strategies.

*Responsibility: Metro and the **Traffic Engineering** and **Financial Analysis Consultants** will have the same split of responsibilities as in task 2.3. In addition, the Traffic Engineering Contractor will analyze the results in detail and project traffic operations of up to seven locations for each of up to four alternatives using a traffic simulation model.*

*Contractor Deliverables:*

*Meetings and memos to define and document networks and resolve coding issues.  
Traffic Engineering Results Memorandum summarizing performance of each alternative, particularly with reference to criteria and measures defined in 1.1.*

### **3.2 Conceptual Engineering and Design (Phase 2)**

Building on work developed in task 2.4, each of the selected highway/transit strategies will be developed to the concept design level. Given the physical constraints in the Highway 217 right-of-way, particular attention will be focused on adapting the strategies to fit within the existing bridges and other built and natural constraints within the corridor. In depth analysis of implementation issues related to value pricing alternatives will be conducted.

*Responsibility: **Conceptual Design Contractor**.*

*Contractor Deliverable:*

- *Drawings on arial and GIS maps for presentation and preliminary assessment of impacts on the built and natural environment.*
- *Plan and profile maps at 400 scale for the corridor with 200 scale at key locations.*

### **3.3 Highway and Transit Operating Plans**

The build alternative will be evaluated together with a strategic package of TSM improvements in the corridor. Emphasis will be placed on developing and evaluating the operational effectiveness of different strategies to meet the projected travel demand. Alternative operating highway plans would address differences with respect to operation of value priced lanes and ramp metering; various transit operating systems may include HOV and value priced lanes/ramps express bus operations and direct connecting ramps to major activity centers.

*Responsibility: The roadway portion of this task will be completed via the **Traffic Engineering Contractor** with expertise in HOV and value priced lane operations. The transit-operating plan will be developed by Metro and Tri-Met staff.*



**Contractor Deliverable: Operating Plans for highway alternatives.**

### **3.4 Reconnaissance Level Environmental Review**

This task will evaluate the potential environmental impacts resulting from the construction of each transportation improvement strategy. Based on earlier information collected in task 2.7, the study will address potential environmental impacts associated with the improvement strategies. This analysis will be completed to a reconnaissance level consistent with the conceptual level of design and the number of strategies under consideration. It will include but not be limited to the compatibility with existing and proposed land uses, effects on neighborhood character, potential visual and aesthetic effects, potential vegetation, wetland and wildlife effects, water quality impacts and potential geological effects.

*Responsibility: The majority of information has already been compiled by ODOT as part of the Initial Concepts report. Any additional work will be coordinated by Metro with support from ODOT.*

### **3.5 Capital, Operating and Maintenance Costs**

Cost assessments developed in task 2.5 will be refined for each improvement strategy to the concept level. These costs will include all additional costs associated with each alternative to cover such things as construction associated with lane additions, environmental mitigation, special equipment for operating value priced alternatives, bus purchase and operation, and additional enforcement and special monitoring associated with value priced alternatives. The capital costs will be based on the conceptual engineering in task 3.2. The operational costs will be based on plans developed in task 3.3.

*Responsibility: The **Conceptual Design Contractor** will be responsible for developing capital and operations costs of all roadway elements and related equipment and preparing final costs summary for each alternative. Tri-Met will develop capital and operational costs for transit components and provide to Contractor.*

**Contractor Deliverables: Draft and final Capital and Operational Cost Estimates.**

### **3.6 Financial Plan and Analysis and Phasing of Improvement Strategies**

This analysis takes the results of the capital, operating and maintenance costs completed in tasks 3.6, develops revenue projections for each strategy and explores various phasing approaches that would allow implementation of key projects during near, medium and long term timeframes. Because funding could be drawn from many sources and timing of implementation critically affects both operations, revenues and costs, this analysis is needed to determine project feasibility. An overall cost/benefit analysis for each alternative will be prepared. An evaluation of equity effects alternatives by income group will be a product of the cost/benefit analysis.

All improvement strategies will need to be coordinated with the projects in the 2000 Regional Transportation Plan and be in compliance with requirements in the Region 2040 Plan.



*Responsibility: The Conceptual Design Contractor will prepare the phasing plan for each alternative and modify the costs from 3.5 to reflect the changes. The Financial Analysis Contractor will take the costs prepared by the Conceptual Design Contractor and use them to evaluate the financial feasibility and costs and benefits for each alternative.*

*Contractor Deliverables:*

*Phasing Plan and modified Cost for each alternative*

*Financial Plan for each alternative*

*Financial Feasibility Analysis including evaluation of financial feasibility and cost benefit for each alternative.*

### **3.7 Results Memoranda**

Several technical memos will be completed that consolidates key information obtained in tasks 3.1 - 3.7. These memoranda will be used by Metro staff and the various advisory committees to make preliminary assessments and to refine the strategies throughout the evaluation process.

*Responsibility: Metro staff will lead this task with input from all Consultants Specialities and participation from the advisory committees.*

*Contractor Products:*

- Review and comments on draft results memorandum prepared by Metro*
- Provision of and possible reformatting of graphics from 2.1-2.6 for inclusion in results memorandum.*

### **3.8 Draft Refinement of Improvement Strategies Report**

A draft report compiling the results of the evaluation of the completed tasks in 3.1 - 3.8 will be prepared. It will evaluate the performance of each transportation improvement strategy against the evaluation criteria and a No Build scenario. It will be reviewed by the study advisory committees.

*Responsibility: Metro staff will lead this task with input from all Contractor Specialties and the advisory committees.*

*Contractor Deliverables:*

- Review and comments on draft Evaluation Report prepared by Metro*
- Provision, and reformatting of, graphics from 2.1-2.6 for inclusion in report.*

## **4.0 Selection of Preferred Transportation Strategies**



The Policy Advisory Committee, with input from the various advisory groups, will be asked to select 2-3 comprehensive strategies to forward to the cities, counties, the Transportation Policy Advisory Committee (TPAC), the Joint Policy Advisory Committee on Transportation (JPACT), the Metro Council and the Oregon Transportation Commission (OTC). This recommendation will include:

- An appropriate number of comprehensive transportation improvement strategies (no more than 3).
- A phased implementation plan for each strategy, including identification of near, medium and long term projects.
- Funding options for each strategy
- A prioritized project list

At the conclusion of the Highway 217 Corridor Study, depending on funding and approval of relevant state and regional entities, a Draft Environment Impact Statement (DEIS) process could commence. In addition, implementation of near term projects and strategies, which may not require a NEPA process, could commence.

#### ***4.1 Final Refinement of Improvement Strategies Report***

The draft report prepared and reviewed in task 3.8, will be revised and finalized in this task.

*Responsibility: Metro with input from the review committees.*

#### ***4.2 Final Evaluation and Recommendations Report***

A final recommendation report will be written that outlines the decision process (including methodology and findings) by which transportation improvement strategies are being recommended for approval. The final report will also include an implementation plan (including phasing and funding plans) for each recommended strategy and a discussion of any preferred strategy. It will also include lessons learned about the value pricing portion of the project that may be applicable to other jurisdictions undertaking similar studies.

*Responsibility: Metro will write the report with input from review committees.*

#### ***4.3 Approvals***

Local approval will be sought by forwarding the recommendations to city councils and county commissions. All recommendations will be forwarded to TPAC, JPACT, the OTC, and the Metro Council for their approval.



# **Highway 217 Corridor Planning Study**

## **Scope of Work**

### **Public Involvement Work Program**

#### ***Introduction***

This Highway 217 Corridor Public Involvement Work Plan describes a comprehensive approach to public involvement for the Highway 217 Corridor. This plan is designed to inform stakeholders (interested and affected persons/business/special interest) and the larger community about the study process and key decisions, and seek, consider and integrate the values and concerns of the public into the overall decision making process. These work elements, while described separately, will be undertaken in conjunction with the technical work efforts. Prior to the study commencement a detailed study schedule demonstrating the integration of the technical and public involvement work elements, will be developed.

#### ***Audience Analysis***

The geographic area for this study includes Highway 217 between I-5 and US 26. Priority status for public outreach will be given to commercial, office, retail, industrial, and residential interests who may be effected by study alternatives. Second priority for community outreach focuses on general users of the facility. It should be noted from the outset that reaching this group of users would require the use of mass media (radio/television/newspaper) at a substantial cost, which is not included in the current budget.

#### ***General Approach***

Generally, the PI approach will seek to inform, educate, and gain input from targeted groups (commercial establishments, major employers etc.), users (businesses with fleets adjacent to the corridor, nearby residents, and service providers), elected officials, and environmental interests. The components outlined here would be employed to reach these audiences. A public involvement timeline will be developed in conjunction with the workplan for the technical work. In general, the approach is to start with informed individuals and targeted groups first and then seek feedback from the broader public once specific alternatives have been developed and information is available.

#### ***Public Involvement Objectives***

- To provide accurate and timely information on all aspects (including the costs, benefits and potential impacts of various improvement strategies) of the Highway 217 corridor study.
- To provide an opportunity for interested parties to express ideas and concerns about the proposed alternatives and to present additional ideas to improve the transportation strategies or mitigate their impacts.



- To provide detailed information about the Highway 217 study, decision-making process, and project timeline.
- To ensure adequate preparation of the public to fully participate in a decision making process aimed at selecting transportation strategies for Highway 217 between I-5 and US 26.

A special effort will be made throughout this process to educate the community about, and obtain feedback on, value pricing alternatives and issues.

## **5.0 Public Involvement Program**

### **5.1 Evaluation and Refinement of Plan**

The specific elements below are tools that will be further focused as the study progresses and focused on specific alternatives and issues as they develop. Many will be used only if needed, as indicated below. Public involvement staff from all of the participating jurisdictions will meet periodically to review public involvement progress to date, to evaluate the effectiveness of the public involvement process and to refine Public Involvement Plan components and schedule. In addition, the Metro Committee on Community Involvement (MCCI) will have the opportunity to review and comment on the Public Involvement work plan prior to its implementation.

*Responsibility: Metro and jurisdictional staff with advice of Public Involvement Contractor.*

*Contractor Deliverables: Three meetings and three memos, at beginning, middle and end of study, with recommendations on public involvement tools and strategy.*

### **5.2 Stakeholder Interviews**

Stakeholder interviews will be conducted at the study commencement with key individuals and representatives of user groups within the corridor to obtain their concerns and expectations regarding improvements to Highway 217 and also to educate them on the goals of the study. Particular attention will be paid to ascertain relevant attitudes and issues regarding value pricing approaches including value priced and HOT lanes and priced ramp meter bypasses. In the context of ramp meter bypasses, questions will be asked to ascertain potential support and concerns about various ways of managing the bypasses. Interviews further help identify potential options and frame PI outreach needs. A sample of 50 stakeholders will provide a good cross section of key users of the corridor. Fifty interviews can be completed within a short period of time and provide useful results. The interviews could also help identify candidates for the Policy Advisory Committee. Metro staff will administer the interview process and the project team will review content. Interviews will be conducted by a combination of Metro staff and a qualified contractor. A report summarizing the results will be prepared.



*Responsibility: Metro staff will set up interviews and support contractor in conducting them. **Public Involvement Contractor** will conduct, and write up results of, 20 interviews (with staffing of two per interview) and prepare the Stakeholder Interview Report summarizing the entire interview process and results.*

*Contractor Deliverables:*

- *20 one hour stakeholder interviews with associated write ups.*
- *Draft and Final Stakeholder Interview Report.*
- *Presentation to Policy Committee*

### **5.3 Focus Groups**

Focus groups will be used throughout the study to provide information on how the users of Highway 217 and other travelers in the corridor define the needs, problems, and potential solutions. Focus groups will also be used to determine the willingness to pay for improvements in the corridor and to assess the potential public support for various options, including value pricing. One or more focus groups will explore different approaches to managing potential ramp meter bypasses. An approach whereby more than the volume related to the new capacity and, in effect, some existing capacity is priced (FAIR lanes) will be investigated. For each set of focus groups, a report summarizing the process and results will be prepared.

Three focus groups, comprised of general corridor users and residents, will be conducted in conjunction with the development and evaluation of alternatives. They will be used to determine the public perception of the specific problems and assess the reaction to potential solutions.

Additional focus groups are budgeted but will only be used as needed. Two focus groups could be conducted in the middle of the study to explore in depth issues with the general public or with key stakeholder communities identified during the course of the study (e.g. value pricing, freight, employers). Another set of three focus groups, comprised of the general corridor traveler and area residents, could also be conducted near the end of the study to help refine and select the preferred transportation improvement strategies.

*Responsibility: The focus groups would be lead and conducted by a qualified market research Contractor as part of the **Public Involvement Contract** with supervision by Metro staff.*

*Contractor Deliverables:*

*Meetings with Metro and other jurisdictional staff to develop focus group methodology  
Prepare materials for, arrange and conduct 8 focus groups (described above)  
Presentation to Policy Committee*

### **5.4 Final Survey**

Towards the end of the study, a random sample, telephone survey to gather specific information aimed at refining and selecting the preferred transportation improvement strategies has been budgeted. It will only be used if needed to ascertain support for specific alternatives or issues. Its purpose will depend on the range strategies under consideration at the end of the study. It



could focus on public interest and acceptance of specific improvements, value pricing and other innovative approaches, financing and phasing strategies. It will help identify potential issues with strategies and can be used to refine or select them. It can also flesh out potential issues that have already been identified. Contractor will work with Metro to develop the methodology and questions. A report summarizing the findings will be prepared.

*Responsibility: The survey would be conducted by a **market research consultant as part of the Public Involvement Contract** with supervision by Metro staff.*

*Contractor Deliverables:*

*Draft and final survey methodology and questions*

*Conduct 10 minute telephone survey of 600 households*

*Draft and final survey report*

### **5.5 Policy Advisory Committee**

A Policy Advisory Committee consisting of stakeholders, elected officials, corridor business owners, corridor users, and environmental interests will be formed and will function as a clearinghouse for narrowing options. The committee will meet approximately once per month, in a central location and will serve as a reliable forum for public discussion.

*Responsibility: Metro staff will facilitate this committee. Room rental, food, security, sound system, and minimal mailings for 12 meetings is contained in the attached budget.*

### **5.6 Liaison Work**

On going liaison work will proceed throughout the life of the study consisting of telephone communications, written contact, and email correspondence with the interested public. Project staff will also meet with neighborhood groups and other organizations to keep them informed of the Study's progress and to gather input.

*Responsibility: Metro and jurisdictional staff.*

### **5.7 Questionnaire**

In an effort to broaden input into the refinement of alternatives step, a non-scientific survey will be developed and printed in community newspapers, and potentially distributed through key employers, to garner public comment on the study's proposals. This method seeks to get information out to and in from those who would not traditionally attend public meetings. Metro would seek partnerships with newspaper publications to offset some costs. A report summarizing the results will be prepared.

*Responsibility: Metro staff will write and produce the survey. The project's share for the cost of funding the questionnaire is included on the attached budget.*

### **5.8 Public Workshops**



The project partners anticipate conducting two community-wide project meetings sponsored by business/community groups to educate the public on the study and garner input. One would take place during the wide range of alternatives phase to help select alternatives for detailed study. The other would take place during the refinement of alternatives phase in order to garner input about strategies to be selected for inclusion in an EIS. A report summarizing the process and results will be prepared after each workshop or open house.

Three smaller group meetings are also budgeted. They would be held only if needed. They are planned during the middle of the study in order to provide an opportunity to explore in depth issues with targeted groups such as employers, the freight community or commuters. Relevant issues related to value pricing approaches including value priced and HOT lanes, priced ramp meter bypasses (and related FAIR lanes possibilities) could be explored in the large and small group meetings.

*Responsibility: Metro and jurisdictional partners will work with **the Public Involvement Contractor** to plan the workshops. Metro will organize the meeting rooms, mailings and advertisements and provide staff for the workshops. The **Public Involvement Contractor** shall facilitate the workshops. Metro shall write up with workshop results. The attached budget includes room rental, food, security, sound system, advertising, and minimal mailings for the meetings.*

<i>Contractor Deliverables: Draft and final workshop plan, agenda and materials Draft and final report Presentation to Policy Committee</i>
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### **5.9 Public Hearing(s)**

A public hearing, or another type of outreach public opportunity, will be held at the conclusion of the study. The Policy Committee will take public testimony regarding the study.

*Responsibility: Metro and jurisdictional staff will work together on this task. Costs are set forth in the attached budget and assume a public hearing room will be provided without a fee.*

### **5.10 Public Comment Report**

Public comments made at public meetings will be recorded in the form of meeting notes or minutes and distributed to project staff. A public comment document will be compiled and summarized at the end of the formal public comment period.

*Responsibility: Metro staff.*

### **5.11 Media Outreach**



A mailing list of local media will be compiled. Media briefings will be conducted with key reporters and editorial board members as determined appropriate. A media fax list will be created. Press releases and media packets will be provided to media at key decision making points. The media will be notified of public meetings and decisions, ten days prior to the date of the meeting/hearing.

*Responsibility: Metro project staff will lead and will coordinate with jurisdictional partners.*

### **5.12 Publications**

Four newsletters are planned during the course of the study. If the shorter schedule is followed, only three will be developed. One at the kick off of the study, two at key decision points, and one at the end to wrap up the study. They would be sent to individuals on the mailing list, and distributed at meetings, to jurisdictions, libraries and to members of the media.

Four fact sheets are budgeted. They will only be produced if needed to describe different components of the study. They would be distributed at meetings, to jurisdictions and libraries.

A project timeline and decision process chart, and organizational structure chart would be developed and posted on the web page and made available at meetings and on request.

*Responsibility: Metro staff will write and produce these publications. Costs of printing and mailing are set forth in the attached budget.*

### **5.13 Mailing List**

A mailing list will be established of interested members of the public (elected officials, neighborhood and Community Planning Organization (CPO) groups, property owners, business groups, user groups within the corridor, and persons who have previously expressed interest in related studies).

*Responsibility: Metro staff will work with Washington County, the Cities of Beaverton and Tigard, other affected local jurisdictions, the Commuter Rail Study Consultants and other groups to cultivate a reliable interested parties mailing list. The attached budget includes costs for a mailing list of up to 5,000 names.*

### **5.14 Visual Simulations**

Simulations are budgeted. They will be developed only if needed to convey abstract or difficult to understand project alternatives in a pictorial fashion. These will be used at public meetings at key milestones during the study.

*Responsibility: The **Public Involvement Contractor** should anticipate producing up to 10 visual simulations or illustrations of key facility locations.*

**Contractor Deliverable: 10 simulations or illustrations appropriate to level of concept design.**



### ***5.15 Transportation Hotline***

Metro staff will maintain a Highway 217 study message program with timely study information including meeting dates and key decision points. A mailbox option for leaving comments and requesting information will also be established as part of this function.

*Responsibility: Metro staff*

### ***5.16 Web Page***

Metro staff will maintain a project web page with a description of the study, a timeline with key decision points and opportunities for public input, fact sheets, newsletters and other pertinent information about the Highway 217 planning study

*Responsibility: Metro staff.*

### ***5.17 Graphic Materials***

Graphical materials, including maps and photographs, for public meetings and presentations will be produced.

*Responsibility: Metro will produce graphic materials for publications in-house. **The Public Involvement Contractor** should anticipate producing graphics illustrating key concepts or processes for community meetings including the Policy Committee, public workshops/open houses and focus groups.*

<i>Contractor Deliverable: Graphics for public meetings</i>
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# HIGHWAY 217 CORRIDOR STUDY ESTIMATED CONSULTANT COSTS

TASK And Subtask	CONSULTANTS				TOTAL	
	Conceptual Design	Traffic Engineering	Financial Analysis	Public Outreach	Consultant Costs	
<b>1.0 Project Dev. - Subtotal</b>	\$ -	\$ 5,500	\$ -	\$ -	\$	5,500
1.1 Establ. Committees					\$	-
1.2 Goal Setting (Policy Committee)					\$	-
1.3 Revise Scope/budget					\$	-
1.4 Execute FHWA/ODOT IGA						
1.5 Negotiate/Execute IGAs w/jurisdictions						
1.6 Draft RFPs					\$	-
1.7 Consultant selection					\$	-
1.8 Neg./Execute consultant					\$	-
1.9 Background, Existing Future Conditions		3,500			\$	3,500
1.10 Evaluation Criteria (TAC)		2,000			\$	2,000
TAC meeting					\$	-
<b>2.0 Dev. Initial Alternatives - Subtotal</b>	\$ 66,500	\$ 42,000	\$ 28,000	\$ -	\$	136,500
2.1 Value Pricing Technology Review	15,000				\$	15,000
2.2 Identify initial alts.	5,000	5,000			\$	10,000
2.3 Travel Forecasts		30,000			\$	30,000
2.4 Concept engineering ph I	30,000				\$	30,000
2.5 Preliminary Cost Estimates	10,000				\$	10,000
2.6 Preliminary Financial Analysis			25,000		\$	25,000
2.7 Results Memoranda	2,000	2,000	2,000		\$	6,000
2.8 Select/Refine short list of alt.	2,000	2,000			\$	4,000
2.9 Evaluation Report	2,000	2,000			\$	4,000
3 meetings PAG	500	1,000	1,000		\$	2,500
TAC 8 meets					\$	-
<b>3.0 Refine Alts. - Subtotal</b>	\$ 80,500	\$ 55,000	\$ 40,000	\$ -	\$	175,500
3.1 Travel Forecasting		38,500			\$	38,500
3.2 Concept engineering ph II	37,000				\$	37,000
3.3 Operating Plans		10,000			\$	10,000
3.4 Environmental Review					\$	-
3.5 Detailed cost estimates	20,000				\$	20,000
3.6 Financial Anal. and Phasing	20,000	2,000	35,000		\$	57,000
3.7 Results Memoranda	2,000	2,000	2,000		\$	6,000
3.8 Draft Refinement Report	1,000	2,000	2,000		\$	5,000
3 meetings PAG	500	500	1,000		\$	2,000
8 TACs					\$	-
<b>4.0 Selection of Strategies - Subtotal</b>	\$ 1,000	\$ 1,000	\$ -	\$ -	\$	2,000
4.1 Final Refinement Report	1,000	1,000			\$	2,000
4.2 Recommendation Report					\$	-
4.3 Approvals					\$	-
2 TAC meetings					\$	-
1 PAG meeting					\$	-
<b>5.0 Public Involvement - Subtotal</b>	\$ 2,000	\$ 1,500	\$ 2,000	\$ 81,500	\$	87,000
5.1 Refine Public Involvement Plan				2,500		2,500
5.2 Stakeholder Interviews				6,500		6,500
5.3 Focus groups				20,000		20,000
5.4 Final Survey		500		20,000		20,500
5.5 Policy Committee meetings	1,000	1,000	2,000			4,000
5.6 Liason Work						-
5.7 Questionnaire						-
5.8 workshops	1,000			10,000		11,000
5.9 Public Hearing						-
5.10 Public Comment Report						-
5.11 Media Outreach						-
5.12 Publications						-
5.13 Mailing list						-
5.14 Visual Simulations				20,000		20,000
5.15 Transportation Hotline						-
5.16 Web Page						-
5.17 Graphics				2,500		2,500
<b>GRAND TOTAL</b>	\$ 150,000	\$ 105,000	\$ 70,000	\$ 81,500	\$	406,500



# LOCAL GOVERNMENT AGENCY PERSONAL/PROFESSIONAL SERVICES CONTRACT

[Highway 217 Corridor Study]

**ODOT Contract No.**

**Metro Contract No.**

This Contract is between Metro, a metropolitan service district organized under the laws of the State of Oregon and the Metro Charter, hereafter called Agency, and \_\_\_\_\_, hereafter called Contractor. Agency's Contract Administrator for this Contract is \_\_\_\_\_.

**1. Effective Date and Duration.** This Contract shall become effective on the date this Contract has been signed by every party hereto. Unless terminated or extended, this Contract shall expire when Agency accepts Contractor's performance, or on \_\_\_\_\_, \_\_\_\_\_, whichever date occurs first. Expiration shall not extinguish or prejudice Agency's right to enforce this Contract with respect to any breach of a Contractor warranty or any default or defect in Contractor performance that has not been cured.

**2. Statement of Work.** The statement of work (the "Work"), including the delivery schedule for such Work, is contained in Exhibit A attached and incorporated by reference into this Contract. Contractor agrees to perform the Work in accordance with the terms and conditions of this Contract.

**3. Consideration**

- a. The maximum, not-to-exceed compensation payable to Contractor under this Contract, which includes any allowable expenses, is \$ \_\_\_\_\_.
- b. Interim payments to Contractor shall be made only in accordance with the schedule and requirements in Exhibit A.

**4. Contract Documents.** This Contract consists of the following documents which are listed in descending order of precedence: this Contract less all exhibits, attached Exhibits A, B, and C. All attached Exhibits are hereby incorporated by reference.

**5. Independent Contractor; Responsibility for Taxes and Withholding**

- a. Contractor shall perform all required Work as an independent contractor. Although the Agency reserves the right (i) to determine the delivery schedule for the Work to be performed and (ii) to evaluate the quality of the completed performance, Agency cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work.
- b. If Contractor is currently performing work for the State of Oregon or the federal government, Contractor by signature to this Contract declares and certifies that: Contractor's Work to be performed under this Contract creates no potential or actual conflict of interest as defined by ORS 244 and no rules or regulations of Contractor's employing agency (state or federal) would prohibit Contractor's Work under this Contract. Contractor is not an "officer", "employee", or "agent" of the Agency, as those terms are used in ORS 30.265.
- c. Contractor shall be responsible for all federal or state taxes applicable to compensation or payments paid to Contractor under this Contract and, unless Contractor is subject to backup withholding, Agency will not withhold from such compensation or payments any amount(s) to cover Contractor's federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Contractor under this Contract, except as a self-employed individual.

**6. Subcontracts and Assignment; Successors and Assigns**

- a. Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract, except by amendment to this Contract. In addition to any other provisions Agency may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by Sections 6, 10, 11, 15, and 17 of this Contract as if the subcontractor were the Contractor. Agency's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- b. The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns, if any.



**7. No Third Party Beneficiaries.** Agency and Contractor are the only parties to this Contract and, except for the Oregon Department of Transportation, are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract. The Oregon Department of Transportation is hereby declared to be such a beneficiary, and may enforce the terms of this Contract.

**8. Funds Available and Authorized; Payments**

- a. Contractor shall not be compensated for work performed under this Contract by any other agency or department of the State of Oregon. Agency has sufficient funds currently available and authorized for expenditure to finance the costs of this Contract. Contractor understands and agrees that payments dependent on Agency reimbursement from federal and state matching funds are subject to approval of billings as "participating costs" by the Oregon Department of Transportation and the Federal Highway Administration.
- b. While interim payments will be made in accordance with Exhibit A, payments are contingent upon delivery of the specified work products completed in accordance with the terms of this contract, including the statement of Work in Exhibit A.

**9. Representations and Warranties.**

- a. **Contractor's Representations and Warranties.** Contractor represents to Agency that (1) Contractor has the power and authority to enter into and perform this Contract, (2) this Contract, when executed and delivered shall be a valid and binding obligation of Contractor, enforceable in accordance with its terms, (3) the Work under this Contract will be performed in accordance with the professional standards of skill and care ordinarily exercised by members of that profession under similar conditions and circumstances, (4) Contractor shall, at all times during the term of this Contract be duly licensed to perform the Work, and if there is no licensing requirement for the profession or work, be duly qualified and professionally competent, (5) all computer hardware and software delivered under this Contract will, individually and in combination, correctly process, sequence, and calculate all date and date related data for all dates prior to, through and after January 1, 2000, and (6) any software products delivered under this Contract that process date or date related data shall recognize, store and transmit date data in a format which explicitly and unambiguously specifies the correct century.
- b. **Contractor's Limitation of Liability.** Contractor's liability with respect to items (5) and (6) of 9a. above shall not exceed: (1) twice the total contract amount (including any amendments) or (2) \$100,000, whichever is greater.
- c. **Representations and Warranties cumulative.** The representations and warranties set forth in this section are in addition to, and not in lieu of, any other representations and warranties provided.

**10. Ownership of Work Product.**

- a. All work product of Contractor that results from this Contract (the "Work Product") is the exclusive property of Agency. Agency and Contractor intend that such Work Product be deemed "work made for hire" of which Agency shall be deemed the author. If for any reason the Work Product is not deemed "work made for hire", Contractor hereby irrevocably assigns to Agency all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as Agency may reasonably request in order to fully vest such rights in Agency. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.
- b. In the event Agency alters the work products in any manner, or uses them for a purpose or project other than that specifically identified and intended by this Contract without written verification or adaptation by the Contractor as appropriate, such alteration or use will be at the Agency's sole risk, and Contractor shall be released, indemnified and held harmless by Agency, to the extent permitted by applicable Oregon law, including, but not limited to constitutional debt limitation provisions and the Oregon Tort Claims Act.
- c. Contractor, despite other conditions of this provision, shall have the right to utilize the work product on its brochures or other literature that it may utilize for its sales and, in addition, unless specifically otherwise exempted, the Contractor may use standard line drawings, specifications and calculations on other, unrelated projects.

**11. Indemnity.**



- a. **Claims for Other than Professional Liability.** Contractor shall defend, save and hold harmless the Agency, its elected officials, officers, agents and employees, the State of Oregon and its Department of Transportation and their officers, agents and employees from all claims, suits or actions of whatsoever nature, including intentional acts resulting from or arising out of the activities of Contractor or its subcontractors, agents or employees under this agreement.
  - b. **Claims for Professional Liability.** Contractor shall defend, save and hold harmless the Agency, its elected officials, officers, agents and employees, the State of Oregon and Department of Transportation, their officers, agents and employees, from all claims, suits or actions arising out of the professional negligent acts, errors or omissions of Contractor or its subcontractors and subcontractors, agents or employees in performance of professional services under this agreement.
  - c. **Agency's Actions.** This section does not include indemnification by Contractor of the Agency for the Agency's activities, whether related to the contract or otherwise.
12. **Insurance.** Contractor shall provide insurance as indicated on Exhibit B, attached hereto and by this reference made a part hereof.
13. **Termination**
- a. **Parties' Right to Terminate For Convenience.** This Contract may be terminated at any time by mutual written consent of the parties.
  - b. **Agency's Right To Terminate For Convenience.** Agency may, at its sole discretion, terminate this Contract, in whole or in part, upon 30 days notice to Contractor.
  - c. **Agency's Right to Terminate For Cause.** Agency may terminate this Contract, in whole or in part, immediately upon notice to Contractor, or at such later date as Agency may establish in such notice, upon the occurrence of any of the following events:
    - (i) Agency fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for Contractor's Work;
    - (ii) Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Work under this Contract is prohibited or Agency is prohibited from paying for such Work from the planned funding source;
    - (iii) Contractor no longer holds any license or certificate that is required to perform the Work; or
    - (iv) Contractor commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform the Work under this Contract within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger Contractor's performance under this Contract in accordance with its terms, and such breach, default or failure is not cured within 10 business days after delivery of Agency's notice, or such longer period as Agency may specify in such notice.
  - d. **Contractor's Right to Terminate for Cause.** (i) If Agency fails to pay Contractor pursuant to the terms of this Contract, Contractor may terminate this Contract by giving notice to the Agency, and Agency fails to cure within 15 business days after receipt of Contractor's notice, or such longer period of cure as Contractor may specify in such notice. Agency shall pay Contractor for all work performed in accordance with the terms of the Contract prior to termination date, if Contractor is not otherwise in default.
    - (ii) Contractor may terminate this Contract, for reasons other than nonpayment, if Agency commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform under the Contract within the times specified, or so fails to perform as to endanger Contractor's performance under this Contract, and such breach, default or failure is not cured within 10 business days after delivery of Contractor's notice, or such longer period as Contractor may specify in such notice.
  - e. **Remedies**
    - (i) In the event of termination pursuant to Sections 13.a, 13.b, 13.c(i), 13.c(ii) or 13.d, Contractor's sole remedy shall be a claim for the sum designated for accomplishing the Work multiplied by the percentage of Work completed and accepted by Agency, less previous amounts paid and any claim(s) which State has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under this subsection, Contractor shall pay any excess to Agency upon demand.
    - (ii) In the event of termination pursuant to Section 13.c(iii) or 13.c(iv), Agency shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under Section 13.c(iii) or 13.c(iv), the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to Section 13.b.



- f. Contractor's Tender Upon Termination.** Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless Agency expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to Agency all documents, information, works-in-progress and other property that are or would be deliverables had the Contract been completed. Upon Agency's request, Contractor shall surrender to anyone Agency designates, all documents, research or objects or other tangible things needed to complete the Work.

**14. Limitation of Liabilities.** EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTIONS 9(a), 13(d)(ii), or 13(e)(ii), NEITHER PARTY SHALL BE LIABLE FOR (i) ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES UNDER THE CONTRACT OR (ii) ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS CONTRACT IN ACCORDANCE WITH ITS TERMS.

**15. Records Maintenance; Access.** Contractor shall maintain all fiscal records relating to this Contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this Contract in such a manner as to clearly document Contractor's performance. Contractor acknowledges and agrees that Agency, the Oregon Department of Transportation and the Oregon Secretary of State's Office, and the federal government and their duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans and writings of Contractor that are pertinent to this Contract to perform examinations and audits and make excerpts and transcripts. Contractor shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.

**16. Compliance with Applicable Law.** Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Work under this Contract. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with: (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659.425; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Agency's performance under this Contract is conditioned upon Contractor's compliance with the provisions of ORS 279.312, 279.314, 279.316, 279.320, and 279.555, which are incorporated by reference herein.

**17. Foreign Contractor.** If Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this Contract. Contractor shall demonstrate its legal capacity to perform the Work under this Contract in the State of Oregon prior to entering into this Contract.

**18. Force Majeure.** Neither Agency nor Contractor shall be held responsible for delay or default caused by fire, riot, acts of God, or war where such cause was beyond the reasonable control of Agency or Contractor, respectively. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.

**19. Survival.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Sections 1, 9, 10, 11, 13, 14, 15, 19 and 26.

**20. Time is of the Essence.** Contractor agrees that time is of the essence under this Contract.

**21. Notice.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to Contractor or Agency at the address or number set forth on the signature page of this Contract, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section 21. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against Agency, such facsimile transmission must be confirmed by telephone notice to Agency's Contract Administrator. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.



**22. Severability.** The parties agree that if any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.

**23. Counterparts.** This Contract may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Contract so executed shall constitute an original.

**24. Disclosure of Social Security Number.** Contractor must provide Contractor's Social Security number unless Contractor provides a federal tax ID number. This number is requested pursuant to ORS 305.385, OAR 122-80-410(3) and OAR 150-305.100. Social Security numbers provided pursuant to this authority will be used for the administration of state, federal and local tax laws.

**25. Governing Law; Venue; Consent to Jurisdiction.** This Contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between Agency (and/or any other agency or department of the State of Oregon) and Contractor that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of the County for the State of Oregon where the project is located; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

**26. Year 2000 Compliance Notice.** In the event Contractor learns or has reason to believe that Agency's computer hardware or software environment fails to use a date format that explicitly specifies century in any date data, Contractor shall promptly advise Agency of such failure.

**27. Merger Clause; Waiver.** This Contract and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Contract. No waiver, consent, modification or change of terms of this Contract shall bind either party unless in writing and signed by both parties and all necessary State approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of Agency to enforce any provision of this Contract shall not constitute a waiver by Agency of that or any other provision.

**CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY ACKNOWLEDGES THAT CONTRACTOR HAS READ THIS CONTRACT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

#### CONTRACTOR DATA AND CERTIFICATION

Name (tax filing): \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Facsimile: \_\_\_\_\_ Contact: \_\_\_\_\_

Citizenship, if applicable: Non-resident alien ☐ Yes ☐ No

Business Designation (check one):

☐ Corporation ☐ Partnership ☐ Limited Partnership ☐ Limited Liability Company ☐ Limited Liability Partnership ☐ Sole Proprietorship ☐ Other \_\_\_\_\_

Federal Tax ID#: \_\_\_\_\_ or SSN#: \_\_\_\_\_

Above payment information must be provided prior to Contract approval. This information will be reported to the Internal Revenue Service (IRS) under the name and taxpayer identification submitted. (See IRS 1099 for additional instructions)



regarding taxpayer ID numbers.) Information not matching IRS records could subject Contractor to 31 percent backup withholding.

**Certification:** The individual signing on behalf of Contractor hereby certifies and swears under penalty of perjury: (a) the number shown on this form is Contractor's correct taxpayer identification; (b) Contractor is not subject to backup withholding because (i) Contractor is exempt from backup withholding, (ii) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that Contractor is no longer subject to backup withholding; (c) s/he is authorized to act on behalf of Contractor, s/he has authority and knowledge regarding Contractor's payment of taxes, and to the best of her/his knowledge, Contractor is not in violation of any Oregon tax laws, including those in OAR 150-305.385(6)-(B). For purposes of this certificate, 'Oregon tax laws' means the state inheritance tax, gift tax, personal income tax, withholding tax, corporation income and excise taxes, amusement device tax, timber taxes, cigarette tax, other tobacco tax, 9-1-1 emergency communications tax, the homeowners and renters property tax relief program and local taxes administered by the Department of Revenue (Multnomah County Business Income Tax, Lane Transit District Tax, Tri-Metropolitan Transit District Employer Payroll Tax, and Tri-Metropolitan Transit District Self Employment Tax); (d) Contractor is an independent contractor as defined in ORS 670.600; and (e) the above Contractor data is true and accurate.

<b>CONTRACTORS: PAYMENT SHALL NOT BE ISSUED FOR SERVICES RENDERED PRIOR TO NECESSARY STATE APPROVALS</b>
----------------------------------------------------------------------------------------------------------

**CONTRACTOR**

By: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

**AGENCY**

Approved as to Legal Sufficiency \_\_\_\_\_ Date \_\_\_\_\_

Approved by \_\_\_\_\_ Date \_\_\_\_\_

**ODOT**

Concurrence by Manager, Purchasing and Contracts Management \_\_\_\_\_ Date \_\_\_\_\_



Federal Provisions  
Oregon Department of Transportation

I. CERTIFICATION OF NONINVOLVEMENT IN ANY DEBARMENT AND SUSPENSION

Contractor certifies by signing this contract that to the best of its knowledge and belief, it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery falsification or destruction of records, making false statements or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (federal, state or local) terminated for cause or default.

Where the Contractor is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

List exceptions. For each exception noted, indicate to whom the exception applies, initiating agency, and dates of action. If additional space is required, attach another page with the following heading: Certification Exceptions continued, Contract Insert.

**EXCEPTIONS:**

Exceptions will not necessarily result in denial of award, but will be considered in determining Contractor responsibility. Providing false information may result in criminal prosecution or administrative sanctions.

The Contractor is advised that by signing this contract, the Contractor is deemed to have signed this certification.

II. INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS PRIMARY COVERED TRANSACTIONS

1. By signing this contract, the Contractor is providing the certification set out below.
2. The inability to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The Contractor shall explain why he or she cannot provide the certification set out below. This explanation will be considered in connection with the Oregon Department of Transportation determination to enter into this transaction. Failure to furnish an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when Agency determined to enter into this transaction. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government or Agency may terminate this transaction for cause of default.



4. The Contractor shall provide immediate written notice to Agency to whom this proposal is submitted if at any time the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact Agency's Contracts Section (Tel. (503) 986-2710) to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The Contractor agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transactions with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by agency entering into this transaction.
7. The Contractor further agrees by submitting this proposal that it will include the Addendum to Form FHWA-1273 titled, "Appendix B--Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions", provided by Agency entering into this covered transaction without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List published by the U. S. General Services Administration.
9. Nothing contained in the foregoing shall be construed to required establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government or Agency, Agency may terminate this transaction for cause or default.

### III. ADDENDUM TO FORM FHWA-1273, REQUIRED CONTRACT PROVISIONS

This certification applies to subcontractors, material suppliers, vendors, and other lower tier participants.

- Appendix B of 49 CFR Part 29 -

#### **Appendix B--Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions**

##### Instructions for Certification

1. By signing and submitting this contract, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government or



agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this contract is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by Agency with which this transaction originated.
6. The prospective lower tier participant further agree by submitting this contract that it will include this clause titled, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement list.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification require by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions**

- a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.
- b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**IV. EMPLOYMENT**

1. Contractor warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this contract and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Contractors, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from



the award or making of this contract. For breach or violation of this warrant, Agency shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

2. Contractor shall not engage, on a full or part-time basis or other basis, during the period of the contract, any professional or technical personnel who are or have been at any time during the period of this contract, in the employ of Agency, except regularly retired employees, without written consent of the public employer of such person.
3. Contractor agrees to perform consulting services with that standard of care, skill and diligence normally provided by a professional in the performance of such consulting services on work similar to that hereunder. Agency shall be entitled to rely on the accuracy, competence, and completeness of Contractor's services.

#### V. NONDISCRIMINATION

During the performance of this contract, Contractor, for himself, his assignees and successors in interest, hereinafter referred to as Contractor, agrees as follows:

1. Compliance with Regulations. Contractor agrees to comply with Title VI of the Civil Rights Act of 1964, and Section 162(a) of the Federal-Aid Highway Act of 1973 and the Civil Rights Restoration Act of 1987. Contractor shall comply with the regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are incorporated by reference and made a part of this contract. Contractor, with regard to the work performed after award and prior to completion of the contract work, shall not discriminate on grounds of race, creed, color, sex or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the contract covers a program set forth in Appendix B of the Regulations.
2. Solicitation for Subcontractors, including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiations made by Contractor for work to be performed under a subcontract, including procurement of materials and equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this contract and regulations relative to nondiscrimination on the grounds of race, creed, color, sex or national origin.
3. Nondiscrimination in Employment (Title VII of the 1964 Civil Rights Act). During the performance of this contract, Contractor agrees as follows:
  - a. Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this nondiscrimination clause.
  - b. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex or national origin.
4. Information and Reports. Contractor will provide all information and reports required by the Regulations or orders and instructions issued pursuant thereto, and will permit access to his books, records, accounts,



other sources of information, and his facilities as may be determined by Agency or FHWA as appropriate, and shall set forth what efforts he has made to obtain the information.

5. Sanctions for Noncompliance. In the event of Contractor's noncompliance with the nondiscrimination provisions of the contract, Agency shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - a. Withholding of payments to Contractor under the agreement until Contractor complies; and/or
  - b. Cancellation, termination or suspension of the agreement in whole or in part.
6. Incorporation of Provisions. Contractor will include the provisions of paragraphs 1 through 6 of this section in every subcontract, including procurement of materials and leases of equipment, unless exempt from Regulations orders or instructions issued pursuant thereto. Contractor shall take such action with respect to any subcontractor or procurement as Agency or FHWA may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event Contractor becomes involved in or is threatened with litigation with a subcontractor or supplier as a result of such direction, Agency may, at its option, enter into such litigation to protect the interests of Agency, and, in addition, Contractor may request Agency to enter into such litigation to protect the interests of the State of Oregon.

## VI. LOBBYING

The Contractor certifies, by signing this agreement to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor also agrees by signing this agreement that he or she shall require that the language of this certification be included in all lower tier subagreements, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.



## **DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY**

In accordance with Title 49, Code of Federal Regulations, Part 26, or as may be amended (49 CFR 26), Contractor shall agree to abide by and take all necessary and reasonable steps to comply with the following statement:

**DBE Policy.** It is the policy of the United States Department of Transportation (USDOT) to practice nondiscrimination on the basis of race, color, sex and/or national origin in the award and administration of USDOT assisted contracts. Consequently, the DBE requirements of 49 CFR 26 apply to this contract.

**DBE Obligations.** Contractor agrees to ensure that Disadvantaged Business enterprises as defined in 49 CFR 26 have the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds. In this regard, Contractor shall take all necessary and reasonable steps in accordance with 49 CFR 26 to ensure that Disadvantaged Business Enterprises have been afforded the opportunity to compete for and perform contracts. Contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of federally-assisted contracts.

The DBE Policy Statement shall be included in all subcontracts entered into under this contract.

**Records and Reports.** Contractor shall provide monthly documentation to Agency that is subcontracting with or purchasing materials from the DBEs identified to meet contract goals. Contractor shall notify Agency and obtain its written approval before replacing a DBE or making any change in the DBE participation listed. If a DBE is unable to fulfill the original obligation to the contract, Contractor must demonstrate to Agency the Affirmative Action steps taken to replace the DBE with another DBE. Failure to do so will result in withholding payment on those items. The monthly documentation will not be required after the DBE goal commitment is satisfactory to Agency.

Any DBE participation attained after the DBE has been satisfied should be reported to Agency.

**DBE Certification.** Only firms certified by the office of Minority, Women, & Emerging Small Business (OMWESB) Department of Consumer & Business Services (DCBS) as DBE firms may be utilized to satisfy this obligation. To verify certification status of a DBE firm, contact OMWESB at (503) 947-7976 or by internet access to OMWESB's web-site:

<http://www.cbs.state.or.us/external/omwesb/index.html>

## **CONTRACTOR'S DBE CONTRACT GOAL**

### **DBE GOAL 0%**

By signing this contract, Contractor assures that good faith efforts have been made to meet the goal for the DBE participation specified in the Request for Proposal/Qualification for this project as required by ORS 200.045.

FOR INQUIRY CONCERNING ODOT'S DBE PROGRAM REQUIREMENT, CONTACT OFFICE OF CIVIL RIGHTS AT (503) 986-4354.

### **DBE Program Policy**



It is the policy of the Oregon Department of Transportation (Agency), its recipients and contractors to provide Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR 26 and the Inter-modal Transportation Efficiency Act of 1991, with the opportunity to participate in the performance of contracts financed in whole or in part with federal funds.

Good Faith Efforts: To determine whether a consultant has failed to meet the assigned goal but still may be awarded the contract, Agency must decide if the consultant put forth good faith efforts to meet the goal. Consultants failing to meet the assigned goal must include documentation of good faith efforts in performing the following:

- a. The consultant attended any pre-solicitation or pre-bid meetings scheduled to inform disadvantaged, minority or women business enterprises of contracting and subcontracting opportunities on the project;
- b. The consultant identified and selected specific economically feasible project units disadvantaged, minority or women business enterprises could perform;
- c. The consultant advertised in general circulation, trade association, minority and trade oriented women-focus publications, if any, concerning the subcontracting;
- d. The consultant provided written notice to a reasonable number of specific disadvantaged, minority or women business enterprises drawn from and Agency list of certified disadvantaged, minority or women business enterprises for selected disciplines in sufficient time to allow the enterprises to participate;
- e. The consultant followed up initial solicitations to determine whether the enterprises were interested;
- f. The consultant provided interested disadvantaged, minority or women business enterprises with adequate information about the plans, specifications and requirements for the selected subcontracting;
- g. The consultant negotiated in good faith with the enterprises, and did not reject any disadvantaged, minority or women business enterprises without justifiable reason;
- h. Where applicable, the consultant advised and made efforts to help interested disadvantaged, minority or women business enterprises obtain bonding, lines of credit or insurance Agency or contractor requires;
- i. The consultant's efforts to obtain disadvantaged, minority or women business enterprises participation were reasonably expected to produce a level of participation sufficient to meet Agency goals or requirements and;
- j. The consultant used the services of minority community organizations, minority contractor groups, local, state and federal minority business assistance offices and other organizations the Advocate for Minority and Women Business identified that help recruit and place disadvantaged, minority or women business enterprises.



## **TRANSPORTATION COMMITTEE REPORT**

CONSIDERATION OF **RESOLUTION NO. 02-3256**, FOR THE PURPOSE OF AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS FOR PERSONAL SERVICES FOR THE HIGHWAY 217 CORRIDOR STUDY

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Date: December 5, 2002

Presented by: Councilor Monroe

**Committee Recommendation:** At its December 5 meeting, the Transportation Committee voted 2-0 to recommend Council adoption of Resolution No. 02-3256. Voting in favor: Councilor Monroe and Chair Burkholder. Voting against: None. Absent: Councilor Atherton.

**Background:** The current Regional Transportation Plan has identified 18 transportation corridors that are in need of further planning refinement work. The corridor initiatives process resulted in the Foster-Powell and Highway 217 corridors being given the highest priority for additional study. The transportation planning staff has assembled a funding package of \$1.1 million for the Highway 217 study including a federal value pricing pilot program grant, local matching funds from Beaverton, Tigard and Washington County and Metro funds.

**Committee Issues/Discussion:** Richard Brandman, Transportation Planning Director, and Bridget Wieghart, Corridor Planning Program Supervisor, presented the staff report. Brandman provided background on the identification of Highway 217 as a high priority study corridor. Ms. Wieghart explained that the purpose of the proposed resolution is to release a request for proposals for consulting services related to the study. The services being sought relate specifically to conceptual design and traffic engineering, financial and economic analysis, and public involvement. Total funding available for these consulting services is \$405,000. It is anticipated that the study will take about 18 months to complete. Ms. Wieghart explained that the study would focus on issues related to the potential addition of a lane of traffic, multi-modal issues and the potential land use effects of changes to the town centers along the corridor.

Chair Burkholder asked how the acceptance of federal value pricing funding would affect the scoping and potential recommendations that could result from the study. Ms. Wieghart responded that the initial scope of work would include the consideration of one or more value pricing related options but that Metro would be under no additional requirements and could drop these options from further consideration as the study work continued.

**Key Public Testimony:** None.



## **STAFF REPORT**

### **IN CONSIDERATION OF RESOLUTION NO. 02-3256, FOR THE PURPOSE OF AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS FOR PERSONAL SERVICES FOR THE HIGHWAY 217 CORRIDOR STUDY**

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Date: November 25, 2002

Prepared by: Bridget Wieghart

## **BACKGROUND**

In the 2000 Regional Transportation Plan (RTP), 18 corridors were identified that required further corridor refinement plans. These plans would further develop strategies to address transportation needs in the specific corridors. The 18 corridors were ranked as part of the Corridor Initiatives process based on a variety of factors. The Highway 217 Corridor Plan ranked highly and was identified as a priority.

Oregon Highway (ORE) 217 is the major north-south transportation route for eastern Washington County. For most of its length, it consists of four through lanes and two auxiliary lanes between interchanges. Designated as part of the National Highway System (NHS), traffic volumes have grown significantly with the development of the County. From 1989 to 1998 the daily traffic volume on ORE 217 has increased from 99,600 vehicles per day to 118,200 per day. This represents a 19% increase, or an average of 2.1% per year. Current peak hour volume reaches over 10,500 vehicles per hour or on average about 1,750 vehicles per hour per lane, which represents about 100% of the available capacity.

The Highway 217 Corridor Study work program is designed to facilitate the selection, and promote the implementation, of transportation strategies for Highway 217 between I-5 and US 26. A series of improvement alternatives will be developed and analyzed. Engineering and operational characteristics, public acceptance and financial feasibility will be evaluated. Alternatives include bringing this facility to six through lanes throughout its length plus braided ramps or auxiliary lanes. General purpose and managed lane approaches (including carpool and peak period priced lanes) for the new capacity will be evaluated. Interchange arrangement will be analyzed and refinements proposed. In addition, varying levels of transit service, demand and system management strategies and arterial improvements will be considered as a complement to highway improvements.

Recent transportation planning efforts, Oregon Department of Transportation's (ODOT) Western Bypass Study, Metro's 2000 Regional Transportation Plan, and ODOT's Oregon Highway 217 Initial Improvement Concepts Technical Memorandum, all recognize the need for at least one additional through lane in each direction in this corridor. It has also been concluded that three through lanes plus auxiliary lanes or braided ramps in each direction is the maximum that can fit within the right of way envelope without significant impacts.

A significant public involvement effort is anticipated as part of this study. Separate work programs have been developed to describe the technical and public involvement components, which will be undertaken together. The outreach efforts will be keyed into major technical milestones and information obtained from the public will feed back into the technical effort.

This Request for Proposals (RFP) is for the procurement of consulting services for the Highway 217 Corridor Study. The study requires consultant assistance for Conceptual Design and Traffic Engineering,



Financial and Economic Analysis, and Public Involvement. Metro may sign up to three personal service contracts, depending on the proposals submitted.

Metro is the project lead for the study. Project partners include FHWA, ODOT, Washington County, TriMet, the Cities of Beaverton and Tigard, and other appropriate local jurisdictions. A policy committee will be formed comprised of elected officials, business leaders and residents from the corridor.

It is anticipated that the study will take approximately 17 months after start up activities are complete. At this time, it is anticipated that the contract work would commence in February 2003 and be complete in June 2004.

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

There is no known opposition for the procurement of these consultant contracts.

### **2. Legal Antecedents**

Metro Code Sec. 2.04.026 (D), requires Council approval for any contract for personal services for a term greater than 12 months and in an amount greater than \$50,000.

### **3. Anticipated Effects**

If this resolution is adopted by the Metro Council, the Planning Department will release the Request for Proposals (RFP) to the public, participate on the evaluation team along with our local partners to select the most qualified consultant(s) to work on the Highway 217 Corridor Study, and execute the contract(s) following the selection and negotiation process.

### **4. Budget Impacts**

The Personal Service Agreement(s) for the Highway 217 Corridor Study are included in Metro's Adopted Budget for Fiscal Year 2002-2003. The anticipated funding sources for the entire study includes, FHWA Value Pricing Grant, local match funds from Metro, City of Beaverton, City of Tigard and Washington County, in addition to ODOT PL funds, ODOT STP funds and ODOT support funds.

## **RECOMMENDED ACTION**

This action would approve the release of the attached Request for Proposals (RFP) to the public, in order to select the most qualified consultant(s) to work on the Highway 217 Corridor Study. It would also authorize Metro's execution of the contract(s) following the selection and negotiation process.



Agenda Item Number 8.1

**Resolution No. 02-3246**, For the purpose of Authorizing the Executive Officer to Execute Change Order No. 4 to the Contract for Operation of the Metro South and Metro Central Transfer Stations.

***Contract Review Board***

Metro Council Meeting  
Tuesday, December 10, 2002  
Metro Council Chamber



BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING	)	RESOLUTION NO. 02-3246
THE EXECUTIVE OFFICER TO EXECUTE CHANGE	)	
ORDER NO. 4 TO THE CONTRACT FOR	)	
OPERATION OF THE METRO SOUTH AND METRO	)	Introduced by Mike Burton,
CENTRAL TRANSFER STATIONS	)	Executive Officer

WHEREAS, as described in the accompanying staff report, Metro and BFI Waste Systems of North America, Inc., wish to resolve differences concerning the current Contract for the Operation of the Metro South and Metro Central Transfer Stations, Metro Contract No. 905690 (the "Contract"), by amending certain payment provisions of the Contract; and,

WHEREAS, Contractor will pay to Metro the sum of \$20,571.93 should Change Order No. 4 be executed; and,

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

BE IT RESOLVED, that the Metro Council authorizes the Executive Officer to execute Change Order No. 4 to Contract No. 905690, in a form substantially similar to that set forth as the attached Exhibit A.

ADOPTED by the Metro Contract Review Board this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
Carl Hosticka, Presiding Officer

Approved to form:

\_\_\_\_\_  
Daniel B. Cooper, General Counsel



### **CHANGE ORDER NO. 4**

This Contract Change Order No. 4, effective December \_\_, 2002, hereby amends Metro Contract No. 905690 between Metro, a metropolitan service district organized under the laws of the state of Oregon and the 1992 Metro Charter ("Metro"), and BFI Waste Systems of North America, Inc. (formerly Browning-Ferris Industries of Oregon, Inc.), "Contractor," dated July 18, 1997, including prior change orders, which contract and change orders are collectively referred to herein as the "Contract".

### **RECITALS**

- A. On or about August 29, 2001, Metro discovered that one of the solid waste compactors at Metro South ("Metro South Compactor No. 1") was damaged and needed repair. Metro had Metro South Compactor No. 1 repaired at a total cost of \$127,746.00.
- B. On or about November 29, 2001, Metro discovered that the other compactor at Metro South ("Metro South Compactor No. 2") was damaged and needed repair. Metro had Metro South Compactor No. 2 repaired at a total cost of \$57,992.86.
- C. A dispute has arisen between Metro and Contractor regarding whether Contractor is responsible for all or part of the costs of repairs of Metro South Compactors Nos. 1 and 2 (the "Dispute"). Metro asserts that Contractor is responsible for all or part of the costs of these compactor repairs under the terms of the Contract. Contractor denies responsibility for the costs of these compactor repairs.
- D. The parties desire to resolve the Dispute by means of a compromise as set forth in this Change Order No. 4.

### **PURPOSE**

The purpose of this change order is to amend the terms of the Contract in order to settle and compromise the Dispute as provided herein.

### **PROVISIONS OF CONTRACT CHANGE ORDER**

- 1. Release. In exchange for the parties' promises contained herein, each party shall release and forever discharge the other party and its agents, attorneys, officers, partners, shareholders, directors, elected officials, employees, representatives, successors and assigns, and each of them, of and from any and all claims, rights, demands, actions, suits, obligations, liabilities, causes of action, damages, proceedings, or losses of any kind, nature, or character, whether now known or unknown, which any party has had, now has, or may hereafter assert against any party on account of or in any way arising out of any



actions, failures to act, events, occurrences, or circumstances of any kind that are the subject of, or related to, the Dispute.

2. Contractor's Payment. Within ten (10) days of the full execution of this Agreement, Contractor shall pay to Metro the sum of \$20,571.93. Such payment shall be by a check from Contractor made payable to "Metro."
3. No Admission. This Change Order No. 4 sets forth the settlement and compromise of the Dispute between the parties, and neither this Change Order No. 4 nor the reduced payments provided for herein shall be considered as or construed to be an admission of liability by either Contractor or Metro, each of whom expressly denies any and all wrongdoing or liability.
4. Reasonable Compromise. The parties agree that this Change Order No. 4 is a reasonable compromise of the Dispute and have consulted with legal counsel concerning its content. The parties represent and warrant that this Change Order No. 4 has been approved by legal counsel of the parties, that each of them fully understands the terms of this Change Order No. 4, that each of them has carefully read this Change Order No. 4 and knows its contents, and that each has executed this Change Order No. 4 as a freely performed act.
5. Modification. Except as amended and modified herein, all other terms of the Contract and any previous Contract Change Orders shall remain in full force and effect. Any material conflict between the provisions of the original Contract, including the provisions of other previous Contract Change Orders, and this Contract Change Order No. 4 shall be resolved by reference to and reliance upon this Contract Change Order No. 4.

**BFI Waste Systems of North America, Inc.**

**METRO**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

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## **STAFF REPORT**

IN CONSIDERATION OF RESOLUTION NO. 02-3246, FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO EXECUTE CHANGE ORDER NO. 4 TO THE CONTRACT FOR OPERATION OF THE METRO SOUTH AND METRO CENTRAL TRANSFER STATIONS

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October 23, 2002

Prepared by: Chuck Geyer

### **BACKGROUND**

In 1999, Metro purchased two solid waste compactors for the Metro South Station to replace existing ones that had reached the end of their useful life. The units were purchased and installed by SSI Shredding Systems, Inc. (SSI), at a cost of \$1.5 million. Two additional units were purchased for Metro Central Station from SSI in a subsequent procurement.

In August 2001, Metro discovered that one of the solid waste compactors (No. 1) at Metro South was damaged and needed repair. Metro had the No. 1 compactor repaired at a total cost of \$127,746. In November 2001, Metro discovered that the other compactor (No.2) was damaged and needed repair. Metro had the No. 2 compactor repaired at a cost of \$57,992.86. Of this amount, \$16,849 was for improvements requested by Metro that were not required to restore the equipment to its previous level of operation. This left \$41,143.86 as the amount in dispute for the No. 2 unit.

In June 2002, Metro sent a letter to both the compactor manufacturer SSI, and the transfer station operator, BFI Waste Systems (BFI), seeking reimbursement for Metro's expenses in repairing the compactors at Metro South Station. The letter detailed the basis of Metro's claim for reimbursement and sought to resolve the dispute between the three parties (see attachment 1). In September 2002, during settlement negotiations, compactor No.1 at Metro Central Station experienced a similar cylinder failure.

Metro has resolved its dispute with SSI through a settlement agreement dated October 12, 2002 (see Attachment 2). The agreement provides Metro with a replacement cylinder, parts and labor that will be used to repair compactor No.1 at Metro Central Station. Upgrades have been completed to the other new compactor at Metro Central to prevent a similar cylinder failure.

Metro has negotiated a resolution to its dispute with BFI as contained in the proposed Change Order No. 4 to its operations contract with BFI (Contract No 905690). The change order is attached to Resolution No. 02-3246 as Exhibit A. The change order provides Metro with \$20,571.84, which Metro will receive in the form of a lump sum payment. This is half the cost incurred by Metro to repair compactor No.2 to its previous operational condition.

### **ANALYSIS/INFORMATION**

#### **1. Known Opposition**

None.

#### **2. Legal Antecedents**



Metro Code Section 2.04.058(b) requires Council approval of amendments to contracts designated as having a significant impact on Metro. Contract No. 905690 was designated as having such a significant impact.

### **3. Anticipated Effects**

Adoption of the resolution will resolve a bona fide dispute with the transfer station operations contractor regarding the terms and conditions of its contract and does not materially add to or delete from the original scope of work.

### **4. Budget Impacts**

There is no budget impact.

## **EXECUTIVE OFFICER RECOMMENDATION**

The Executive Officer recommends adoption of Resolution No. 02-3246.

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**METRO**

Attachment 1  
Resolution No. 02-3246

June 18, 2002

Mr. Tom Garnier, President  
SSI Compaction Systems, a division of  
SSI Shredding Systems, Inc.  
9760 SW Freeman Drive  
Wilsonville, Oregon 97070

Mr. Tom Wyatt, General Manager  
BFI Waste Systems of North America, Inc.  
6161 NW 61st  
Portland, Oregon 97210

Re: Compactor Failures at Metro South Transfer Station

Dear Mr. Garnier and Mr. Wyatt:

This letter concerns the recent failures of the solid waste compactors in use at the Metro South Transfer Station ("Metro South"). Metro has incurred significant expenses to repair the Metro South compactors. Based on our analysis of those failures, we believe that the legal responsibility for the majority of such expenses lies with either or both SSI Compaction Systems, a division of SSI Shredding Systems, Inc. ("SSI"), and BFI Waste Systems of North America, Inc. ("BFI"). We hereby demand reimbursement of such expenses, as described below, from SSI and BFI. We invite both of you, however, to engage in settlement negotiations so that we may resolve this matter without resort to litigation. In order to facilitate such discussions between SSI and BFI, I provide in this letter a summary of the compactor failures that have occurred, Metro's view of how and why those failures occurred, and a summary of Metro's legal theories supporting recovery of such expenses from SSI and BFI.

**Failure of Metro South Transfer Station Compactor No. 1**

On August 29, 2001, Metro South Compactor No. 1 suffered a failure of the compaction cylinder. BFI employees observed oil leaking from the front of the cylinder and, upon inspection, observed that there was serious scoring of the cylinder rod. The following week, the cylinder was removed from the compactor and taken to SSI's plant in Wilsonville, Oregon.

When SSI disassembled the cylinder at its facility, it revealed that the front bearing in the head assembly had suffered a significant failure. The failure was located at approximately the 4 o'clock position (as viewed from the platen-end of the cylinder). Small chips of metal were spread around the head assembly and had accumulated in a hole in the bearing.



There was also evidence of metal to metal contact between the rod and the metal glands in the head assembly.

Furthermore, when the compactor's carriage was removed from the compactor, it showed that the carriage had incurred significant structural damage, including:

- Cracking at all four corners at the front of the carriage;
- Permanent deformation of the vertical members at the front and bottom of the carriage;
- Failure of the welds where the 6"x 12" cross member connects to the angled supports from the load beam; and,
- Fractures of the welds around the nuts used to adjust the bearing pads on the carriage.

### **Failure of Metro South Compactor No. 2**

Metro, SSI, and BFI scheduled a routine replacement of the head gland bearings on Compactor No. 2 at Metro South for November 29, 2001. On that date, when the front bearing assembly was removed from the compaction cylinder large metal chips were found in the cylinder. These chips were up to 1/8 inch thick and varied in length from small chips to pieces that were almost 10 inches in length.

After the cylinder was disassembled, serious scoring was observed on the bottom of the cylinder. The galling of the cylinder wall occurred at the rear of the cylinder and covered about the first seven feet of the stroke. The stop tube bearing had failed and allowed metal to metal contact with the cylinder wall. The metal chips scored both the stop tube and the glands on the piston. The damage on the piston is primarily scoring on the metal glands between the bearings. Based on this damage it appears that the initial contact was between the cylinder wall and stop tube bearing.

The damage to this cylinder was isolated to a portion of the cylinder wall and the lower portion of the piston and stop tube. Such damage is consistent with a failure caused by a misalignment of the rod in the cylinder.

When the carriage from Metro South Compactor No. 2 was removed and inspected, it exhibited damage similar to that on Compactor No. 1. This damage included the cracked welds at the upper and lower front corners of the carriage. BFI had added the gusset plates to the connections of the diagonal supports for the load beam and the horizontal beam across the front of the carriage. When SSI inspected the carriage it also reported that the vertical tubes at the front of the carriage had been deformed.

### **Analysis of Compactor Failures**

Metro retained a metallurgical engineering firm, MEI Charlton, Inc., to examine the Metro South compactors and present an opinion about the cause of the failures. MEI's analysis included examination of both compactors and metallurgical analysis of the damaged



members of the carriage from Compactor No. 1. The results of MEI's analysis showed that the cracks and fractures in Compactor No. 1 were "progressive cyclic fractures that occurred over many load cycles." The cracks exhibited "coarse growth increments, indicative of a low cycle fatigue or crack growth/crack arrest phenomena resulting from many severe, high strain events."

Based on its observations and analysis, MEI concluded that "[t]he flexibility of the front end of the carriage caused most of the problems. The carriage design allows the load beam to pull and push on the flexible vertical corner posts. This bends the posts, causes the cracks in the post welds, and allows the load beam to move up and down and rotate." Moreover, MEI also noted that "carriage flexing also affects cylinder alignment," and that the unusual wear patterns on both of the Metro South compactor cylinders were due to misalignments of the cylinders, which resulted in undue stress on the cylinders.

#### **Metro's Claims for Recovery of Compactor Repair Expenses from SSI**

Metro's contract for the purchase of compactors from SSI, entered into by Metro and SSI in May 1998 (Metro Contract No. 920530), contained two provisions that comprise the basis of Metro's claims for recovery of Metro's compactor repair expenses. First, the contract's scope of work includes the following five-year structural warranty:

SSI will, at its own expense (including parts, labor and transportation), correct any structural failure due to fatigue or stress, of any load bearing member, for a period of 5 years from the date of execution of this agreement.

Under this warranty, SSI is obligated to correct the compactor damage because it resulted from the compactor's structural failure caused by undue fatigue and stress on the compactor's load-bearing members. All of the failed parts in question, including all parts of the carriage and hydraulic cylinders, are load bearing members of the compactor and are covered by this warranty. Those failures occurred within five years of the date of execution of the contract. Thus, SSI is obligated to repair such failures at its own expense, including parts, labor and transportation. This includes all of the costs of removing, transporting, and repairing the carriages and the cylinders.

Second, Article IV of the contract, on the contract's very first page, is an indemnity provision that provides, in relevant part:

CONTRACTOR . . . assumes full responsibility for all liability for . . . physical damage to . . . property arising out of or related to this Contract, and shall indemnify, defend and hold harmless METRO . . . from any and all . . . damages . . . and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Contract.



This indemnification provision is extremely broad and covers the expenses that Metro has incurred to repair the compactors. Clearly the damages to the compactors, and the expenses Metro has incurred to repair those damages, arose out of, are related to, and are connected to Metro's contract to purchase the compactors. As such, SSI has assumed responsibility for property damage incurred by Metro, and has agreed to indemnify and hold harmless Metro from any such damages and expenses.

#### **Metro's Claims for Recovery of Compactor Repair Expenses from BFI**

Metro believes the compactor's structural failures were the result of undue fatigue or stress caused by normal compacting operations. In discussions to date, however, SSI has asserted that such structural failures may have been caused by improper compactor operations. For example, SSI has asserted that if operator error resulted in solid waste dropping between the compactor carriage and the platen, and the compactor is activated in a compaction stroke, such waste could have caused the undue fatigue or stress that resulted in the failure of the compactor's structural members. Moreover, Metro is aware of at least one incident where solid waste was permitted to drop between the compactor carriage and the platen, which resulted in the compactor having to be shut down for almost an entire day while crews worked to clean the waste out from inside the compactor.

The contract between Metro and BFI for operation of Metro South provides that it is BFI's responsibility to load and operate the compactor "so it will function properly without jamming, puncturing the compactor or container walls, causing fire, explosion, or any other damage." See Section 7.3.B of the Contract's Specifications for Metro South Station. In addition, Article 17 of the Contract's General Conditions is a broad indemnity provision which provides that BFI will indemnify, hold harmless, and defend Metro from all losses and expenses arising or resulting from Contractor's performance or nonperformance of any Contract provision or requirement. Thus, to the extent that the losses and expenses that Metro has incurred as a result of these compactor failures is the result of operator error, BFI must indemnify, hold harmless, and defend Metro for such losses and expenses.

#### **Compactor Repairs and Expenses Incurred by Metro**

SSI has nearly completed repairs to the cylinders and carriages of both compactors at Metro South. Regarding Compactor No. 1, the damaged cylinder was removed, a new cylinder was installed, the damaged cylinder was shipped to its manufacturer for inspection and possible repairs, and the carriage was repaired. Metro has incurred \$127,746 in total expenses to date to repair Compactor No. 1. Metro already paid SSI \$127,746 for the repair of Compactor No. 1 at the Metro South Transfer Station. Metro seeks reimbursement of all of those expenses from SSI and BFI. The following table itemizes the repair expenses for Compactor No. 1:



<b>Metro South Compactor No. 1</b>		
New Cylinder for MS Compactor No. 1	SSI (Inv. 28372)	\$106,000.00
Remove Damaged Cylinder and Install New	SSI (Inv. 28728)	\$10,000.00
Carriage Repairs for MS Compactor No. 1	SSI (Inv. 29259)	\$10,000.00
Shipping Cylinder to Kaydon	SSI (Inv. 29626)	\$1,746.00
<b>Subtotal Compactor No. 1 Expenses</b>		<b>\$127,746.00</b>

Regarding Compactor No. 2, the damaged cylinder was removed and rebuilt (including rechroming the cylinder rod), the carriage was rebuilt, and improvements were made to the compactor's head bearings, piston, and stop tube. SSI has billed Metro \$60,130.76 to date to repair Compactor No. 2. Metro acknowledges, however, that the rechroming of the cylinder and improvements to the head bearings, piston, and stop tube were improvements beyond what was necessary to repair damage the compactor had incurred. SSI charged Metro a total of \$16,849 for those improvements, and Metro does not believe that those expenses are the responsibility of either SSI or BFI. SSI has sent Metro invoices totaling \$57,992.86 for repairs to Compactor No. 2. As described above, Metro asserts that SSI and BFI are responsible for \$41,143.86 of the cost of the repairs to Compactor No. 2. The following table shows the Compactor No. 2 repair expenses and delineates the expenses for which Metro is willing to assume responsibility:

<b>Metro South Compactor No. 2</b>		
Remove and Replace Cylinder	SSI (Inv. 30256)	\$23,315.38
Cylinder Rebuild	SSI (Inv. 30256)	\$25,399.00
Rebuild/Repair Compactor	SSI (Inv. 30256)	\$11,416.48
Less Allowance for Carriage Upgrade	SSI (Inv. 30256)	(\$2,138.00)
<b>Subtotal Compactor No. 2</b>		<b>\$57,992.86</b>
Less Rechroming of Cylinder Rod	Perrine email 3/6/02	(\$9,549.00)
Less Improvements to Head Bearings, Piston and Stop Tube	Perrine email 2/28/02	(\$7,300.00)
<b>Metro Responsibility for Improvements</b>		<b>\$16,849.00</b>
<b>Remainder for Repair of Compactor No. 2</b>		<b>\$41,143.86</b>

In addition to the expenses described above, in the event that this matter is resolved in litigation, Metro retains its right to recover any additional expenses it has incurred as a result of these compactor failures under any legal theory.

#### **Metro's Demand for Recovery from SSI and BFI**

To date, the invoiced cost of the repairs to both of the compactors totals \$185,738.86. Based on the above analysis, under the terms of the contracts between Metro and SSI and between Metro and BFI, Metro asserts that it is responsible for \$16,849 of the repair costs,



and that SSI and BFI are responsible for the remaining \$168,889.86. Thus, under the terms of the structural warranty and indemnity provisions of Metro's contract with SSI, and under the indemnity provision of Metro's contract with BFI, Metro hereby demands that SSI and BFI pay to Metro the sum of \$168,889.86.

Metro is interested in continuing its strong working relationships with SSI and BFI. As you are both aware, both of the contracts at issue include attorneys' fees provisions whereby the prevailing party is entitled to recover such fees from the other party. It is Metro's hope for the parties to engage in productive settlement discussions to resolve this matter without resort to litigation. Such negotiations, if they are to occur, must be initiated immediately and must conclude no later than July 15, 2002. If you would like to discuss this matter further, please contact Terry Petersen, REM Director, at (503) 797-1669.

Best regards,



Mike Burton  
Executive Officer

MB/PE/PG/mca  
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cc: Terry Petersen, Director, Regional Environmental Management



## SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE ("Agreement") is entered into this 12<sup>th</sup> day of October, 2002, between Metro, a metropolitan service district organized under the laws of the state of Oregon and the 1992 Metro Charter ("Metro"), and SSI Compaction Systems, a Division of SSI Shredding Systems, Inc. ("SSI").

### RECITALS

- A. Metro entered into a contract with SSI in May 1998 (Metro Contract No. 920530) for the of purchase two solid waste compactors for the Metro South Transfer Station ("Metro South"). SSI completed installation of those two compactors ("Metro South Compactor No. 1" and "Metro South Compactor No. 2") by March 1999.
- B. Metro entered into a contract with SSI in June 2000 (Metro Contract No. 922141) for the of purchase two solid waste compactors for the Metro Central Transfer Station ("Metro Central"). SSI completed installation of those two compactors ("Metro Central Compactor No. 1" and "Metro Central Compactor No. 3") in January 2001.
- C. On or about August 29, 2001, Metro discovered that Metro South Compactor No. 1 was damaged and needed repair. Metro and SSI entered into a new contract for the repair of Metro South Compactor No. 1 (Metro Contract No. 923406). SSI repaired Metro South Compactor No. 1, including removing the damaged cylinder, installing a new cylinder, and rebuilding the compactor carriage. SSI sent invoices to Metro for the sum of \$127,746.00 for the work it had done. Between November 2001 and March 2002 Metro made payments to SSI which totaled the amount of SSI's invoices, although Metro reserved its rights to make claims against SSI to recover the costs of the repairs to Metro South Compactor No. 1.
- D. On or about November 29, 2001, Metro discovered that Metro South Compactor No. 2 was damaged and needed repair. Metro and SSI entered into a new contract for the repair of Metro South Compactor No. 2 (Metro Contract No. 923697). SSI repaired Metro South Compactor No. 2 and sent an invoice to Metro for the sum of \$57,992.86 for the work it had done. Metro has not paid SSI for the repair of Metro South Compactor No. 2.
- E. On or about September 16, 2002, Metro discovered that Metro Central Compactor No. 1 was damaged and needs repair.
- F. A dispute has arisen between Metro and SSI regarding which party is responsible for bearing the costs of the repairs to Metro South Compactor No. 1, Metro South Compactor No. 2, and Metro Central Compactor No. 1 (the "Dispute").
- G. Metro asserts that SSI is responsible for the costs of these compactor repairs under the terms of Metro Contract No. 920530 and Metro Contract No. 922141. SSI denies responsibility for the costs of these compactor repairs.



- H. The parties desire to resolve the Dispute by means of a compromise as set forth in this Agreement.

### **TERMS OF AGREEMENT**

In consideration of the mutual covenants and promises contained in this Agreement, the parties acknowledge and agree to settle and compromise the Dispute as follows.

1. Release. In exchange for the parties' promises contained herein, each party shall release and forever discharge the other party and its agents, attorneys, officers, partners, shareholders, directors, elected officials, employees, representatives, successors and assigns, and each of them, of and from any and all claims, rights, demands, actions, suits, obligations, liabilities, causes of action, damages, proceedings, or losses of any kind, nature, or character, whether now known or unknown, which any party has had, now has, or may hereafter assert against any party on account of or in any way arising out of any actions, failures to act, events, occurrences, or circumstances of any kind that are the subject of, or related to, the Dispute (as defined in Recital F of this Agreement). Notwithstanding any provision to the contrary, however, such releases shall not include release of and from any claims, right, demands, actions, suits, obligations, liabilities, causes of action, damage, proceedings, or losses of any kind, nature, or character, arising out of or related to any damage to Metro Central Compactor No. 1 that is discovered after the effective date of this Agreement.
2. Payment for Repairs to Metro South Compactor No. 2. Pursuant to Metro Contract No. 923697, Metro shall pay to SSI the sum of \$57,992.86, payable in full upon execution of this Agreement.
3. SSI to Provide and Install New Cylinder. SSI shall provide to Metro, at no cost to Metro, a new 16" x 306" cylinder, serial number H260004H, manufactured by Hyundai Heavy Industries Co., LTD ("Hyundai Cylinder H260004H"), and SSI shall provide, at no cost to Metro, any modifications necessary to install Hyundai Cylinder H260004H into Metro Central Compactor No. 1. SSI shall remove the damaged compactor cylinder that is currently installed in Metro Central Compactor No. 1 and shall install Hyundai Cylinder H260004H, as modified, into Metro Central Compactor No. 1. In undertaking such work, SSI shall bear all labor and supervisory costs for such work, except as provided in Paragraph 4 of this Agreement.
4. SSI and Metro to Share Certain Cylinder Installation Costs. SSI and Metro shall each be responsible for 50% of all documented costs of subcontractors hired by SSI or Metro to (1) remove, or facilitate the removal of, the damaged compactor cylinder that is currently installed in Metro Central Compactor No. 1 (including freight charges to transport the failed cylinder to SSI's facility in Wilsonville, Oregon), and (2) install Hyundai Cylinder H260004H into Metro Central Compactor No. 1. Neither party shall be responsible, however, for any portion of any profit or other markup of subcontractors' documented costs by the other party.

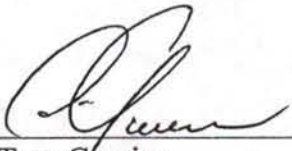


5. SSI to Provide Two-Year Warranty on New Cylinder. SSI warrants Hyundai Cylinder H260004H to the full extent of the cylinder warranty SSI has received from the manufacturer for Hyundai Cylinder H260004H. Such two-year warranty shall commence on the date that Hyundai Cylinder H260004H is installed into Metro Central Compactor No. 1.
6. SSI to Complete Certain Repairs of Metro South Compactor No. 1. SSI shall undertake and complete work on the carriage of Metro South Compactor No. 1, at no cost to Metro. Such work shall be performed to reinforce the carriage of Metro South Compactor No. 1 and shall be substantially similar to, or better than, the carriage reinforcement work that SSI undertook and completed on Metro South Compactor No. 2 in [insert month] of 2002.
7. No Admission. This Agreement sets forth the settlement and compromise of the Dispute between the parties, and neither this Agreement, nor the work, nor payments described herein shall be considered as or construed to be an admission of liability by either SSI or Metro, each of whom expressly denies any and all wrongdoing or liability.
8. Entire Agreement. This Agreement contains the ENTIRE AGREEMENT of the parties with regard to the Dispute, and there are no separate and independent written or verbal or any other side agreements. This Agreement fully supersedes any and all prior agreements or understandings, whether verbal, written, or otherwise, made between Metro and SSI concerning the compromise of the Dispute.
9. Counterparts. This Agreement may be executed in two counterparts, both of which, when taken together, shall constitute one agreement binding on both parties, notwithstanding that both parties are not signatories to the same counterpart.
10. Choice of Law. This Agreement shall be governed by and interpreted in accordance with, and shall be construed in accordance with, the laws of the state of Oregon, excluding choice of law principles. Venue for any action enforcing the terms of this Agreement shall be in Multnomah County, Oregon.
11. Terms Contractual. The terms of this Agreement, contained in the section entitled "Terms of Agreement," are contractual and are not mere recitals.
12. Waiver. No provision of this Agreement shall be deemed to have been waived unless such waiver is in writing signed by the waiving party. No failure by any party to insist upon the strict performance of any provision of this Agreement, or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach of such provision or of any other provisions. No waiver of any provision of this Agreement shall be deemed a waiver of any other provision of this Agreement or a waiver of such provision with respect to any subsequent breach, unless expressly provided in writing.
13. Reasonable Compromise. The parties agree that this Agreement is a reasonable compromise of the disputed claims and have consulted with legal counsel concerning its

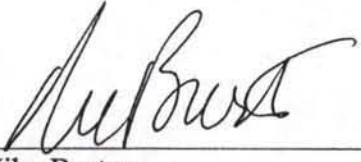


content. The parties represent and warrant that this Agreement has been approved by legal counsel of the parties, that each of them fully understands the terms of this Agreement, that each of them has carefully read the Agreement and knows its contents, and that each has executed this Agreement as a freely performed act.

**SSI COMPACTION SYSTEMS, a Division of SSI SHREDDING SYSTEMS, INC.**      **METRO**

By:   
Tom Garnier  
President

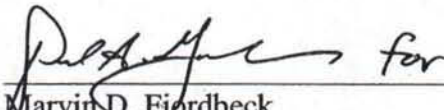
Date: 10/10/02

By:   
Mike Burton  
Executive Officer

Date: Oct 12, 2002

APPROVED AS TO FORM

By: \_\_\_\_\_  
Name: \_\_\_\_\_

By:  for  
Marvin D. Fjordbeck  
Senior Assistant Counsel, Metro

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Agenda Item Number 8.2

**Resolution No. 02-3251**, For the Purpose of Approving an Exclusive Personal Services Agreement with the Buel Group to Serve as the Sole Agent of Metro to Develop Hospitality and Other Compatible Facilities at Glendoveer Golf Course.

*Contract Review Board*

Metro Council Meeting  
Tuesday, December 10, 2002  
Metro Council Chamber



BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF APPROVING AN )  
EXCLUSIVE PERSONAL SERVICES )  
AGREEMENT WITH THE BUEL GROUP TO ) RESOLUTION NO. 02-3251  
SERVE AS THE SOLE AGENT OF METRO )  
TO DEVELOP HOSPITALITY AND OTHER ) Introduced by Presiding Officer Hosticka  
COMPATIBLE FACILITIES AT THE )  
GLENDOVEER GOLF COURSE. )  
)

WHEREAS, Metro owns the Glendoveer Golf Course and desires enhanced facilities that will serve golfers, the community living near the Glendoveer Golf Course, and the Metro region as a whole; and

WHEREAS, Metro wishes to obtain personal services relating to conceptualization, planning, design, development, construction, and operation of a hospitality facility and other compatible enhanced use facilities at the Glendoveer Golf Course; and

WHEREAS, Metro seeks a reliable representative to work on its behalf to enhance the productivity of its assets at the Glendoveer Golf Course; and

WHEREAS, the Buel Group has a history of stewardship on behalf of the public interest, making it the appropriate entity to provide the community with the best and most productive use of the public's assets; now, therefore,

BE IT RESOLVED:

That the Metro Council hereby authorizes the Executive Officer to execute a personal services contract with the Buel Group in a form substantially similar to that attached to this Resolution as Exhibit A.

ADOPTED by the Metro Contract Review Board this \_\_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
Carl Hosticka, Presiding Officer

Approved as to Form:

\_\_\_\_\_  
Daniel B. Cooper, General Counsel



September 6, 2002

EXHIBIT A

Mr. Charles Ciekco  
Metro  
600 NE Grand Avenue  
Portland, Oregon 97232

to Resolution No. 02-3251

Dear Charlie,

This letter is the agreement between Metro and Buel Group related to the concept, planning, design, development, construction and operation of a hospitality facility and other compatible enhanced use facilities (the "Facility") at Glendoveer Golf Course ("Glendoveer"), also referred to in this agreement as "the Project." Attached is the agreement already reached by Glisan Street Recreation, Inc. ("GSR") and Buel Group.

Metro seeks a reliable representative to enhance the productivity of its assets. Ronald A. Buel's and the Buel Group's history of stewardship on behalf of the public interest makes them the appropriate persons to maintain Metro's long standing reputation of acting in the public interest by providing the community the best and most productive use of its assets. Both Metro and Buel Group believe the unique public asset enhancement opportunities at Glendoveer demand the highest level of stewardship.

In developing Metro's assets, Metro expects, and Buel Group agrees to provide, continued and permanent oversight of the Glendoveer Project, including but not limited to, granting of land-use and building permits, construction and operation. Buel Group agrees to ensure the highest levels of excellence in planning, design, and implementation, in keeping with the public interest. Buel Group will ensure the developer/operator will respect state-of-the-art environmental and "green" principals and techniques.

Metro wants the Project to serve golfers, the local community living near Glendoveer, and the Portland Metropolitan region as a whole. This Project will demonstrate that Buel Group can find and bring to Metro new and creative opportunities to develop revenues for Metro, as the Metro region grows denser, and services, truly in the public interest, become increasingly challenging.

Our agreement is as follows:

1. For three years from the date of this agreement, Buel Group will be the exclusive representative of Metro with the exclusive right to find and develop with a developer/operator the concept, design, construction and operation for a Facility at Glendoveer. Buel Group will have the right to extend this agreement for additional three-year periods if it shows continuous and current activity in pursuing development of the Facility. During the term of this agreement or any extensions, Metro will direct all inquiries regarding asset enhancement projects for Glendoveer, whether similar, dissimilar, related or unrelated to the Project to Buel Group; Buel Group will report all contacts with full disclosure of all information of any nature regarding Glendoveer to Metro; and Metro will not discuss or negotiate with a potential developer/operator or the chosen developer/operator regarding Buel Group's role, duties, obligations, responsibilities, rights, compensation or benefits, including without limitations, eliminating or restricting Buel Group's participation in the Project.



2. Buel Group will prepare, in conjunction with Metro, a feasibility study and development concept ("Feasibility Study") for the Facility. Buel Group will provide up to \$20,000 to prepare the Feasibility Study. In addition, Buel Group will make its best efforts to interview many potential developer/operators and report all meetings and contacts to Metro. Buel Group will make every attempt to follow up on every responsible lead and recommendation provided by Metro. Buel Group will report to, or meet with, representatives of Metro biweekly during the term of this agreement.

3. The Facility may include hotel with meeting rooms, restaurant and food service, public athletic club, pro shop sales, condominiums and parking structure to serve both golf activities and the Facility. The ultimate proposal must be approved by Metro. The Facility may require changes to Metro's agreement with GSR, subject to approval by both GSR and Metro.

4. The Facility will not change or disturb the golf course or driving range ("golf activities") at Glendoveer, and there will be no net loss in parking for golf after construction. During construction, Metro will not suffer a loss of net revenue from Glendoveer, based on average net revenue of the immediately preceding 36-month period, calculated on a month-by-month basis for the period of construction.

5. If an ultimate proposal is approved by Metro, Metro will actively support the Facility through neighborhood meetings and the City of Portland land-use and building permit process. Buel Group will also participate actively and substantively in the approval processes.

6. Metro will lease the Facility to the developer/operator(s) subject to GSR's current contract with Metro, on a long-term basis (60 years minimum). Metro will subordinate the lease as required by the developer/operator's lender in order to assure construction and long-term financing. Terms of the lease and subordination not specified herein will be negotiated as part of any proposal for Metro approval.

7. The developer/operator will pay for any required traffic-safety improvements on NE Glisan Street relating to the Facility.

8. When the facility opens:

a. Metro will receive three percent of gross revenues of any hospitality facility constructed at the site. Compensation to Metro from other non-golf enhancement at Glendoveer must be approved by Metro in the ultimate proposal.

b. GSR will receive no revenue from any hospitality facility constructed at the site. As compensation, it will receive instead from Metro a 10-year extension of its current lease at the existing terms, made final only when the new Facility opens, extending the current lease to 2022. (See attached agreement between Buel Group and GSR.)

c. Revenue splits for Metro and GSR from any new restaurant or food service, public athletic club or pro shop sales will be determined in the ultimate proposal. That proposal must be approved by both GSR and Metro. GSR seeks only to maintain its current level of net revenue from such activities (see attached agreement).



9. Buel Group will receive compensation under a separate contract with the developer-operator, and expects to receive no direct compensation from Metro or GSR. Metro recognizes it is entering a partner-like relationship with Buel Group and that Buel Group, exclusive of payments to Metro's concessionaire, or any pre-operational payments, may earn up to 50% of the annual return or value-added equity from the Project, but no more than Metro's annual return or value-added equity from the project. Metro and Buel Group grant to each other, and without limitation, the right to inspect and audit each other's revenue, compensation, and value enhancement from the Project, either personally or through its designated agents, during regular business hours on two business days notice. Any compensation received by Buel Group directly or indirectly related to the project must be fully disclosed to Metro.

10. It is the intent of the parties to this agreement, and this agreement shall be interpreted to prohibit the potential or chosen developer/operators from seeking, politically or otherwise, to reduce compensation or benefits to or regarding any of the parties of this agreement. Each party to this agreement and its agents, owners or political associates shall report and disclose any direct or indirect contacts made to, or received from, any potential or chosen developer/operators or their agents.

11. Buel Group will not assign or transfer any of its obligations or duties under this agreement without consent of Metro.

12. Each of us will cooperate mutually and in good faith to go forward with this transaction. Please sign and return the enclosed copy of this letter to indicate your agreement. We look forward to working with you, and to a mutually satisfying and beneficial association.

Yours truly,  
BUEL GROUP

By \_\_\_\_\_  
Ronald A. Buel, Principal

By \_\_\_\_\_  
Edward F. Wagner, Principal

ACCEPTED AND AGREED:

METRO

By Resolution # \_\_\_\_\_

By \_\_\_\_\_  
Charles Ciekó

Dated \_\_\_\_\_



## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 02-3251 FOR THE PURPOSE OF  
APPROVING AN EXCLUSIVE PERSONAL SERVICES AGREEMENT WITH THE BUEL  
GROUP TO SERVE AS THE SOLE AGENT OF METRO TO DEVELOP HOSPITALITY  
AND OTHER COMPATIBLE FACILITIES AT THE GLENDOVEER GOLF COURSE

---

Date: November 20, 2002

Prepared by: John Houser

## BACKGROUND

Metro assumed ownership of Glendoveer Golf Course as part of the transfer of the Multnomah County's Parks program to Metro during FY 94-95. Glisan Street Recreation, Inc. currently operates and manages the course on Metro's behalf under the terms of Council-approved lease and operations/management agreements that will expire in 2012.

The Buel Group has approached Metro, requesting that the Council consider entering into an exclusive personal services agreement with Buel under which it would serve as Metro's sole agent to develop hospitality or other compatible facilities at the Glendoveer Golf Course. The proposed resolution would authorize the Executive Officer to execute a contract with Buel in a form substantially similar to the proposed agreement attached as Exhibit A to the resolution. The proposed agreement was drafted by Buel.

The principal elements of the proposed agreement include:

- 1) The Buel Group would be the "exclusive representative of Metro ... to find and develop with a develop/operator the concept, design, construction and operation for a Facility at Glendoveer" for a three-year period. Buel would have the right to extend the agreement for additional three-year periods if it shows "continuous and current activity in pursuing development of the Facility".
- 2) Buel will prepare a feasibility study and development concept with Metro. Buel will provide up to \$20,000 toward this work. Metro will not be required to provide any funding.
- 3) The "facility" may include a hotel with meeting rooms, restaurant and food service, public athletic, pro shop sales, condominiums and a parking structure.
- 4) The facility may not change or disturb the golf course or driving range. During the construction of the facility "Metro will not suffer a loss of net revenue from Glendoveer.
- 5) If Metro approves the "ultimate proposal", Metro agrees to support the facility at neighborhood meetings and in the local permitting process.
- 6) "Metro will lease the facility to the developer/operator ... on a long term basis (60 years minimum)".



- 7) The developer/operator will pay for any required traffic-safety improvements on NE Glisan Street.
- 8) Metro would receive three percent of gross revenues of any hospitality facility at the site. Other compensation would be subject to negotiation at the time Metro approves the "ultimate proposal".
- 9) In lieu of additional compensation, Metro would be required to extend the current GSR contract for an additional 10 years, until 2022.
- 10) Revenue splits between Metro and GSR related to any new restaurant, food service, public athletic club or pro shop sales would be determined at the time of approval of the "ultimate proposal".
- 11) Buel will receive no direct compensation from Metro or GSR.

#### **ANALYSIS/INFORMATION**

1. **Known Opposition** None
2. **Legal Antecedents** Metro Code Chapter 2.04 outlines procedures related to the adoption of exclusive personal services agreements. The Council adopted the current lease and management agreement with GSR in Resolution No.98-2669.
3. **Anticipated Effects** The proposed agreement would establish an exclusive working relationship between Metro and the Buel Group for three or more years for the development and construction of additional facilities at the Glendoveer Golf Course Site.
4. **Budget Impacts** Should the Buel Group be successful in developing an ultimate proposal that is adopted by the Metro Council, Metro would receive additional revenue from the Glendoveer site, however, estimated will depend on the type and size of the facility improvements that are made.

#### **RECOMMENDED ACTION**

That Council approve adoption of Resolution No 02-3251.



10 December 2002

Metro Council President and Metro Councilors,

I am Dennis Ganoe and I am the 2002-2003 Chair of the Metro Committee for Citizen Involvement. The purpose of my appearing today is to give the council an update on the activities and status of MCCI and to let the Council know the plans that MCCI has made for the coming year. Specific goals for MCCI are set during our annual retreat. Our 2003 goals were set during our retreat held on September 28.

MCCI is anticipating the changes that are to occur in January 2003. To that end, we proposed and the council passed a measure that makes our committee's transition from seven districts to six districts as smooth as possible while simultaneously establishing the hierarchy between the Council, MCCI and the Office of Citizen Involvement. MCCI is ready for the transition.

One of last year's goals was to increase the visibility of citizen involvement within Metro by organizing around the Office of Citizen Involvement. That goal was largely successful in that the OCI has been established as more than just a sign with a very capable staff monitoring citizen involvement efforts. Our first goal for this year is to help establish the Office of Citizen Involvement as the "standard bearer" for citizen involvement at Metro. Our committee consists of volunteers and we're not here every day; but the OCI is. MCCI wants to make the OCI a consistently visible presence advocating citizen involvement at Metro, a place where all citizen involvement can start. If a citizen doesn't know where to go to get involved with Metro, go to the OCI. We are doing that by creating a task force of MCCI members, OCI staff and other Metro personnel to write specific citizen involvement plans and procedures. Such plans and procedures are to be used to ensure Metro's projects have the best possible citizen input. That task force has been meeting for the last several weeks and has a plan for the coming year. This plan will be reviewed at the next MCCI Steering Committee and is on target for endorsement by the full MCCI later this month. You will see that plan early in January.

Our second goal will be to transition our operational cycle to coincide with Metro's budgeting cycle. MCCI recognizes that the projects that are undertaken each year are driven by the budget. In order to maintain early and effective citizen involvement in the selection of projects for Metro, it is necessary that MCCI be more in-tune with Metro's budget and a shift of our operational calendar will facilitate that goal. We will be resetting our goals to coincide with the budget cycle next spring.

Our third goal is to develop a list of "best practices for citizen involvement" so that Metro and the regional governments have a reference when judging how well citizens were involved in their processes. Ideally we would like to link this to the Portland State University's Citizen Involvement Institute that



is part of the university's Urban Studies Center. This may include the revival of the Outstanding Citizen Involvement award for local jurisdictions.

Our last prioritized goal is to see a decrease the number of unoccupied citizen seats on Metro committees and advisory groups where citizens are allowed to participate. We've reorganized our Membership subcommittee with the goal to not only to fill vacancies within MCCI, but to also nominate citizens for open seats on other committees where citizen participation is needed. This includes the citizen members in departmental Budget Advisory Committees as well as all other Metro Advisory Committees. MCCI sees this as a vital role to increase citizen input at Metro. It is MCCI's goal to fill every MCCI seat this year, especially as Metro reorganizes in the post-Executive Officer era. We will need the Council's help to accomplish this goal.

Other goals include creating better relationships between MCCI, the Metro Council as well as finding additional connections between subcommittees and departmental staff. The more we understand each other the better we will be able to plan and include citizen ideas. This year we are putting greater emphasis on using the MCCI subcommittee structure to monitor the citizen involvement efforts of Metro Departments. We have made it a policy that the subcommittees have the authority to approve for MCCI the public involvement plans that arise from time to time from the departments. PIP's are the backbone of citizen involvement during the any of the projects underway at Metro. We feel the MCCI sub-committee structure is better suited for following the details of projects than the full MCCI. This will also facilitate a close working relationship between the departments and MCCI subcommittees that will in turn increase the level of citizen involvement at Metro.

Thank you for the opportunity to represent MCCI and outline our goals for the upcoming year. If you have any questions I will be happy to answer them and I am available to meet with any of you at your convenience.

Dennis Ganoe  
Chair, MCCI



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RECEIVED

DEC 10 2002

TIME  
METRO OFFICE GENERAL COUNSEL

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## Fax Cover Sheet

To:  
Ken Helm  
Dan Cooper  
(503) 797-1792  
Susan McLain  
(503) 797-1793

CC:  
Mike Warn  
(503) 678-6883

Number of pages: 3  
Date & Time sent: 12/10/02 11:40 AM  
Message:

Dear All: please see the attached TIME SENSITIVE letter. Thank you. W

### NOTICE:

The information contained in this fax message is intended only for the personal and confidential use of the designated recipient. This message may be an attorney client privileged communication and, as such, is privileged and confidential. If the reader of this message is not the designated recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you received this document in error, and any review, dissemination, distribution, or copying of this message is strictly prohibited. If you received this message in error, please notify us immediately by telephone and return the original message to us by mail. Thank you.



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December 10, 2002

VIA FACSIMILE

Ken Helm  
Assistant Metro Legal Counsel  
600 Grand Avenue NE  
Portland, Or 97232

RE: Adoption of Metro Parks Concept Map TIME SENSITIVE

Dear Ken:

Thank you for talking with me this morning to confirm my understanding about Metro's Map entitled "Regional Greenspaces System Concept Update."

As you know I represent Mike Warn, a local farmer who owns and operates a farm *located outside of the Metro jurisdictional boundary* on which he raises bulls. His farm is next door to the recently Metro acquired Idylwild Farm/Weber Dairy *also outside of the Metro jurisdictional boundary*. This letter will confirm your statements and those of Ms. McLain at the hearing last week. *If I have misunderstood your statements or those of Ms. McLain please advise right away. Metro has apparently scheduled the final hearing on the adoption of the map at issue for today at 2:00 p.m. Please include this letter into the record for this map adoption.* I understand (but was not forwarded the agenda so do not know for certain) that the map is a part of Resolution No. 02-3253.

The Metro proposal is to add the Idylwild Farm/Weber Dairy, as well as some or all of Mr. Warn's property, to the Greenspaces Master Plan Map entitled "Regional Greenspaces System Concept Update." You and Ms McLain have advised the facts that the Idylwild Farm/Weber Dairy shows up on this map and that this map apparently (but not certainly) shows a trail running through Mr. Warn's farm and apparently shows Mr. Warn's farm, as "other natural areas and connecting corridors in the regional system" are legally meaningless.

You have both advised that neither the Idylwild Farm/Weber dairy showing up on the map as (apparently) a public park or the Warn farm showing up on the map as some sort of public property, predisposes Metro or any local or other government to convert or attempt to convert either the Idylwild Farm/Weber Dairy to a public park or to convert or attempt to convert some or all of Mr. Warn's farm to a regional trail or any sort of public use or designation including "other natural area and connecting corridors in the regional system." Furthermore, I am advised that the reference on the map to its effectiveness for "planning purposes" refers to the *potential* planning of the property Metro acquired with



Ken Helm  
December 10, 2002  
Page 2 of 2

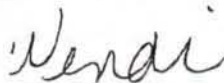
bond money, but predetermines and decides nothing. In other words, it is possible for the property shown on the map to remain as is (in farm use) and it is also possible that the Idylwild Farm/Weber Dairy will at some undetermined point in the future be considered for designation as a park or trail candidate in a subsequent Metro or local or other governmental parks planning process in which the public, including Mr. Warn will be invited to be involved. That Mr. Warn has all of the legal rights to his property that he had before Metro's map was considered or adopted and that the public has no rights to his farm. That it is Metro's position that nothing about the map or its inclusion in the Greenspaces Master Plan is a final decision on any issue.

Mr. Warn has a longstanding interest in Metro's Idylwild /Weber Dairy property being maintained as a farm. He competed with Metro to buy the Idylwild Farm/Weber Dairy as he wished to combine it with his farm operations. Metro outbid him by paying 2.9% more than the appraised price and offering the resident a life estate. He has strong concerns about any proposal to convert the Idylwild Farm/Weber Dairy to a regional park and has long expressed those concerns to Metro. He does not believe Metro has authority to establish a regional park outside of its jurisdictional boundaries.

He has always been advised by Metro that in any event, before any proposal could be considered to convert Idylwild Farm/Weber Dairy to a public park, that there would be a public process with notice and an opportunity for interested parties to be heard and to object. He has also specifically requested notice of any such proposal so that he has a timely opportunity to participate. He did not receive such notice of the proposal to add Idylwild Farm/Weber Dairy to Metro's Greenspaces Master Plan Map and only learned of the proposal through my reviewing of Metro agendas generally. This letter once again requests notice of any proposal to consider Idylwild Farm/Weber Dairy for a park instead of a farm. It goes without saying that Metro would have to contact Mr. Warn and go through certain legal steps, if it wanted to use his property for *any* public purpose. This letter is also to reinforce his expectations in this regard.

Thank you. I look forward to hearing from you if I have misunderstood Metro's intentions. It is important that this letter be included in the record for the Resolution and Map, however, to create an institutional memory on the very limited and the very nonbinding role of the resolution and map.

Very truly yours,



Wendie L. Kellington

WLK:wlk

CC: Mike Warn VIA FACSIMILE  
Dan Cooper, Metro General Legal Counsel VIA FACSIMILE  
Susan McLain, Metro Councilor VIA FACSIMILE



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December 10, 2002

Via Hand Delivery  
And Via Facsimile  
Metro Council  
Metro  
600 NE Grand Avenue  
Portland, Or 97232-2736

RE: Regional Greenspaces System Concept Update Map

Dear Council Members:

This firm represents Mike Warn, a local farmer who owns and operates a farm *located outside of the Metro jurisdictional boundary* on which he raises bulls. His farm is next door to the recently Metro acquired Idylwild Farm/Weber Dairy, which is *also located outside of the Metro jurisdictional boundary*. Please include this letter and attachment in the record of the above referenced matter.

The Metro proposal is to add the Idylwild Farm/Weber Dairy, as well as apparently some or all of Mr. Warn's property, to the Greenspaces Master Plan Map entitled "Regional Greenspaces System Concept Update." We echo comments by a number of local governments that is unclear what purpose is to be served with the adoption of this resolution and map or what legal effect this resolution and map has.

We strongly object to the proposed resolution and map unless they lack any legal effect, other than to add the map to the Greenspaces Master Plan, as we have been advised. In this regard, we are relying on the advice from both Metro staff, legal counsel and the Council's Natural Resources Committee that *this resolution and map have no legal effect and do not convert any farm, whether it is Mr. Warn's or Metro's, to a public park or public trail use.*

Mr. Warn cares about this issue. He has a longstanding interest in Metro's Idylwild /Weber Dairy property being maintained as a farm. He competed with Metro to buy the Idylwild Farm/Weber Dairy as he wished to combine it with his farm operations. Metro outbid him by paying 2.9% more than the appraised price and offering the resident a life estate. He has strong concerns about any proposal to convert the Idylwild Farm/Weber Dairy to a regional park and has long expressed those concerns to Metro. He does not believe Metro has authority to establish a regional park outside of its jurisdictional boundaries. He hopes the council will respect his right to farm.

After all, his farm is located not only outside of the UGB, but also outside of Metro's jurisdictional boundaries. Therefore, his expectation that he will be able to farm free of urban conflicts has long been a reasonable one in Oregon.



Our specific understanding that the proposed map and resolution has no legal effect, follows:

We have been advised by the Natural Resources Committee and by legal counsel advising that committee, that the facts that the Idylwild Farm/Weber Dairy shows up on this map and that this map apparently (but not certainly) shows a trail running through Mr. Warn's farm and apparently shows Mr. Warn's farm, as "other natural areas and connecting corridors in the regional system" is legally meaningless. We are told that the lines on the map are not to scale and over large.

We understand that neither the Idylwild Farm/Weber Dairy showing up on the map as (apparently) a public park or the Warn farm showing up on the map as (apparently) some sort of public property, predisposes Metro or any local or other government to convert or attempt to convert either the Idylwild Farm/Weber Dairy to a public park or to convert or attempt to convert some or all of Mr. Warn's farm to a regional trail or to any sort of public use or to apply any designation to his property, including "other natural area and connecting corridors in the regional system."

Furthermore, I have been advised that the reference on the map to its effectiveness for "planning purposes" refers to the *potential* planning of the property Metro acquired with bond money, but predetermines and decides nothing. In other words, it is possible for the property shown on the map to remain as is (in farm use) and it is also possible that the Idylwild Farm/Weber Dairy will at some undetermined point in the future be considered for designation as a park or trail candidate in a subsequent Metro or local or other governmental parks planning process in which the public, including Mr. Warn will be invited to be involved. I understand that Mr. Warn has all of the legal rights to his property that he had before Metro's map was considered or adopted and that the public has no rights to his farm. I understand that it is Metro's position that nothing about the resolution or the map or the map's inclusion in the Greenspaces Master Plan, is a final decision on any issue, other than the map is being included in the Greenspaces Master Plan.

It is important that we be told if we are wrong about the legal effect of today's decision. Thank you for your consideration and clarification.

Very truly yours,



Wendie L. Kellington

WLK:wlk  
Enclosures

CC: Mike Warn (w/out enclosures)



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December 10, 2002

VIA FACSIMILE

Ken Helm  
Assistant Metro Legal Counsel  
600 Grand Avenue NE  
Portland, Or 97232

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Dear Ken:

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As you know I represent Mike Warn, a local farmer who owns and operates a farm *located outside of the Metro jurisdictional boundary* on which he raises bulls. His farm is next door to the recently Metro acquired Idylwild Farm/Weber Dairy *also outside of the Metro jurisdictional boundary*. This letter will confirm your statements and those of Ms. McLain at the hearing last week. *If I have misunderstood your statements or those of Ms. McLain please advise right away. Metro has apparently scheduled the final hearing on the adoption of the map at issue for today at 2:00 p.m. Please include this letter into the record for this map adoption.* I understand (but was not forwarded the agenda so do not know for certain) that the map is a part of Resolution No. 02-3253.

The Metro proposal is to add the Idylwild Farm/Weber Dairy, as well as some or all of Mr. Warn's property, to the Greenspaces Master Plan Map entitled "Regional Greenspaces System Concept Update." You and Ms McLain have advised the facts that the Idylwild Farm/Weber Dairy shows up on this map and that this map apparently (but not certainly) shows a trail running through Mr. Warn's farm and apparently shows Mr. Warn's farm, as "other natural areas and connecting corridors in the regional system" are legally meaningless.

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bond money, but predetermines and decides nothing. In other words, it is possible for the property shown on the map to remain as is (in farm use) and it is also possible that the Idylwild Farm/Weber Dairy will at some undetermined point in the future be considered for designation as a park or trail candidate in a subsequent Metro or local or other governmental parks planning process in which the public, including Mr. Warn will be invited to be involved. That Mr. Warn has all of the legal rights to his property that he had before Metro's map was considered or adopted and that the public has no rights to his farm. That it is Metro's position that nothing about the map or its inclusion in the Greenspaces Master Plan is a final decision on any issue.

Mr. Warn has a longstanding interest in Metro's Idylwild /Weber Dairy property being maintained as a farm. He competed with Metro to buy the Idylwild Farm/Weber Dairy as he wished to combine it with his farm operations. Metro outbid him by paying 2.9% more than the appraised price and offering the resident a life estate. He has strong concerns about any proposal to convert the Idylwild Farm/Weber Dairy to a regional park and has long expressed those concerns to Metro. He does not believe Metro has authority to establish a regional park outside of its jurisdictional boundaries.

He has always been advised by Metro that in any event, before any proposal could be considered to convert Idylwild Farm/Weber Dairy to a public park, that there would be a public process with notice and an opportunity for interested parties to be heard and to object. He has also specifically requested notice of any such proposal so that he has a timely opportunity to participate. He did not receive such notice of the proposal to add Idylwild Farm/Weber Dairy to Metro's Greenspaces Master Plan Map and only learned of the proposal through my reviewing of Metro agendas generally. This letter once again requests notice of any proposal to consider Idylwild Farm/Weber Dairy for a park instead of a farm. It goes without saying that Metro would have to contact Mr. Warn and go through certain legal steps, if it wanted to use his property for *any* public purpose. This letter is also to reinforce his expectations in this regard.

Thank you. I look forward to hearing from you if I have misunderstood Metro's intentions. It is important that this letter be included in the record for the Resolution and Map, however, to create an institutional memory on the very limited and the very nonbinding role of the resolution and map.

Very truly yours,



Wendie L. Kellington

WLK:wlk

CC: Mike Warn VIA FACSIMILE  
Dan Cooper, Metro General Legal Counsel VIA FACSIMILE  
Susan McLain, Metro Councilor VIA FACSIMILE



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December 4, 2002

Metro Council  
Natural resources Committee  
Metro  
600 NE Grand Avenue  
Portland, Or 97232-2736

**COPY**

RE: Updated Regional greenspaces System Concept Map

Dear Members Committee:

This firm represents Mike Warn who has a farm next to the Weber Dairy/Idylwild Farm. Please include this letter and attachment in the record of the above referenced matter.

We have long wanted to lease the Weber Dairy to farm it. Metro has repeatedly put our requests in this regard off. We are now especially concerned about the proposed map adoption. The proposed map shows Metro consuming a portion of the Warn Farm and converting the Weber Dairy into a public regional park.

We understand this map proposed for adoption is not regulatory and has no regulatory effect and that such designations are essentially meaningless. Then, we wonder, why create expectations in the public, new staff members who may join Metro in the future, and future councils, that the Warn Farm and the Weber Dairy may be converted to regional urban public park uses? Before anything of the sort could happen we have been advised numerous times by Metro and in a letter attached to this from Mike Burton that there would be a lengthy public process in which we could participate and voice our concerns. All public processes to date have not resulted in the designations of the Weber Dairy or the Warn farm shown on the proposed map. We request that the designations of both be removed from the map or a very clear statement of the non regulatory and nonbonding effect of this map be made clear in this record and on any map finally adopted.

For some history, we repeatedly have asked for notice of Metro actions affecting the subject properties. We never get such notice, save for the efforts of Walt Hitchcock, which I appreciate who, as a part of the Green Ribbon committee forwarded notices to me of those processes and I did participate in them and the outcome was that the Weber Dairy and Warn Farm status quo remained in tact. In fact, but for my paying attention to



general Metro agendas, I would never have been notified of the proposed action. This is to reiterate the request for notice of any actions affecting the Warn Farm or the Weber Dairy.

Also, as some of you are aware, Mr. Warn bid against Metro in an effort to add the Weber Dairy/Idylwild Farm to the Warn Farm operations. Metro paid 2.9% more for the land than Metro's appraiser determined it was worth and offered the owner a life estate, outbidding the farmer I represent. Since that time, Mr. Warn has offered to lease the Weber Dairy/Idylwild Farm from Metro for farm uses and Metro has declined.

We understand that Metro acquired the Weber Dairy/Idylwild Farm with Metro Greenspaces bond money. We have written to Metro many times explaining that we do not understand how lawfully Metro could ultimately urbanize this property by placing a regional park outside the UGB and outside of the Metro jurisdictional boundary. The subject map appears to show the Dairy to be within the jurisdictional boundary, but that is not consistent with other information we have been provided in the past. We have never been notified of a jurisdictional boundary amendment to include the Weber Dairy and would be interested if Metro has taken such an action.

In any event, Mr. Warn has been clear that he objects to any plans to convert the Weber Dairy/Idylwild Farm into a regional park. He has articulated his concern that he maintains large bulls that are incompatible with urban hikers and picnicking families. He also runs calving operations that are sensitive to noise from urban party goers, hikers and other urban activity. He engages in accepting farming practices that are incompatible with a regional urban park use. Metro stated that before such a conversion of the Weber Dairy/Idylwild Farm to urban Metro regional park use, that a process would occur in which Mr. Warn could object. We understand that process was the Green Ribbon Committee.

Mr. Warn participated in the Green Ribbon Committee proceedings, explaining his concerns. Fortunately, the committee was gracious and allowed Mr. Warn to express his concerns, understood Mr. Warn's concerns and made a recommendation for urban regional parks that *did not* include Weber Dairy/Idylwild Farm. We wish to underscore our appreciation of the Green Ribbon Committee's decision not to include Weber Dairy/Idylwild Farm on the list of Metro owned land to convert to regional parks.

This letter is to urge you to adhere to the Metro Green Ribbon Committee's recommendation in this regard and not convert the Weber Dairy/Idylwild Farm into a



Metro Council Committee  
December 4, 2002  
Page 3 of 3

regional park. Thank you.

Very truly yours,

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

Wendie L. Kellington

WLK:wlk  
Enclosures  
CC: Mike Warn



**WENDIE L. KELLINGTON**  
**ATTORNEY AT LAW P.C.**

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March 19, 2002

VIA FACSIMILE  
& Via US MAIL  
Walt Hitchcock  
Chair Green Ribbon Committee  
Metro Natural Resources  
and Solid Waste Committee  
Metro Council  
Metro Regional Center  
600 NE Grand Ave.  
Portland Or 97232

RE: Walt's Letter Dated March 15, 2002

Ladies and Gentlemen :

As you are aware, this firm represents Mike Warn, who actively farms property next to Metro's recently acquired Weber Dairy/Idylwild Farm. Mr. Warn runs cattle breeding and other operations on his farm. On behalf of Mr. Warn, I have been participating in Metro processes regarding Metro's acquisition and potential use of the Weber Dairy/Idylwild Farm.

In sum, Mr. Warn wished to purchase and offered to purchase the Weber Dairy/Idylwild Farm to add it to his farm operations and Metro also offered to purchase the Weber Dairy/Idylwild Farm -- paying more than the appraised value of the subject property and enticing the property owner with a life estate, in order to acquire it. Metro outbid Mr. Warn with its offers. At that time and subsequently, Mr. Warn has been clear with Metro his concern that urban park use of the Weber Dairy/Idylwild Farm is inappropriate and harmful to the continued viability of his farming operations, in part because he maintains large bulls and breeding stock on his property, which are likely to become agitated with urban park visitors and recreationalists. The situation would be unsafe, cause conflicts between urban users and recreationalists and his farming operations.

Attached is Walt's letter explaining subsequent processes and events regarding the Metro properties to be planned and developed. I appreciate Walt's diligence in keeping me informed. I also attach a portion of the letters I have previously forwarded to Metro regarding this topic, for your review.



Metro  
March 19, 2002  
Page 2 of 2

I followed up on the attached letter from Walt by calling both Kim Bardes and Jeff Stone to understand more fully what supplemental recommendation was being forwarded from the Green Ribbon Committee to Metro. I am advised by both Kim and Jeff that the only recommendation that is being forwarded to Metro is a recommendation to fully fund the master planning and development of the Metro properties included in the Green Ribbon Committee's *initial* recommendation. I am advised, and the documents I have been provided indicate, that the Weber Dairy/Idylwild Farm was not and is not included in that initial recommendation and is not included in the current or proposed recommended suite of properties for additional funding or development, as explained in the attached letter from Walt dated March 15, 2002. Therefore, I do not understand that there are any further recommendations to fund master or other planning for the Weber Dairy/Idylwild Farm or for the development of that property for park or recreational or other Metro purposes. I understand that, at present, and until some action from the Metro Council to the contrary, the Weber Dairy/Idylwild Farm is not open to the public for recreational or park use. If I am mistaken in any respect, please let me know right away.

As requested previously, I request notice of and an opportunity to participate in, any Metro meetings, hearings, proceedings and decisions at which the planning or other conversion of the Weber Dairy/Idylwild Farm to public park, public recreational or other public purposes is being considered or determined. Thank you again for your courtesies.

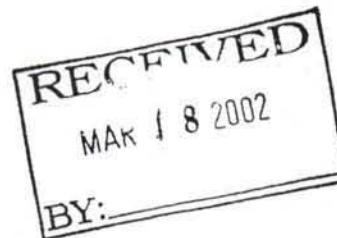
Very truly yours,



Wendie L. Kellington

WLK:wlk  
Enclosures  
CC: Mike Warn (w/o enclosures)





March 15, 2002

Wendie Kellington  
Attorney At Law  
PO Box 1930  
Lake Oswego OR 97035

Dear Ms. Kellington:

On March 12, 2002 the Green Ribbon Committee reconvened to discuss funding for the key activities specified in our report submitted to the Metro Council on December 6, 2001.

At the suggestion of the Metro Council Presiding Officer, Carl Hosticka, we convened and recommended that additional land-banking (\$120,000), capital development, master planning and land use approval processes (\$350,000), and restoration and small capital improvements (\$250,000) be added to the policy and financial consideration that is before the Metro Council.

This proposed change will require an additional \$720,000 per year in funding, which is the equivalent of an additional \$.61/ton for two years with a sunset at the end of the second year. This excise tax increase would be in addition to the \$1.00/ton increase proposed by Metro Executive Officer Mike Burton. However, if the recommended programs could be funded in some other way, such funding would satisfy the recommendation.

The Green Ribbon Committee has also recommended that the Council take up the task of identifying a long-term funding source for the remainder of the Green Ribbon Committee recommendations. It is our desire that this effort be accomplished within 2 years. The Green Ribbon Committee unanimously approved the recommendation to the Metro Council. It is our hope that this modest proposal will begin the process to allow public use of our fine natural areas.

This recommendation will go before the joint Natural Resources and Solid Waste committees on Wednesday, March 20<sup>th</sup> at 2 p.m. and then before the Council on Thursday, March 21<sup>st</sup> at 2 p.m. As always, we welcome comments for the record. Please contact Kim Bardes at (503) 797-1537 if you have any questions, or you can email her at [bardes@metro.dst.or.us](mailto:bardes@metro.dst.or.us).

Sincerely,

A handwritten signature in cursive script that reads "Walt Hitchcock".

Walt Hitchcock *KB*  
Green Ribbon Committee Chair



**SCHWABE  
WILLIAMSON  
& WYATT**  
P.C.  
ATTORNEYS AT LAW

PACWEST CENTER, SUITES 1600-1800

1211 SOUTHWEST FIFTH AVENUE • PORTLAND, OREGON 97204-3795

TELEPHONE: 503 222-9981 • FAX: 503 796-2900 • TELEX: 650-686-1360

WENDIE L. KELLINGTON  
Direct Line: (503) 796-2487

**COPY**

February 4, 1999

Mr. Daniel B. Cooper  
Metro Office of Legal Counsel  
600 NE Grand Avenue  
Portland, OR 97232

Dear Dan:

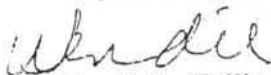
Thank you for your assistance in exploring the potential for leasing a portion of Idlywild Farm recently acquired by Metro. As you know, this firm represents Mike Warn who lives next to Idlywild Farm. Mike was disappointed that the Idlywild owner chose to sell the farm to Metro instead of to him. Mike would like to have farmed the property as part of the farm operation on his property — raising award winning cattle — among other things.

In any case, Mike would like to lease a portion of Idlywild Farm from Metro for farming. Specifically, he would like to lease the portion formerly managed for corn production in order to graze some of his livestock. He has mentioned to me that he believes a reasonable number of his cattle on this portion of Idlywild Farm would be an environmental improvement as the existing corn field is quite muddy and erosive.

I understand you have generally discussed with Greenspaces staff the possibility of leasing a portion of Idlywild Farm to Mike. I also understand that Metro is not yet in a position to discuss such a lease because the final details of the Metro acquisition are not yet resolved, but that you anticipate resolving this in another month. Accordingly, I will call you toward the end of February to determine whether it is appropriate for a more serious discussion about such lease potential. However, if you would like to discuss the matter with me before then, please feel free to give me a call.

Finally, because Idlywild Farm is composed of high value soils, we do not, of course, expect the farm will be converted to park or other nonfarm purposes. However, if nonfarm uses are proposed by Metro for Idlywild Farm, we ask that Metro furnish notice of all such land use applications filed at Metro or at other governmental bodies; hearings regarding such conversion; as well as any decision concerning the same, to me at the address listed above. Thank you for your courtesies.

Very truly yours,



Wendie L. Kellington

cc: Mr. Mike Warn

PORTLAND OREGON	SEATTLE WASHINGTON	VANCOUVER WASHINGTON	WASHINGTON DISTRICT OF COLUMBIA
503 222-9981	206 622-1711	360 694-7551	202 785-5960

(17/103751/110572/WLK/227331.1)

**FILE**



**SCHWABE  
WILLIAMSON  
& WYATT**  
P.C.  
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1211 SOUTHWEST FIFTH AVENUE • PORTLAND, OREGON 97204-3795

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**COPY**

WENDIE L. KELLINGTON

Direct Line: (503) 796-2487

E-Mail: [wkellington@schwabe.com](mailto:wkellington@schwabe.com)

January 24, 2000

Presiding Officer David Bragdon  
600 NE Grand Avenue  
Portland, OR 97232-2736

Rod Park  
Metro Councilor  
600 N.E. Grand Ave.  
Portland, OR 97232-2736

Executive Officer Mike Burton  
600 NE Grand Avenue  
Portland, OR 97232-2736

Dear Presiding Officer Bragdon, Councilor Park and Mr. Burton:

We received the attached notice last week regarding potential regulatory regimes for, among other things, Metro parks and open spaces. As you may recall, this firm represents Mike Warn who owns a cattle farm near Idylwild Farm. As you know, Metro recently acquired Idylwild with park bond money. As you probably also remember, we vigorously objected when Metro bid against our client who wished to buy the Idylwild Farm to add it to his farm holdings, and when Metro's bid was to pay more than the asking or appraised price for Idylwild to acquire it over our client's offer.

At the time, we made it clear it was our expectation that Idylwild not be put to uses other than farm uses and we also asked for notice of (1) any proposal to rezone or redesignate Idylwild for anything other than farming uses or (2) any other effort to otherwise seek permission to use it for purposes other than farming. We further requested permission to lease a portion of Idylwild from Metro to use in our client's grazing operation. We have heard nothing since then except the attached notice.

Regarding the attached notice, we have the following comments.

First, any proposed rules for land acquired by Metro with park funds should be clear that such land may only be used consistently with the underlying zoning applicable to such land. Specifically, that land acquired by Metro that is zoned for farm use be used for farm use. Farm use does not include park use.

PORTLAND  
OREGON  
503 222-9981

BEND  
OREGON  
541 330-0904

SEATTLE  
WASHINGTON  
206 622-1711

VANCOUVER  
WASHINGTON  
360 694-7551

WASHINGTON  
DISTRICT OF COLUMBIA  
202 661-7060



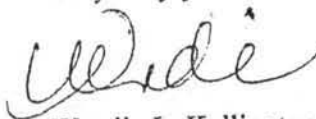
Presiding Officer David Bragdon  
Metro Councilor Rod Park  
Executive Officer Mike Burton  
January 24, 2000  
Page 2

Second, that the regulatory regimes applied to Metro park and open space land not adversely impact, either directly or indirectly, farming practices on adjacent farm land. Specifically, that restrictions not be imposed that adversely impact the ability of a farm to continue to lawfully farm, including grazing livestock, butchering, spraying chemicals and other farm related activities.

Third, that simply because Metro can outbid a farmer for farmland should not cause Metro to turn such newly acquired farmland into a regional park. This would have adverse consequences to farming activity and be strongly opposed by our client.

We would be pleased to discuss this further with any of you should you so desire. Please feel free to call at your convenience.

Very truly yours,



Wendie L. Kellington

WLK:kdo

Enclosure

cc: Mike Warn  
Dan Cooper, Esq.



WENDIE L. KELLINGTON  
ATTORNEY AT LAW

P.O. Box 1930  
LAKE OSWEGO  
OR, 97035  
Email: [w.kellington@verizon.net](mailto:w.kellington@verizon.net)

COPY

PHONE (503) 624-7790  
MOBILE (503) 804-0535  
FACSIMILE (503) 620-5562

July 9, 2001

Daniel Cooper  
600 NE Grand Avenue  
Portland, Or 97232

Re: Idylwild Farm

Dear Dan:

Thank you for your assistance in providing me with an update on the status of any Metro parks or trails planning efforts potentially affecting Metro's recently acquired Idylwild Farm. In this regard, this letter confirms our conversations over the past few weeks. As you know, I represent Mike Warn who owns the adjacent farm to Idylwild Farm. As we have discussed, Mike is very concerned about any public nonfarm use, specifically public recreational use, of Idylwild Farm because of the potential for such public recreational use to disrupt or interfere with the accepted farming practices occurring on his farm.

I understand from our conversations that Metro has no plans to develop Idylwild Farm as a Metro park, trail or other sort of recreational area. I understand that Metro is beginning a planning process about whether it needs money to acquire more parks or money simply to develop land Metro already owns. Further, once Metro determines its policy direction, and if that direction includes raising money to develop land Metro already owns, it is at that point that Metro may consider what it plans to do with Idylwild Farm. I also understand that if Metro decides to consider developing Idylwild farm for a nonfarm use, including a public recreational use, that you will notify me to enable Mike to participate in such a process.

If I have misunderstood our conversations, please let me know. Thank you for your courtesies.

Very truly yours,

  
Wendie L. Kellington

WLK:wlk

cc: Mike Warn



COPY

WENDIE L. KELLINGTON  
ATTORNEY AT LAW

P.O. Box 1930  
LAKE OSWEGO  
OR, 97035  
Email: [w.kellington@verizon.net](mailto:w.kellington@verizon.net)

PHONE (503) 624-7790  
MOBILE (503) 804-0535  
FACSIMILE (503) 620-5562

June 14, 2001

VIA U.S. Mail

Daniel Cooper  
600 NE Grand Avenue  
Portland, Or 97232

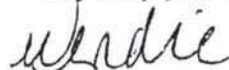
Re: Idylwild Farm

Dear Dan:

As you probably remember, I represent Mike Warn, who owns a cattle operation next to the recently Metro acquired Idylwild Farm/Webber Dairy. I have previously requested Metro provide me with any notices of proposed actions or decisions it considers taking regarding the development, planning, zoning or public recreational use, passive or active, affecting Idylwild Farm/Webber Dairy. The reason for the request is to enable Mr. Warn to be apprised of, and have the opportunity to participate in, the making of decisions or actions regarding Metro's Idylwild Farm/Webber Dairy. He has been concerned that Metro might consider taking actions that could affect his property and farming operations, which operations are located next door to Metro's Idylwild Farm/Webber Dairy.

This is to reiterate that I would like to receive notice of any such proposed decisions or actions at the address information on this letterhead. Also, I wanted to let you know that I will be away from my office on vacation from June 15, 2001 through June 25, 2001. I am unaware of any actions that affect or involve Idylwild Farm/Webber Dairy during that period. Nevertheless, in an abundance of caution, this is to request that to the extent any such actions or decisions are contemplated or arise, that they be continued until such time as I return, and that I be given notice of them, so that Mr. Warn has an opportunity to know of such matters and to participate to protect his property and farming operations. My guess is the Metro Council would like to avoid taking actions that could have the inadvertent consequence of harming an existing and important farming enterprise. Accordingly, such requested notice and opportunity for participation likely facilitates the Council as well. Thank you for your courtesies.

Very truly yours,



Wendie L. Kellington

WLK:wlk  
Cc: Mike Warn



COPY

WENDIE L. KELLINGTON  
ATTORNEY AT LAW

PO Box 1930  
LAKE OSWEGO, OR  
97035

PHONE (503) 624-7790  
MOBILE (503) 804-0535  
FACSIMILE (503) 620-5562  
EMAIL: [W.KELLINGTON@VERIZON.NET](mailto:W.KELLINGTON@VERIZON.NET)

September 3, 2001

Via Facsimile and US Mail  
(503) 797-1849

Walt Hitchcock  
Chair Metro Green Ribbon Committee  
C/O Heather Nelson - Kent  
Metro Parks and Greenspaces Program  
600 NE Grand Ave  
Portland, Or 97232-2736

RE: Metro Potential Parks Improvement Ranking

Dear Mr. Hitchcock:

That you for considering this letter. I represent a farmer who is very concerned about urban park planning that could interfere with his farm operation in which he has substantial, long term investment in animals, land, equipment, fencing and other farm implements. Specifically, Mike Warn, whom I represent, farms land next to one of the areas under consideration by your committee. Mike raises prize cattle on his farm located next door to Idylwild Farm. Idylwild Farm was recently acquired by Metro. Mike tried to buy Idylwild Farm when it came up for sale, but lost out to Metro in the purchase process. Metro ended up paying 2.9% over the appraised value to acquire Idylwild. Mike had hoped to add Idylwild to his farm operation and, having failed in his effort to do so, is now worried about Metro's plans for Idylwild. Idylwild Farm and Mike's farm are both zoned EFU and are located outside of the Metro jurisdictional boundary and the UGB.

Mike is very concerned about any proposal to develop Idylwild Farm as a regional urban park. Urban automobile noise and exhaust as well as noisy urbanites recreating proximate to Mike's delicate breeding and calving operations, are likely to disrupt breeding and calving. Moreover, Mike's bulls are large and strong, and not well known for docility. Placing trails for urban recreators next to calving, breeding and bullpens, is a formula for farm disruption and safety conflicts for children and other walkers, as well as to Mike's animals.

We have had a beneficial meeting with Heather Nelson-Kent who was very helpful and patient in explaining the process to us. We hope for a positive relationship with Metro and that Metro will be sensitive to Mike's farming operation. We would like



Walt Hitchcock  
September 3, 2001  
Page 2 of 2

for Metro to be cognizant of Mike's farm's unique needs for a relatively quiet, rural, EFU zoning district as its setting, because of the fragility of the animals and the kind of farming practices that he performs. Thank you for your consideration.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'Wendie L. Kellington'.

Wendie L. Kellington

WLK:wlk

cc: Mike Warn  
Mike Morrissey (via fax 503 797-1793)



WENDIE L. KELLINGTON  
ATTORNEY AT LAW P.C.

PO Box 1930  
LAKE OSWEGO, OR  
97035

PHONE (503) 624-7790  
MOBILE (503) 804-0535  
FACSIMILE (503) 620-5562  
EMAIL: [W.KELLINGTON@VERIZON.NET](mailto:W.KELLINGTON@VERIZON.NET)

November 13, 2001

Metro Council  
Metro Presiding Officer  
Metro  
600 NE Grand Avenue  
Portland, Or 97232-2736

RE: Green Ribbon Committee Recommendation / Regional Parks Planning

Dear Members of the Council and Presiding Officer:

As many of you know, I represent Mike Warn who has a farm next to the Weber Dairy/Idylwild Farm. The Weber Dairy/Idylwild Farm is located outside the Metro UGB and outside the Metro jurisdictional boundary, within Clackamas County.

As some of you are aware, Mr. Warn bid against Metro in an effort to add the Weber Dairy/Idylwild Farm to the Warn Farm operations. Metro paid 2.9% more for the land than Metro's appraiser determined it was worth and offered the owner a life estate, outbidding the farmer I represent. Since that time, Mr. Warn has offered to lease the Weber Dairy/Idylwild Farm from Metro for farm uses and Metro has declined.

We understand that Metro acquired the Weber Dairy/Idylwild Farm with Metro Greenspaces bond money. We have written to Metro many times explaining that we do not understand how lawfully Metro could ultimately urbanize this property by placing a regional park outside the UGB and outside of the Metro jurisdictional boundary. Under Goal 14 it seems clear that such a use would be an unlawful urban use in such a location. Moreover, it is disturbing that Metro would outbid a farmer for farm land located outside of even the Metro jurisdictional boundary.

In any event, Mr. Warn has been clear that he objects to any plans to convert the Weber Dairy/Idylwild Farm into a regional park. He has articulated his concern that he maintains large bulls that are incompatible with urban hikers and picnicking families. He also runs calving operations that are sensitive to noise from urban party goers, hikers and other urban activity. He engages in accepting farming practices that are incompatible with a regional urban park use. Metro stated that before such a conversion of the Weber Dairy/Idylwild Farm to urban Metro regional park use, that a process would occur in which Mr. Warn could object. We understand that process was the Green Ribbon Committee.



Metro Council  
Metro Presiding Officer  
November 13, 2001  
Page 2 of 2

Mr. Warn participated in the Green Ribbon Committee proceedings, explaining his concerns. Fortunately, the committee was gracious and allowed Mr. Warn to express his concerns, understood Mr. Warn's concerns and made a recommendation for urban regional parks that *did not* include Weber Dairy /Idylwild Farm. We wish to underscore our appreciation of the Green Ribbon Committee's decision not to include Weber Dairy/Idylwild Farm on the list of Metro owned land to convert to regional parks.

This letter is to urge you to adhere to the Metro Green Ribbon Committee's recommendation in this regard and not convert the Weber Dairy/Idylwild Farm into a regional park. Please add this letter to the record regarding the Metro decision regarding regional parks, which decision we understand will be finally made sometime in February 2002. If a recommendation surfaces to add the Weber Dairy/Idylwild Farm to the Metro lands to convert to a regional park, please let me know in time to participate in meetings and hearings in which such a new recommendation is made. At this point, because Weber Dairy/Idylwild Farm is not on Metro notices of the listed properties for regional parks consideration, Mr. Warn does not plan to waste Metro or his resources participating further unless the listed lands under consideration changes.

Therefore, please let me know if the listed areas under consideration changes. Finally, as always, we request that Metro send notices regarding Metro meetings, committees and hearings on regional parks to me at the address listed in this letterhead. Finally, please also send the final written decision regarding the Green Ribbon Committee's recommendation and Metro regional parks to me as well. Thank you.

Very truly yours,



Wendie L. Kellington

WLK:wlk

CC: Mike Warn  
Clackamas County Board of Commissioners



COPY

## BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE  
EXECUTIVE OFFICER TO PURCHASE  
PROPERTY IN THE WILLAMETTE NARROWS  
SECTION OF THE WILLAMETTE RIVER  
GREENWAY TARGET AREA

RESOLUTION NO. 99-2796

Introduced by Mike Burton  
Executive Officer

WHEREAS, in July 1992, Metro completed the Metropolitan Greenspaces Master Plan which identified a desired system of natural areas interconnected with greenways and trails; and

WHEREAS, at the election held on May 16, 1995, the Metro area voters approved the Open Spaces, Parks and Streams Bond Measure (Ballot Measure 26-26) which authorized Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and capital improvements; and

WHEREAS, on April 11, 1996, via resolution 96-2307, the Metro Council adopted a refinement plan for the Willamette Narrows Section of the Willamette River Greenway target area, which included a confidential tax-lot specific map identifying priority properties for acquisition; and

WHEREAS, the Willamette Narrows target area refinement plan identified property owned by the Webers as a Tier I acquisition; and

WHEREAS, the Webers own approximately 194 acres and has offered to sell the Property to Metro at a price that is 2.9% above Metro's appraised value; and

WHEREAS, pursuant to the Open Spaces Implementation Work Plan, paying above Metro's appraised value is an "unusual circumstance;" and

WHEREAS, as a condition of the sale, Mrs. Weber requested to retain a life estate in her home and the surrounding one-acre on the Property; and

WHEREAS, pursuant to the Open Spaces Implementation Work Plan, Mrs. Weber's request is an "unusual circumstance;" and

WHEREAS, as a condition of the sale, Paul Weber, the owner and operator of the existing farming operation requested up to 18 months to relocate the operation to Ohio; and

WHEREAS, pursuant to the Open Spaces Implementation Work Plan, Mr. Weber's request is an "unusual circumstance;" and

WHEREAS, the Open Spaces Implementation Work Plan requires the Metro Council's specific approval for acquisitions which involve an "unusual circumstance;" now therefore,



1. <http://metra.flparkingdepotparkinglongtermloper.aspx?osvojsantkasshufnwetres.coo>



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Staff Report

CONSIDERATION OF RESOLUTION NO. 99-2796 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO PURCHASE PROPERTY IN THE WILLAMETTE NARROWS SECTION OF THE WILLAMETTE RIVER GREENWAY TARGET AREA

Date: May 19, 1999

Presented by:

Charles Clecko  
Jim Desmond

PROPOSED ACTION

Resolution No. 99-2796 requests authorization for the Executive Officer to purchase property in the Willamette Narrows Section of the Willamette River Greenway Target Area.

BACKGROUND AND ANALYSIS

Metro has entered into a purchase and sale agreement with the Weber family for 194 acres located just west of the Canby Ferry in Clackamas County on the Willamette River, adjacent to two parcels owned by Oregon State Parks, and across the river from Molalla State Park ("the Property"). The Property is in Tier I of the adopted Willamette Narrows Section of the Willamette River Greenway Target Area Refinement Plan. The Property, known as Idylwild Farm, is a dairy farm that has been owned and operated by the Webers for over forty years, and has been managed to preserve the property's habitat value.

"The site's overall habitat value is high based upon the presence of four distinct habitat types; vegetative species and structural diversity with high level of canopy closure and recruitment of dominant species; well-developed tree, shrub, and herbaceous vegetative layers which are predominantly native... and the presence of perennial water.... The site itself supports an intact riparian corridor throughout much of its western half." Biological Site Evaluation Report, submitted by independent biologist Maurita Smyth, August 18, 1998.

The Weber property has the potential to serve as a stand-alone regional park, providing passive natural-area recreational use with direct, low bank access to the Willamette River.

There are three unusual circumstances regarding the transaction for which Council approval is sought. First, the contracted purchase price is above Metro's appraised value. Second, Mrs. Weber would like to retain a life estate in her home and a one-acre surrounding area. Third, the Webers would like a period of up to 18 months after closing in which to relocate the farm operations. Each circumstance is further discussed below.

Appraised Value. The Webers had their property listed for sale and were presented with competing offers. Metro had an appraisal performed on the Property and presented the Webers with an offer for the full appraised value including the timber value. A competing offer was presented the same day which was about 7.5% higher than Metro's offer. After further negotiations, the Webers agreed to sell the Property to Metro for an amount that is 2.9% above Metro's appraised value.

Resolution 99-2796  
Staff report, page 1



Life Estate. Mrs. Weber, who is 79 years old, would like to retain a life estate in her home on the Property, plus the surrounding one-acre. The value of this interest in the property is relatively low (approximately 2-3% of the purchase price). In exchange for granting Mrs. Weber a life estate, Metro would receive the benefit of a having constant presence on the property by one whom is intimately familiar with the property. At 4,400 acres, and growing, it is an ongoing challenge for the Parks and Greenspaces Department staff to find creative solutions to effectively monitor the activities and conditions of the properties Metro owns. The management and occupation of residences pose particular operations and maintenance challenges for the Department. The life estate scenario will provide a savings to Metro of staff time and incidental costs. Metro and Mrs. Weber would enter an Agreement for Estate for Years which defines the responsibilities and obligations of each party.

Extended Period for Relocation of Farm Operations. It is customary for Metro to take possession of Property at closing. In this case, however, Paul Weber, Mrs. Weber's son and the current operator of Idylwild Farm, will be relocating the operations to Ohio. Due to the size of the operations and the seasonal nature of farming, the owner has requested extra time in which to relocate the entire operation so that final crops may be harvested and animals moved without an inordinate amount of stress. Metro and the owners would enter into an Agricultural Lease Agreement to protect Metro's rights as the landowner during this period. As Metro has no funding available to immediately develop a master plan and open the site for public use, this potential 18-month delay on obtaining full possession of the site is not considered significant by staff.

The Real Estate Acquisition Committee met on May 25, 1999, and unanimously recommended to the Executive Officer to purchase the Weber Property at 2.9% above Metro's appraised value, to grant Mrs. Weber a life estate pursuant to the terms of the Agreement for Estate for Years, and to allow the Webers sufficient time, not to exceed December 31, 2000, to relocate their operations pursuant to the terms of the Agricultural Lease.

## FINDINGS

Acquisition of this property with the above-stated terms is recommended based on the following:

- This property lies in Tier I of the Willamette Narrows Section of the Willamette River Greenway Target Area and fulfills the goals of the Willamette River Greenway Refinement Plan.
- The site provides a rare opportunity to preserve existing habitat and enhance or restore former native forest and meadow habitats on a large block of land along the Willamette River.
- The site provides safe, low bank access to the Willamette River.
- The perennial stream may offer some habitat for native cutthroat trout.
- The size of the property is suitable for a stand-alone regional park at some point in the future.
- The owners rejected a higher competitive offer because of their desire to allow Metro the opportunity to preserve the Property for public benefit and enjoyment.

Resolution 99-2796  
Staff report, page 2



- It would be beneficial to Metro to have Mrs. Weber remain on the Property for a period of years to ensure that the residence is occupied and maintained, and to provide a constant presence on the Property.
- Based on the circumstances of the dairy operations and the location to which the dairy is moving, it is reasonable to afford the owners sufficient time to relocate their operations, and the delay in obtaining immediate physical possession will not unreasonably impede Metro's land banking operations.

#### **BUDGET IMPACT**

Bond funds would supply acquisition money. Land banking costs are expected to be minimal.

#### **EXECUTIVE OFFICER'S RECOMMENDATION**

The Executive Officer recommends passage of Resolution No. 99 -2796.



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OFFICIAL FILE

**SCHWABE  
WILLIAMSON  
& WYATT**  
P.C.  
ATTORNEYS AT LAW

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TELEPHONE: 503 222-9981 • FAX: 503 796-2900 • TELEX: 650-686-1360

WENDIE L. KELLINGTON

Direct Line: (503) 796-2487

E-Mail: [wkellington@schwabe.com](mailto:wkellington@schwabe.com)

February 1, 2000

Mr. Mike Burton  
Metro Executive Officer  
600 NE Grand Avenue  
Portland, OR 97232-2736

Re: Metro Acquisition of Idylwild Farm

Dear Mr. Burton:

This furthers your letter dated January 27, 2000 and responds to statements in your letter. Our client conducts farming activities on the property next door to Idylwild farm. As you indicate, our client once wished to buy the Idylwild farm to add it to his farming operation. He might have done so had Metro not outbid him using park money. It is hard to understand your claim that Metro's offer was for fewer dollars than our client's offer, given your letter does not disclose terms or price. We note that life estates and leases have value. Regardless, to respond to your letter, our client offered quite a bit of money for the property to add it to his farm and Metro offered quite a bit of money to add it to Metro's land inventory and Metro prevailed in the bidding. Thus, whatever it offered, Metro offered something of more value to the seller to avoid the property's acquisition by our client, the owner of the adjacent farm. In this regard, Metro evidently had to offer more public money to convince the seller to sell to Metro than Metro's professional appraisers determined the value of the property warranted. Specifically, the attached Metro Resolution 99-2796 authorized the executive officer to pay 2.9 percent more money than the professional appraisal determined, as well as authorizing certain other benefits to accrue to the seller in order to acquire the farm.

Although it is now irrelevant, you should understand that the fact the seller was pleased to sell to Metro should not be confused with the outcome -- Metro competed against a farmer to acquire farmland and Metro offered more than the appraised value to enable it to acquire the farm.

Your statement that it is "unlikely that we will want to employ a grazing scheme at this site" is troubling. It seems antithetical to Oregon policy that generally ensures that prime farm land, such as the subject Idylwild farm, continues to be available to adjacent rural farmers for use in existing farming operations. We sincerely hope you change your mind and allow this farmland to be used for farm purposes. In this regard, our client would appreciate the opportunity to lease at least a portion of the property for grazing.



Mike Burton  
February 1, 2000  
Page 2

We have no information about the "public master plan process" to which your letter refers, to what standards it must conform, or what opportunities adjacent farmers may have to influence the outcome. However, we did take the opportunity to respond to Metro's notice to provide comments that the notice indicated Metro wanted to hear. Your letter states we "have misinterpreted the purpose of these workshops" discussed in the notice and, with reference to our comments regarding regional parks planning, your letter states those comments require "no response."

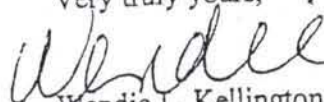
The notice is far more upbeat about the comments of interested persons than your letter suggests. The notice indicated its purpose was "to come up with a plan to \* \* \* manage a regional network of parks and greenspaces" among other things. It states "Metro's planning is intended to assure that the natural environment remains a vital part of our communities -- both for our neighborhoods and for the region as a whole." (Emphasis supplied). It then indicates in bold letters "we want to hear from you" and invites the public to "share your ideas with elected officials." It does not say the elected officials' interest is limited to Goal 5 and the 4(d) rule. In fact, the notice says nothing about Goal 5 or the 4(d) rules. We took the express terms of the notice seriously and responded so that Metro understands how at least one farmer feels about regional parks and urban boat launches on farmland and located next to working farms.

We think Metro's urban parks planning should not turn farmland that Metro acquires into urban regional parks. While your letter appears defensive about the statement, Metro in fact bid against a farmer and had its offer, rather than the farmer's, accepted. This bit of history is only relevant now because it shows that at the time of acquisition Metro was well aware that it was acquiring a valuable working farm next to another. Once aware of such facts, Metro should not have an expectation to turn its farmland into an urban regional park and its regulations should reflect this.

The point of our letter was simply to comment in the context of the regional and neighborhood parks planning processes the notice stated was underway. Metro asked the question regarding our ideas about regional parks planning and we answered the question stating that our client plans to continue to farm his property and Metro should be aware that nonfarm activities, including urban public park activities and urban boat launches, are of great concern.

If you wish to discuss this please feel free to call.

Very truly yours,

  
Wendie L. Kellington

WLK:kdo

cc: Presiding Officer David Bragdon  
Councilor Rod Park  
Dan Cooper  
Jim Desmond



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE  
EXECUTIVE OFFICER TO PURCHASE  
PROPERTY IN THE WILLAMETTE NARROWS  
SECTION OF THE WILLAMETTE RIVER  
GREENWAY TARGET AREA

RESOLUTION NO. 99-2796

Introduced by Mike Burton  
Executive Officer

WHEREAS, in July 1992, Metro completed the Metropolitan Greenspaces Master Plan which identified a desired system of natural areas interconnected with greenways and trails; and

WHEREAS, at the election held on May 16, 1995, the Metro area voters approved the Open Spaces, Parks and Streams Bond Measure (Ballot Measure 26-26) which authorized Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and capital improvements; and

WHEREAS, on April 11, 1996, via resolution 96-2307, the Metro Council adopted a refinement plan for the Willamette Narrows Section of the Willamette River Greenway target area, which included a confidential tax-lot specific map identifying priority properties for acquisition; and

WHEREAS, the Willamette Narrows target area refinement plan identified property owned by the Webers as a Tier I acquisition; and

WHEREAS, the Webers own approximately 194 acres and has offered to sell the Property to Metro at a price that is 2.9% above Metro's appraised value; and

WHEREAS, pursuant to the Open Spaces Implementation Work Plan, paying above Metro's appraised value is an "unusual circumstance;" and

WHEREAS, as a condition of the sale, Mrs. Weber requested to retain a life estate in her home and the surrounding one-acre on the Property; and

WHEREAS, pursuant to the Open Spaces Implementation Work Plan, Mrs. Weber's request is an "unusual circumstance;" and

WHEREAS, as a condition of the sale, Paul Weber, the owner and operator of the existing farming operation requested up to 18 months to relocate the operation to Ohio; and

WHEREAS, pursuant to the Open Spaces Implementation Work Plan, Mr. Weber's request is an "unusual circumstance;" and

WHEREAS, the Open Spaces Implementation Work Plan requires the Metro Council's specific approval for acquisitions which involve an "unusual circumstance;" now therefore,



BE IT RESOLVED,

That the Metro Council authorizes the Metro Executive Officer to purchase the Property from the Webers as more particularly described in Exhibit A at a price which is 2.9% above Metro's appraised value, subject to Mrs. Weber's life estate, and to permit Mr. Paul Weber up to 18 months to relocate his farming operations from the Property, all as more particularly described in the Agreement of Purchase and Sale for this Property.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
Rod Monroe, Presiding Officer

Approved as to Form:

\_\_\_\_\_  
Daniel B. Cooper, General Counsel



EXHIBIT A  
RESOLUTION 99-2796

PARCEL 1: Tracts 2, 3 and 4, THOMAS BUCKMAN TRACTS, in the County of Clackamas and State of Oregon.

PARCEL 2: A tract of land situated in Section 21, Township 3 South, Range 1 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, more particularly described as follows:

Beginning at a point 174.24 feet South from the common corner of Sections 16, 17, 20 and 21, in said Township and Range; running thence South  $86^{\circ}$  East, 818.4 feet to a stake; thence South  $5^{\circ} 15'$  East, 1016.4 feet to the left bank of the Willamette River; thence with the meanders of said river upstream, South  $61^{\circ}$  West, 1057.32 feet to the line between Sections 20 and 21; thence North tracing the said Section line, 1559.58 feet to the place of beginning.

EXCEPTING THEREFROM the above description the following:

All that certain tract or parcel of land lying in the Northwest one-quarter of Section 21, Township 3 South, Range 1 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows, to-wit:

Commencing at a stone monument marking the section corner common to Sections 16, 17, 20 and 21, of said Township 3 South, Range 1 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon; thence Southerly 1385.10 feet along the section line common to Sections 20 and 21 to an iron pipe marking the true point of beginning of the herein described parcel of land; thence North  $72^{\circ} 05'$  East, 599 feet to an iron pipe; thence South  $33^{\circ} 53'$  East, 202.60 feet, more or less, to a point in the meander line on the left bank of the Willamette River; thence South  $61^{\circ} 00'$  West, 780.76 feet, more or less, upstream with the meander of the left bank of said river to its intersection with the section line common to said Sections 20 and 21; thence North 362.44 feet to the true point of beginning.

PARCEL 3: A tract of land situated in Sections 17 and 20, Township 3 South, Range 1 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, more particularly described as follows:

Beginning at the point of intersection of the East line of Section 20, Township 3 South, Range 1 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, with the meander line on the left bank of the Willamette River, which point of beginning is 1765.5 feet South of the Northeast corner of said Section 20; running thence Northerly along the Easterly line of Section 20 and 17 of said Township and Range, a distance of 4405.5 feet to the one-quarter section corner in the East line of said Section 17; thence Westerly along the Northerly line of the Southeast one-quarter of said Section 17, a distance of 660 feet; thence Southerly parallel with the Easterly lines of Sections 1 and 20, to the left bank of the Willamette River; thence downstream with the meanders of the left bank of said river to the place of beginning.

PARCEL 4: A tract of land situated in the Northwest one-quarter of Section 21, Township 3 South, Range 1 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, more



EXHIBIT A  
RESOLUTION 99-2796

marking the section corner common to Sections 16, 17, 20 and  
ge 1 East of the Willamette Meridian, in the County of Clackamas  
erly 174.24 feet along the section line common to Sections 20 and  
.40 feet to an iron pipe marking the true point of beginning of the  
ence South 5° 15' East 1016.40 feet, more or less, to a point in the  
he Willamette River, thence North 44° 15' East 206.04 feet  
the left bank of said River, thence Northerly 857.84 feet, more or  
so 8.5 feet Northerly of an iron pipe set in fence line; thence North  
int, thence South 87° 00' West 115.50 feet to the true point of

th 148.5 feet of Tract 6, THOMAS BUCKMAN TRACTS, in the  
of Oregon.





METRO

January 27, 2000

Wendie L. Kellington  
Schwabe Williamson & Wyatt  
PacWest Center Suite 1600-1800  
1211 SW 5<sup>th</sup> Ave.  
Portland, OR 97204-3795

Re: Willamette Narrows (Weber)

Dear Ms. Kellington:

In response to your letter dated January 4, 2000 to myself, David Bragdon and Rod Park, please be advised that Metro has not closed on the property which you refer to as Idylwild Farm. The property remains under contract to Metro and we hope to close on it within the next few months.

I was surprised to read your statement to the effect that Metro outbid your client, Mike Warn. Our understanding is that your client submitted an offer dated January 5, 1999 for \$3,400,000. More than three months later, the seller signed an agreement to sell to Metro. Because the Metro transaction has not closed yet, I am not willing to make our price public, however it is significantly less than the figure reportedly offered by your client. The seller told us at the time and in fact testified in a public meeting before the Metro Council that they were highly motivated to see the property preserved for future generations as a public access point to the Willamette River and a potential park, and therefore were willing to accept less money from Metro than other buyers were willing to pay.

As Dan Cooper and Jim Desmond have told you in previous conversations, Metro will not open this property for public use until a detailed public master plan process is conducted. Such plans involve extensive community involvement and all neighbors, including your client, would be notified and invited to participate. At this point, Metro does not have funds available to conduct the master plan and we have no timetable as to when we might consider public access to this site. As you rightfully point out, Metro would be required to obtain necessary land use permits at that time, as is required at every new park or publicly accessible open space.

Regarding the notice of the series of Metro open houses scheduled in February, which you attached to your letter, these meetings are being planned to discuss the implementation of the Metro functional plan specifically regarding state land use Goal 5 and the new proposed NMFS Section 4(d) rule. The purpose of the meeting is to seek citizen input and to generate options to protect riparian corridors. These meetings are not intended to consider opening the Weber Farm or any other Metro open space site for



public use. You have misinterpreted the purpose of these workshops which is to discuss large scale regional issues rather than anything site specific. Therefore, the three specific points you make in your letter regarding the attached notice do not require any response.

Regarding your client's interest in leasing a portion of the Weber site for grazing purposes, since Metro has not yet acquired the property, any such discussion would be premature. I should advise you however that it is unlikely that we will want to employ a grazing scheme at this site. Please note, however, part of our arrangement with the seller is that they can continue their operation for a limited period of time after the closing to allow for a smooth transition as they relocate to another state. In addition, we will allow the Webers to continue their alfalfa farming for a period sufficient to recoup a reasonable return on their investment in this crop. If after that time, we decide to put any of the property out for a farm lease, we will let you know in case your client is interested in submitting a bid.

In the future, I would appreciate it if you would be more careful before suggesting in writing that Metro has "outbid a farmer for farm land." In fact, we are proud of the fact that we have crafted an agreement to buy the property for less than other parties offered specifically because we were working with landowners who wanted to see the natural resource qualities of their property preserved for future generations of those in the Portland region. For that act of vision and generosity, all of us should be proud of the Weber family and the great legacy that they will leave the region with the preservation of this fabulous property fronting on the great Willamette River.

Sincerely,



Mike Burton  
Executive Officer

cc: David Bragdon  
Rod Park  
Dan Cooper  
Jim Desmond





Open Space, Parks and Streams

**COPY**

# 1995 Ballot Measure 26-26

## Fact Sheet 1: Overview and Background

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### What is Ballot Measure 26-26?

Ballot Measure 26-26 is a general obligation bond measure for \$135.6 million to buy lands for regional parks, open spaces and trails. It also provides money for local open space purchases and public access improvements.

The bond measure will appear on a special election mail-in ballot May 16, 1995.

The measure's primary goal is to purchase natural areas, trails and greenways to be held in public trust for future use as parks, trails, and fish and wildlife habitat.

### What types of areas would be purchased?

The bond measure consists of three major elements: (1) regional park target areas, (2) regional trails and greenways and (3) local government open space and parks projects.

Regional park target areas in the bond measure consist of about 6,000 acres located in 14 specific areas throughout the tri-county region. About \$76 million, or 56 percent, of the bond measure would be spent on this component. (See page 2 for a complete list of regional target areas.)

Regional trails and greenways consist of five specific projects throughout the region that will link new or existing publicly owned parks and natural areas. About \$16 million, or 12 percent, of the bond measure would be spent on this component. (See page 3 for a complete list of regional trails and greenway areas.)

The local government open space and parks projects consist of 90 specific projects that have been identified by local governments. About \$25 million, or 18 percent, of the bond measure would be used to purchase and make capital improvements on lands for local parks, open spaces and trails within Clackamas, Multnomah and Washington counties. The purchases and improvements would be made by cities, counties and special district park providers. (See pages 3, 6 and 7 for a complete list of specific greenspace projects selected by local governments.)

The remaining \$18.1 million, or 14 percent, is allocated for land purchase expenses, bond issuance costs, administrative expenses and contingency.



*Metro Regional Parks and Greenspaces*

Metro Regional Center

600 NE Grand Ave.

Portland, OR 97232-2736

(503) 797-1850



The local government component is based on the allocation formula in the Metropolitan Greenspaces Master Plan adopted in July 1992 and amended in November 1994. Ownership and management of the land to receive bond proceeds must be consistent with the master plan.

Metro and the cities, counties and park providers will draw up intergovernmental agreements to make sure the funds are being used for approved lawful and appropriate activities.

**How much  
will the bond  
measure cost?**

In the first year, it will cost approximately 22.5 cents per \$1,000 of assessed value, or about \$22 per year for a \$100,000 home. During the life of the 20-year bond, the average cost per household is estimated to decrease to an average of 15 cents per \$1,000 of assessed value. The reason is that growth will occur in the region and property values will generally increase, thus bringing down the cost per household over time.

The intention is to issue bonds that mature in 20 years, although the maturity period may be changed to 30 years to allow flexibility in responding to the financial market. If the term is changed to 30 years, the rate associated with bonds is estimated to decrease to 20 cents per thousand the first year and approximately 11 cents per thousand over the life of the bond.

<i>Bond debt year*</i>	<i>Annual cost per \$1,000 assessed value</i>	<i>Annual cost for \$100,000 home</i>
1 .....	22.5¢ .....	\$22.50
5 .....	19.0 .....	19.00
10 .....	15.6 .....	15.60
15 .....	12.8 .....	12.80
20 .....	5.3 .....	5.30
<i>average cost of 20-year bond .....</i>	<i>15.0¢ .....</i>	<i>\$15.00</i>

\*chart assumes  
6.5 percent  
interest rate  
on bonds.

**How many  
acres are  
proposed for  
purchase in  
the regional  
acquisition  
target areas?**

<i>Regional parks target areas</i>	<i>Proposed acres to purchase</i>
1. Willamette River Greenway .....	1,103
2. East Buttes and Boring Lava Domes .....	545
3. Newell Creek Canyon .....	370
4. Sandy River Gorge .....	808
5. Cooper Mountain .....	428
6. Forest Park Expansion .....	320
7. Jackson Bottom (Dairy/McKay creeks) .....	333
8. Tonquin Geologic Area .....	277
9. Tualatin River Greenway Access .....	266
10. Clear Creek Canyon .....	346
11. Gales Creek .....	775
12. Columbia Shoreline .....	95
13. Rock Creek .....	300
14. Tryon Creek Linkages .....	20
<i>Total greenspaces acreage .....</i>	<i>5,982</i>



**What are the regional trail and greenway corridor areas?**

*Regional trail and greenway projects ..... County*

1. Peninsula Crossing ..... Multnomah
2. Fanno Creek Greenway ..... Washington and Multnomah
3. Sauvie Island to Beaverton/Hillsboro ..... Multnomah and Washington
4. Clackamas River Greenway ..... Clackamas
5. Beaver Creek Canyon ..... Multnomah

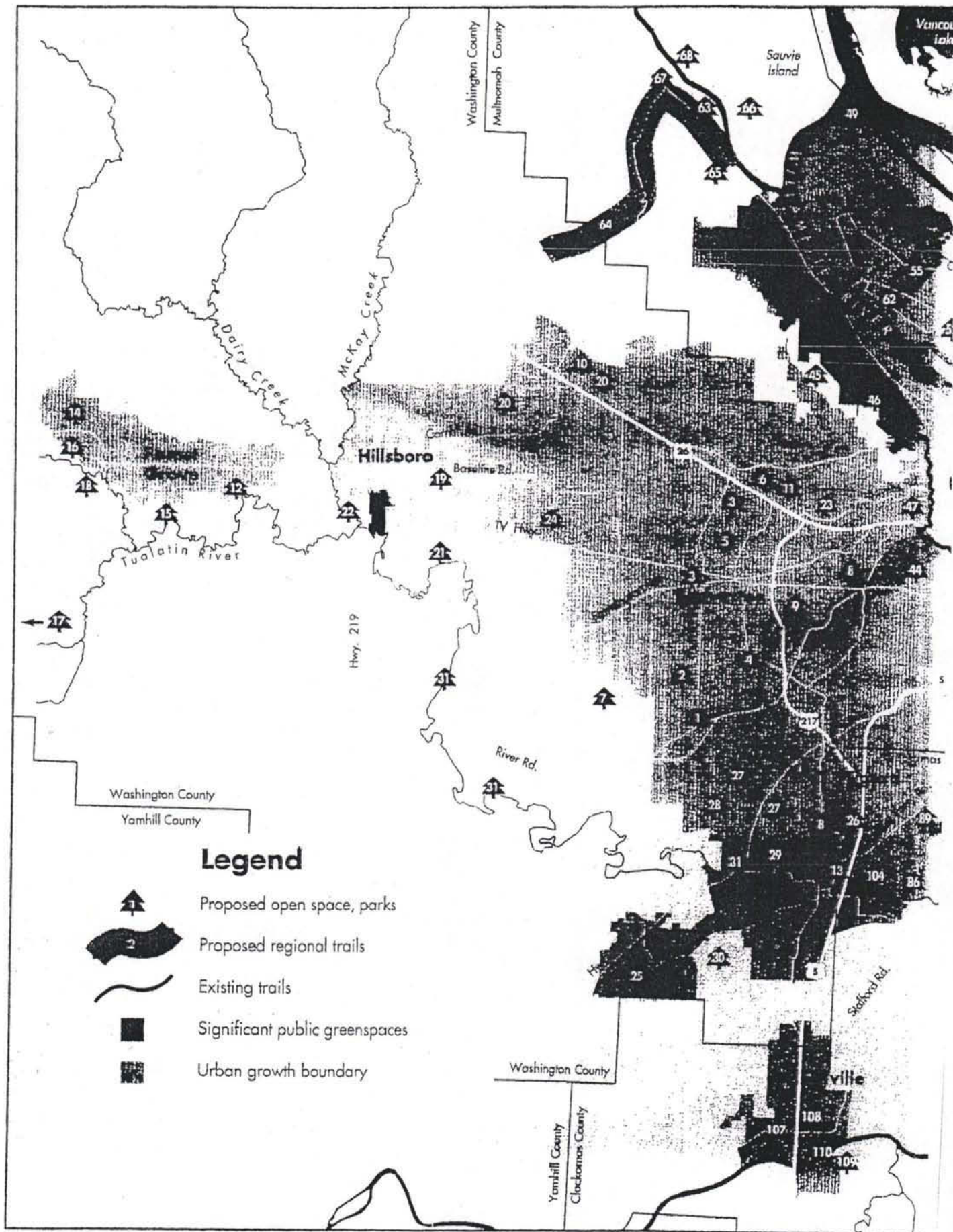
**What are the specific local open space, parks and trails projects?**

The projects and descriptions listed here include the total bond measure package by county and city. Each project area has a number that corresponds to its location on the map on pages 4 and 5.

**Washington County**

1. Beaverton, Forest Glen Park/Hiteon Creek. *Habitat restoration including native vegetation plantings, bike path adjustment*
2. Beaverton, Hart Road Natural Area. *Acquire 18 acres to establish greenspace park near Southwest Hart Road*
3. Beaverton, Johnson Creek Corridor. *Acquire about 45 acres along greenway*
4. Beaverton, Koll Center Wetland. *Acquire right-of-way access, trail construction, viewing platform*
5. Beaverton, Stonegate Woods. *Acquire about 9 acres of wetland forest along Willow Creek*
6. Beaverton vicinity, Cedar Mill Creek Corridor. *Acquire about 22 acres near the Sunset Highway and Cornell Road*
7. Beaverton vicinity, Cooper Mountain. *Acquire 428 acres of forested natural area*
8. Beaverton vicinity, Fanno Creek Greenway. *Acquire up to 12 miles of trail corridor along the greenway*
9. Beaverton vicinity, Fanno Creek Greenway. *Trail construction to connect Fanno Creek Park to neighborhoods*
10. Bethany. *Acquire land to establish small natural area park*
11. Cedar Mill. *Acquire land to establish small natural area park*
12. Cornelius Greenspace Project. *Natural area project to be determined*
13. Durham City Park. *Trail and bridge construction*
14. Forest Grove, David Hill Forest Park. *Acquire up to 10 acres to establish greenspace park in Northwest area of city*
15. Forest Grove, Fernhill Wetlands. *Trail access, trail construction, interpretive center near the Tualatin River*
16. Forest Grove, Gales Creek Linear Park. *Acquire land along greenway in Southwest area of city*
17. Forest Grove vicinity, Henry Hagg Lake/Scoggins Valley Park. *Six individual picnic sites, one group picnic shelter, restrooms*
18. Forest Grove vicinity, Gales Creek Regional Greenspace. *Acquire 775 acres of wetland, upland, and riparian natural area*
19. Hillsboro, Noble Woods Park. *Trails, picnic shelters, viewing areas for park on Rock Creek*
20. Hillsboro, Rock Creek Corridor. *Acquire 300 acres along the greenway*
21. Hillsboro, Rood Bridge Park. *Habitat restoration, canoe launch, trails at confluence of Rock Creek and Tualatin River*
22. Hillsboro vicinity, Jackson Bottom Dairy/McKay Creeks Addition. *Acquire 333 acres in area of creeks confluence*
23. Portland vicinity, Golf Creek Corridor. *Acquire about 10 acres west of Sylvan and north of Sunset Highway*
24. Reedville. *Acquire land to establish small natural area park*
25. Sherwood, Cedar Creek Greenway. *Acquisition and trail construction in the riparian zone*
26. Tigard, Fanno Creek/Summer Creek Greenway. *Trail construction*
27. Tigard, Natural Area Park. *Acquire about 7.5 acres of forest land for a city nature park*
28. Tigard vicinity, Bull Mountain Park. *Acquire land to establish small natural area park*
29. Tualatin, Tualatin River Corridor. *Acquisition along the south bank of the greenway*
30. Tualatin vicinity, Tonquin Geologic Area. *Acquire 277 acres of unique geological features, wetland and upland habitats*
31. Tualatin River Greenway. *Acquire 266 acres to establish four regional access points along river*

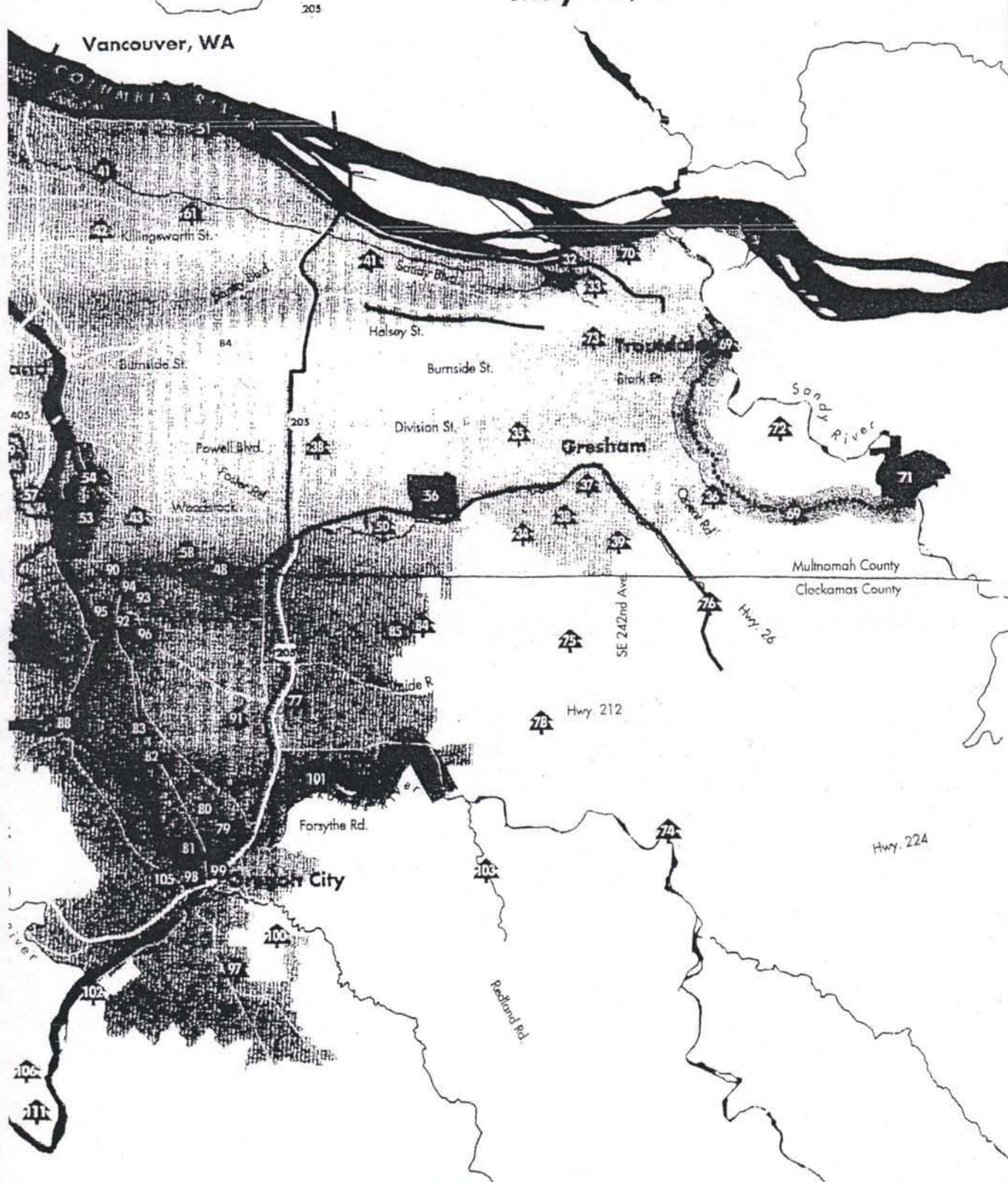






# Open Space, Parks and Streams Ballot Measure 26-26

May 16, 1995





## Multnomah County

32. Fairview, Blue Lake Regional Park. Restore and enhance 10-acre wetland, boardwalks
33. Fairview, Fairview Creek Riparian Area. Enhancement of 50-acre wetland west of Northeast 207th connector
34. Gresham, Butler Creek Greenway Trail. Soft surface trails, bridge over Johnson Creek
35. Gresham, Fairview Creek Headwaters. Enhancement of 18 acres, habitat plantings, picnic shelters, trails
36. Gresham, Kelly Creek Greenway. Acquisition of 4.5 acres, soft surface trails
37. Gresham, Springwater Corridor. Trail heads, trail construction, info center, native vegetation plantings
38. Gresham vicinity, East Buttes/Boring Lava Domes. Acquire 545 acres among buttes and lava domes of east Multnomah and north Clackamas counties
39. Gresham vicinity, Hogan Cedars. Acquisition along Johnson Creek near Telford Road/Springwater Corridor
40. Portland, 40-Mile Loop Trail. Trail right-of-way acquisition along the 40-Mile Loop
41. Portland, Columbia Slough. Acquisition of greenspace along or near slough in North and Northeast Portland
42. Portland, Community Natural Areas. Restoration of small greenspaces in Northeast neighborhoods
43. Portland, Crystal Springs Rhododendron Garden. Acquisition of adjacent land in Southeast Portland
44. Portland, Fanno Creek Watershed. Acquisition of natural area in Southwest Portland
45. Portland, Forest Park Expansion. Acquire 320 acres adjacent and within park to maintain habitat
46. Portland, Forest Park Wildwood Trail. Access and habitat improvements in Northwest Portland
47. Portland, Hoyt Arboretum. Acquisition of adjacent land in Southwest Portland
48. Portland, Johnson Creek Corridor. Acquisition of greenspace along creek in Southeast Portland
49. Portland, Kelley Point Park. Extension of trail link to 40-Mile Loop in North Portland
50. Portland, Leach Botanical Garden. Acquisition of adjacent land in Southeast Portland
51. Portland, M. James Gleason Boat Ramp. Improvements to launch facility on Columbia River in Northeast Portland
52. Portland, Mocks Crest. Acquisition of greenspace in North Portland
53. Portland, Oaks Bottom. Access improvements in Southeast Portland
54. Portland, OMSI to Springwater Corridor. Acquire 7-mile trail corridor, trail heads and trail improvements on east bank of Willamette River
55. Portland, Peninsula Crossing Trail. Develop 3-mile trail/bikeway connecting the Columbia River to the Willamette River
56. Portland, Powell Butte. Acquisition and access improvements in Southeast Portland
57. Portland, River Place to Willamette Park. Acquisition and trail construction on west bank of Willamette River
58. Portland, Springwater Corridor. Trail heads and trail improvements in Southeast Portland
59. Portland, Terwilliger-Marquam Natural Area. Acquisition of upland forest in Southwest Portland
60. Portland, Tryon Creek Linkages. Acquisition of 20 acres in Tryon Creek watershed in Southwest Portland
- Portland, Whitaker Ponds. Acquire park land along Columbia Slough in Northeast Portland
62. Portland, Willamette Cove. Acquire 27 acres along east bank of Willamette River between St. Johns Bridge and railroad bridge in North Portland
63. Portland vicinity, Burlington Bottom Wetlands, Multnomah Channel. Road access, trails and wildlife blind
64. Portland vicinity, Burlington Northern Rails-to-Trails. Acquire 7-mile trail corridor connecting Sauvie Island to Beaverton/Hillsboro area
65. Portland vicinity, Grove of Ancient Forest. Trail construction and signage for 38-acre site north of Forest Park
66. Portland vicinity, Howell Territorial Park. Picnic shelters, trails and wildlife viewing blind for 73-acre site on Sauvie Island
67. Portland vicinity, Multnomah Channel. Acquire 500 acres along west bank of channel for wildlife habitat in Willamette Greenway
68. Portland vicinity, Sauvie Island Boat Ramp. Improvements to launch ramp, boarding docks
69. Troutdale, Beaver Creek Canyon Greenway. Acquire 8 miles of trail corridor, habitat restoration and streambank re-vegetation
70. Troutdale vicinity, Columbia River Shoreline. Acquire 95 acres of riparian and island habitat west of Sandy River
71. Troutdale vicinity, Oxbow Regional Park. Water system upgrade, picnic shelters, group camp shelters
72. Troutdale vicinity, Sandy River Gorge. Acquire 808 acres along river for fish, wildlife, and water quality protection
73. Wood Village City Park. Habitat improvements, trails, erosion control for 12-acre addition



## Clackamas County

74. **Barton**, Barton Park Quarry Reclamation. Barton Park capital improvements, restoration, campground
75. **Boring vicinity**, Boring Lava Domes/East Buttes. See 38
76. **Boring vicinity**, Springwater Corridor Trail. Land acquisition to complete trail near Boring
77. **Clackamas**, Mt. Talbert. Acquire 15 acres south of Sunnyside Road
78. **Damascus**. Acquire 25 to 50 acres for natural area park
79. **Gladstone**, Cross Memorial Park. Trail improvements
80. **Gladstone**, Glen Echo Wetlands. Land addition to wetland park, trails
81. **Gladstone**, Meldrum Bar Park. Riparian restoration, picnic shelters
82. **Gladstone/Milwaukie**, Portland Traction Company Right-of-Way. Acquire 7 miles of rail line between Gladstone and Milwaukie
83. **Gladstone vicinity**, Boardman Slough Wetland Park. Land acquisition for greenspace for natural area park near Gladstone
84. **Happy Valley**, Mt. Scott Creek Trail. Trail construction for park access from Sunnyside Road
85. **Happy Valley**, Mt. Scott View Nature Park. Trail construction
86. **Lake Oswego**, Canal Acres Natural Area. Trail construction connecting to Bryant Woods Park
87. **Lake Oswego**, Lusher Farm/Cook's Butte Trail. Acquire land and construct trail connecting parks
88. **Lake Oswego**, Roeher Park Willamette Greenway. Acquire land and construct trail along park and greenway
89. **Lake Oswego**, West Waluga Park. Perimeter trail and access points around park
90. **Milwaukie**, Ardenwald to Springwater Corridor. Construct trail to connect Ardenwald area to Springwater
91. **Milwaukie vicinity**, Kellogg Creek Natural Area. Natural area wetland acquisition near Jennings Avenue
92. **Milwaukie**, Kellogg Lake. Acquire land west of lake and east of McLoughlin Boulevard
93. **Milwaukie**, Rosewell Wetland. Habitat enhancements to a stormwater retention pond
94. **Milwaukie**, Springwater Corridor. Acquire land between Johnson Creek and Springwater Trail
95. **Milwaukie**, Waterfront Park. Acquire about 2.5 acres at the confluence of Johnson Creek and Willamette River
96. **Milwaukie**, Willow Place Wetland. Habitat enhancements to a stormwater retention pond
97. **Oregon City**, Barclay Hills Park. Nature trail construction in upper Newell Creek Canyon
98. **Oregon City**, Clackamette Park. Picnic shelters, restrooms, fishing dock
99. **Oregon City**, High Rocks Riverbank. Acquire park land on south bank of Clackamas River
100. **Oregon City**, Newell Creek Canyon. Acquire 370 acres for natural area park
101. **Oregon City vicinity**, Clackamas River Greenway. Acquire up to 8 miles of greenway corridor along north bank of Clackamas River between Carver and Oregon City
102. **Oregon City vicinity**, Canemah Bluff. Acquire 390 acres along the Willamette Greenway
103. **Redland vicinity**, Clear Creek Canyon. Acquire 346 acres of riparian corridor and uplands
104. **Rivergrove**, Tualatin River Access. Public boat ramp improvement at park near Southwest Dogwood Road
105. **West Linn**, Burnside Park. Acquire eight additional acres of natural area for city park
106. **West Linn vicinity**, Willamette Narrows. Acquire 75 acres along Willamette Greenway
107. **Wilsonville**, Boeckman and Mill Creeks. Habitat restoration along creeks at four public schools
108. **Wilsonville**, City Trail System. Capital improvements to complete city trail system to natural areas
109. **Wilsonville**, Gordon's Run Open Space. Trail construction along Willamette Greenway near Charbonneau
110. **Wilsonville**, Memorial Park. Trail construction in park and to Willamette River Greenway
111. **Wilsonville vicinity**, Peach Cove Bog. Acquire up to 50 acres of bog wetland along the Willamette Greenway



*Ballot Measure 26-26 contains the following language:*

**Caption:**

Bonds to preserve open space, parks; protect streams, fish, wildlife.

**Question:**

Shall Metro preserve open space for parks, trails, wildlife; protect streams for fish; issue \$135.6 million in general obligation bonds? If bonds are approved, they will be payable from taxes on property ownership that are not subject to the limits of section 11b, Article XI of the Oregon Constitution.

**Summary:**

Buys specified open space in the region. Approved bonds will:

- Preserve local lands for parks and trails.
- Maintain water quality in rivers and streams.
- Protect salmon, trout, steelhead.
- Provide areas for walking, picnicking and other outdoor recreation.

Buying open spaces for public use will balance private development in the region. Bonds mature in not more than 30 years. Bond cost estimate is about 22 cents per \$1000 of assessed value per year. Typical home pays \$1.91 per month.

**For more  
information  
about Ballot  
Measure  
26-26:**

Call Metro Regional Parks and Greenspaces at (503) 797-1850 or write us at 600 NE Grand Ave., Portland, OR 97232.



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## Open Space, Parks and Streams

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# 1995 Ballot Measure 26-26

## Fact Sheet 2: Reasons for Bond Measure

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### What is the basis for this measure?

The Metropolitan Greenspaces Master Plan, adopted by the Metro Council in 1992, provides the foundation for this bond measure. The master plan is a growth management strategy for maintaining the character and livability of this region as our population expands, by assuring provision of lands for parks, trails, and fish and wildlife habitat.

The master plan details the vision, goals and framework for a regional system of natural areas, open space, trails and greenways for wildlife and people. It identifies 57 natural areas and 34 trail corridors of regional significance. The bond measure's 14 target areas and five trail projects were selected from the master plan.

### What was the process used for developing the bond measure package?

The bond measure is the result of a several year-long process that involved citizens, businesses, interest groups and local governments throughout the region.

The acquisition target areas and trails/greenways were selected from among the 57 greenspaces sites and 34 trails/greenways identified in the Metropolitan Greenspaces Master Plan. Estimated cost per acre, at-risk status, public accessibility and land availability were factors that determined the potential size of an acquisition area.

Metro's Regional Parks and Greenspaces Department initially developed a list of 25 potential sites from the master plan. The list was forwarded to an independent advisory group, consisting of natural resource experts, that ranked the 25 potential sites.

The advisory group's prioritized list was forwarded in February 1994 to the Greenspaces Policy Advisory Committee for consideration. The committee, consisting of citizens and elected local officials, examined bond measure issues such as amount and timing, narrowed the list of target areas and trail projects, and set guidelines for the local greenspaces project component. The committee forwarded its recommendations to the Metro Council in June 1994.

An independent Blue Ribbon Committee, composed of business and civic leaders in the region, was appointed to further analyze the issues and advise the Metro Council about the timing, size and components of the measure.



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Metro also held a series of public forums around the region to gather citizen recommendations regarding the bond measure.

The Metro Council then considered all the recommendations, heard additional testimony and voted to refer the \$135.6 million open space acquisition bond measure to the voters.

**What effect  
will growth  
have on open  
spaces in the  
region?**

With an increase in population, our natural resources and accessibility to nature will decrease, and water quality will be affected. Land available for parks, trails and open spaces and wildlife habitat will continue to decline unless additions are made to the land base at the same rate that development occurs.

In 1989 an inventory and mapping project was undertaken to determine the amount of open space remaining in Multnomah, Clackamas and Washington counties. Of the 372,682 acres in the region, 108,077 acres, or 29 percent, of the region's lands were considered natural areas. Of the 108,077 acres, 8.5 percent of these natural areas (9,186 acres) were in public ownership. More than half the acres in public ownership existed in just two locations: 5,000-acre Forest Park and 1,000-acre Oxbow Regional Park.

Open spaces not in public ownership are being reduced as a result of a growing population. Between 1979 and 1994, more than 35,400 acres of privately owned open space were converted to accommodate regional growth. At this rate of growth, the region is losing an average of 2,360 acres of open space each year.

**What is the  
need for  
recreation  
lands in our  
region?**

Our growing population is placing additional demands for quality recreational opportunities on our public parks systems. A five-year study conducted from 1988 to 1993 by Oregon State Parks revealed that many types of recreation activities are experiencing mid to high levels of growth and that the region lacks sufficient supply for many recreation activities.

The study found that people want high quality recreation experiences. Park visitors' most common goal is to recreate in an attractive, natural environment under uncrowded, non-stressful conditions. More than 65 percent of all visitors surveyed use the parks and natural areas for relaxing, viewing scenery, enjoying solitude, wildlife viewing, picnicking, hiking and fishing.

Many of the high growth activities require land space within or near population centers and are largely dependent on the quality and quantity of the land. Moderate and high growth activities include: tent camping, bicycle trips, day hiking on trails, wildlife observation, bank and boat fishing, outdoor photography, nature study, RV camping and jogging.

There will be a continued need in the region for parks, trails and wildlife habitat to meet the ongoing and increasing recreation demands of a growing regional population.



**How much  
is the region  
expected to  
increase in  
population?**

It is estimated that our population will increase between 1990 and 2010. by 2040 a total of 1.8 million people are expected to be living in the three-county region. In looking at "future growth" and its impact on greenspaces, it's important to keep in perspective that growth happens incrementally, year by year. Between 1990 and 1993, for example, our regional population grew by nearly 94,000 people, or 8 percent. A growing population places additional demands for more parks and natural areas and increases the use of existing publicly owned natural areas for recreation and leisure pursuits and escaping the stress of urban living. Open spaces can reduce the negative impacts of growth, providing a separation between urban areas within and outside the urban growth boundary. Open spaces can help ensure that as development occurs, our communities remain livable.

Historical growth rates are an indication of what to expect for future growth. The following illustrates how much various cities and communities in the region have increased in population between 1960 and 1990.

<i>Area</i>	<i>30-year growth rate</i>	<i>30-year population increase</i>	<i>Annual growth rate</i>	<i>Annual population increase</i>
Tualatin	4,082%	14,654	13.3%	2,000
Gresham	1,630%	64,293	10.0%	6,803
Beaverton	798%	47,373	7.6%	4,050
Hillsboro	356%	29,288	5.2%	1,950
Lake Oswego	243%	21,670	4.2%	1,285
Milwaukie	105%	9,593	2.4%	454
Portland	17%	64,643	0.05%	2,317

**How is the  
bond measure  
related to  
Metro's Region  
2040 growth  
management  
program?**

Metro's Region 2040 growth concept is the beginning of a 50-year plan for guiding and managing growth in the tri-county region. The Region 2040 concept integrates land use, transportation and open spaces into a regional vision for growth and livability. At its core is a basic philosophy to preserve our access to nature and build better communities.

The overall direction of Region 2040 is to accommodate growth within a compact urban form inside the urban growth boundary. This will require higher density development. Parks and open spaces help separate urban areas from one another and ensure that as development occurs, nature continues to be an integral component of our communities.

Metro's Regional Urban Growth Goals and Objectives (RUGGOs) provide the regulatory foundation for the Region 2040 concept. The RUGGOs specifically list the acquisition, protection and management of natural areas, parks and wildlife habitat as a means of maintaining and enhancing the region's livability.



The Metropolitan Greenspaces Master Plan is the implementation strategy for open space elements in both RUGGO and Region 2040. As a growth management strategy, the master plan includes policies and objectives intended to assure that nature, wildlife habitat and outdoor recreation opportunities are integrated into our increasingly urban landscape.

**How does land availability affect land prices if purchase is delayed?**

Metro conducted a study comparing the ratio of land value pricing to availability of land supply for the period of 1990-1992. The study shows that as vacant lands are purchased and developed, the price of the remaining vacant lands increases in value. This trend was found to be true across all urban zoning types. This measure is intended to allow the purchase of quality land for open space, parks and trails now, rather than waiting until land prices increase or choices are diminished.



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## Open Space, Parks and Streams

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# 1995 Ballot Measure 26-26

## Fact Sheet 3: Commonly Asked Questions

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### **Why is Metro managing the bond measure?**

Metro is responsible for providing regional services that cannot be addressed adequately at the local level.

The Metro Charter, adopted by the voters in 1992, authorized Metro to establish a regional greenspaces system that provides ecological connections that cross jurisdictional boundaries in the region.

In January 1994, Metro's Greenspaces program and Multnomah County Parks merged to become the Metro Regional Parks and Greenspaces Department. The department's primary objective is to carry out and implement the policies and goals of the Metropolitan Greenspaces Master Plan.

The master plan is the growth management strategy that details the vision for a cooperative regional system of parks, open space, trails and greenways for wildlife and people. The primary objective of the master plan is to protect natural resource areas for wildlife and public use.

The Metropolitan Greenspaces Master Plan – adopted by the Metro Council in 1992 after a two-year development process involving local governments, businesses, environmental groups and thousands of citizens – identifies Metro as the primary coordinator of the program.

The plan assigns Metro the responsibility of working cooperatively with governments, nonprofit organizations, land trusts, businesses and citizens to provide long-term protection and accessibility to natural areas in the metropolitan area.

### **How is this bond measure different from other recent parks bond measures?**

The emphasis of this open space acquisition bond measure is to assure land availability on a broad regional scale for outdoor recreation and wildlife habitat as the tri-county population continues to grow. The measure is designed to purchase additional land that will become a foundation for a system of parks, natural areas and trail corridors of regional significance that crosses jurisdictional boundaries.



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The 1994 Portland Parks bond measure was crafted to deal with existing capital maintenance and capital improvement needs within the city of Portland, including neighborhood and community facilities. It did not include purchase of any new land.

The \$25 million 1994 Tualatin Hills Park and Recreation District bond measure focused primarily on park and facility improvements and replacements and development of new neighborhood parks and community centers. Neither the Portland nor the Tualatin Hills measures addressed the regional scope and natural area emphasis that is the focus of Metro's bond measure.

**How will the new lands and trails be managed?**

The regionally significant lands purchased by Metro will be managed under a "land-banking" strategy that may provide for limited public use until long-term management plans and appropriate facilities are developed.

Land-banking is a resource management approach that will maintain property in a stable condition for an interim period. These activities may include law enforcement, signage, fencing, gates, hazard mitigation, resource monitoring and nuisance abatement.

Some park improvements, such as trails, Americans with Disabilities Act access, rest rooms and interpretive signage, are allowed with bond funds. Grant funds may also be used for development of some public use facilities.

Metro may make cooperative agreements with other jurisdictions or agencies for the care of these lands consistent with the Metropolitan Greenspaces Master Plan. The lands purchased and capital improvements made under the local government greenspace component will be the responsibility of cities, counties and park districts.

**How will operations and maintenance be funded?**

Bond funds can be used only for costs related to buying and improving land. No portion of the bond funds can be used for operation and maintenance. Metro will use its existing excise tax revenue for land-banking costs. Other funding options may be considered.

The exact costs for land-banking will be determined when several specific factors are finalized. The factors that affect land-banking costs include size of the parcels, condition of the property at time of purchase, geographic distribution, surrounding land uses, traditional or informal uses, type of structures on site and interim public use policy. It currently is estimated that the cost of land-banking 6,000 acres will be about \$500,000 a year.

Land-banking costs can be contained or reduced by several strategies that include utilizing life estates, renting or leasing the property and transferring land to other entities for operations and maintenance.



**How does the removal of property from tax rolls affect property-based revenues?**

The total value of property in the region is currently estimated at about \$50 billion. The bond measure funds used to purchase land at market value would reduce the taxable property base by 2/10 of 1 percent, or \$105 million. Increases in assessed value in the region are expected to compensate for this reduction in less than one year after the property acquisition.

**Can a target area, trail project or local project be changed after the bond measure is approved?**

The 14 regional acquisition target areas, five trail and greenway corridors and 90 local government open space and parks projects submitted under this measure were selected from regionwide public review processes during 1994. Should any of the acquisition areas or trails projects specified in the bond measure be unavailable for acquisition, become degraded, cost prohibitive, or otherwise unfeasible, the bond measure allows that other properties or sites can be selected by the Metro Council after a public hearing. A similar provision is included for local projects at the local government level. Alternative sites must be consistent with Metropolitan Greenspaces Master Plan criteria.

**How would the parks and trail corridors be purchased?**

A number of steps would be taken to acquire greenspace and trail properties. Option agreements to purchase land that were signed prior to the bond measure election would be implemented. Intergovernmental agreements between Metro and local government park providers would be signed to begin local open space and parks projects identified in the bond measure package.

For regional park target areas and regional trail projects, Metro would work with local governments, citizen groups and other interested parties to identify priority acquisition sites. All real estate transactions would be subject to review by the Metro Council and the provisions of the real estate laws of Oregon.

Once a property or trail corridor is acquired, the site would be subject to management planning to identify appropriate improvements, levels of public use and maintenance objectives.



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Metro Regional Parks and Greenspaces

# Open Spaces Acquisition Bond Measure Resolution

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BEFORE THE METRO COUNCIL

RESOLUTION No. 95-2074-A

FOR THE PURPOSE OF CHANGING THE ELECTION DATE OF THE  
SUBMISSION TO THE VOTERS OF A GENERAL OBLIGATION BOND  
INDEBTEDNESS TO PROCEED WITH THE ACQUISITION OF LAND  
FOR A REGIONAL SYSTEM OF GREENSPACES.

Introduced by Councilor McCaig

---

WHEREAS, Metro has taken a leadership role in identifying remaining natural areas  
in the region and planning for their protection or potential acquisition; and

WHEREAS, Such activities have been and will continue to be coordinated with the  
affected federal, state and local governments, and citizens in the region; and

WHEREAS, Numerous planning efforts, studies, and recommendations have been  
proposed over the past 90 years to develop a system of interconnected greenspaces  
for the Portland/Vancouver region; and

WHEREAS, On June 28, 1990, by Resolution No. 90-1261, the Metro Council  
established the Greenspaces Policy Advisory Committee to assist the Council in  
coordinating its Natural Areas Planning Program and to develop a regional  
consensus in the development of a Metropolitan Greenspaces Master Plan; and

WHEREAS, On September 26, 1991, the Metro Council adopted Regional Urban  
Growth Goals and Objectives by Ordinance No. 91-418B, including Objective 9:  
Natural Areas, Parks, and Wildlife Habitat which calls for a regional open space  
system linking public and private open spaces, trails, recreational, and wildlife  
corridors; and



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WHEREAS, In July 1992 the Metro Council adopted the Metropolitan Greenspaces Master Plan by Resolution No. 92-1637; and

WHEREAS, The Metropolitan Greenspaces Master Plan recommends that Metro seek a regional funding mechanism to assemble, through acquisition and other strategies, and develop a regional greenspaces system, and also assume operations and management responsibility for components of the system in cooperation with local governments; and

WHEREAS, On July 23, 1992, the Metro Council submitted a \$200 million General Obligation bond measure in Resolution No. 92-1939A for the acquisition of greenspaces that did not pass; and

WHEREAS, The voters approved the 1992 Metro Charter which specifically authorizes Metro to acquire, develop, maintain, and operate a regional system of parks, open spaces, and recreational facilities; and

WHEREAS, The Metro Council approved an Intergovernmental Agreement with Multnomah County which transferred the Parks Services Division to Metro; and

WHEREAS, The Metro Council formed the Metropolitan Greenspaces Blue Ribbon Committee by Resolution No. 94-1942 to seek advice and evaluation of proposals for a new bond measure for acquisition of greenspaces; and

WHEREAS, Both the Greenspaces Policy Advisory Committee and the Metropolitan Greenspaces Blue Ribbon Committee recommended a General Obligation bond measure for acquisition of greenspaces in the range of \$136-\$139 million, including up to \$25 million for local government greenspaces projects; and

WHEREAS, The Council on July 28, 1994, adopted Resolution No. 94-2011A submitting to the voters a general bond indebtedness in the amount of \$138.8 million to proceed with the acquisition of land for a regional system of greenspaces; and

Whereas, The Council on November 10, 1994, adopted Resolution No. 94-2049A which modified the General Obligation bond measure referred to the voters by Resolution No. 94-2011A by including the specific projects submitted by local governments, decreasing the amount of the measure to \$135.6 million, and reflecting other changes to the measure made by the Council; and

WHEREAS, The Council finds it is in the public interest that this measure be submitted to the voters at a Special election to be held on May 16, 1995, instead of March 28, 1995; and

WHEREAS, The Council finds it desirable to submit a modified Ballot Title for the Measure as set forth in attached Exhibit "A"; now, therefore,



BE IT RESOLVED,

1. That the Metro Council hereby withdraws the submission to the qualified voters of the District of the bond measure submitted to the voters by adoption of Resolution No. 94-2049A on the 28th day of March 1995 and directs that the bond measure shall be submitted to the qualified voters of the District on the ballot for a Special election to be held on the 16th day of May 1995. The Special election called for the 28th day of March 1995 is cancelled.
2. The Ballot Title for the Measure and the Measure are attached as Exhibit "A" and Exhibit "B" hereto.
3. That this Resolution and the revised Ballot Title shall be submitted to the Elections Officer in a timely manner as required by law in order to cancel the Special election called for on March 28, 1995, by adoption of Resolution No. 94-2049A and instead call for a Special election to be held on May 16, 1995.
4. That the Executive Officer shall submit all necessary information to the Elections Officer so that the Ballot Measure, Ballot Title, and Explanatory Statement shall appear in all county voters' pamphlets published for the election.

ADOPTED by the Metro Council this 19 day of January, 1995.

J. Ruth McFarland, Presiding Officer



## Exhibit "A"

### BOND MEASURE FOR RESOLUTION NO. 95-2074-A

"Caption: Bonds to preserve open space, parks, protect streams, fish, wildlife."

"Question: Shall Metro preserve open space for parks, trails, wildlife; protect streams for fish; issue \$135.6 million in general obligation bonds? If bonds are approved, they will be payable from taxes on property ownership that are not subject to the limits of section 11b, Article XI of the Oregon Constitution."

"Summary: Buys specified open space in the region. Approved bonds will:

- Preserve local lands for parks and trails.
- Maintain water quality in rivers and streams.
- Protect salmon, trout, steelhead.
- Provide areas for walking, picnicking and other outdoor recreation.

Buying open spaces for public use will balance private development in the region. Bonds mature in not more than 30 years. Bond cost estimate is about 22 cents per \$1,000 of assessed value per year. Typical home pays \$1.91 per month."



## Exhibit "B"

### OPENSOURCE ACQUISITION BOND MEASURE

Metro estimates that the Portland-Vancouver metropolitan area will grow by more than 1.1 million people by the year 2040. More homes and businesses will be built to serve this anticipated growth. As communities continue to develop, the protection, acquisition and active stewardship of open spaces, parks, trails and streams must become just as important as planning transportation, water, sewer and other basic infrastructure.

The basis for this land acquisition program is the Metropolitan Greenspaces Master Plan. The Master Plan is the growth management strategy which details the vision, goals and organizational framework of a regional system of natural areas, open space, trails and streams. The primary objective of the Master Plan is protection of natural resource areas in the public interest. The analysis is based on watersheds or stream basins to encourage review of the ecosystem in each part of the region. The Master Plan includes 1989 inventories and maps of 109,000 acres of then existing natural areas in and near the Metro boundaries. In 1989, approximately 9,200 acres were in public ownership. Nearly half of the publicly-owned acreage is located in Forest Park.

One goal of the Master Plan is to improve water quality in the region which is degraded as natural areas are lost. Retaining forested areas on slopes minimizes erosion that pollutes streams. Wetlands and floodplains hold runoff allowing plants and micro-organisms to biologically filter pollutants. Natural areas with riparian corridors will be purchased and preserved. Restoring native vegetation along these waterways will improve water quality.

The Master Plan identifies regional trails, streams and wildlife corridors. The trails provide means of human-powered access to commerce, recreation and natural areas. This includes links between parks, local trails and local communities and access to regionally significant parklands and natural areas. Streams and wildlife corridors protect habitat for maintaining biological diversity. Linked habitat is important for fish and wildlife species that reside in and pass through the region along regular migratory routes.

From the Master Plan inventory a number of existing large acre sites throughout the region were designated as regionally significant open space protection areas. These areas would be used to provide and protect open space and for passive recreational activities, including but not limited to, picnicking, hiking, bicycling, camping, bird watching, and boating.

This referral to the voters of \$135.6 million in general obligation bonds is based on advisory groups recommendations. This proposal has three components. It proposes acquisitions from 14 of the regionally significant areas (approximately 5,982 acres) and regional trail segments from the Master Plan plus local open space and trail projects. The inventory in these target areas has been reviewed in 1994.



The following are the 14 regionally significant natural areas and estimated acreages:

Willamette River Greenway	1,103
<i>Willamette Narrows</i>	
<i>Cascades Bluffs</i>	
<i>Cathedral Park to railroad bridge</i>	
<i>Oaks Bottom to OMSI</i>	
<i>West side of Multnomah Channel</i>	
East Buttes/Boring Lava Domes	545
Newell Creek Canyon	370
Sandy River Gorge	808
Cooper Mountain	428
Buffer and expansion of Forest Park	320
Jackson Bottom and McKay Creek/Dairy Creek Addition	333
Tonquin Geological area	277
Tualatin River Greenway, access points	266
Clear Creek Canyon	343
Gales Creek	775
Columbia Shoreline	95
Rock Creek	300
Tryon Creek linkages	20

The following are the five regionally significant trail segments targeted for acquisition:

- Peninsula Crossing Trail (Improvements only)
- Fanno Creek Greenway
- Sauvie Island to Beaverton/Hillsboro Trail
- Clackamas River Greenway (north bank)
- Beaver Creek Canyon Greenway (Troutdale)

They will be the first priority for acquisitions from the bond proceeds. Other regionally significant open spaces and regional trails identified in the Master Plan may be acquired if target areas become degraded, cost prohibitive or otherwise infeasible as determined by the Metro Council after a public hearing. New target areas shall be selected to retain a regional balance of sites acquired. In addition, some new opportunities may arise to acquire natural resource areas not in the Master Plan if funding permits. These will not be approved unless the Master Plan is first amended by the Metro Council after a public hearing on the amendment.

There are various means intended to be used to secure rights to natural resource land. This will include outright purchase of title to the land with the assistance of outside professional realtors. However, other methods insure preservation of the character of the land as open space and may allow its use by the public. Purchase through a nonprofit land preservation organization may enable the program to secure land at below market rates due to the favorable tax benefits that accrue to sellers. Easements, rather than full title to the land, can be donated or sold by a



landowner. Donations, bequests and grants will be sought to enable the program to protect and acquire more natural resource land. Donations will be encouraged by allowing some naming of parks, trails and open spaces. Agreements for Metro to acquire any interest in land shall be negotiated with willing sellers. Metro will exercise its powers of eminent domain only when the Metro Council has determined that extraordinary circumstances exist.

In addition to the regional areas and trails, \$25 million of bond proceeds will be used to buy and make capital improvements on lands for local open spaces and trails. These purchases and improvements will be made by cities, counties and park districts which provide parks services. The local governments shall be permitted to pay administrative costs associated with land acquisition and capital improvements from this local share of bond proceeds or from their own resources. Intergovernmental agreements between Metro and the park providers will be used to assure that the funds are expended for activities related to natural areas. Interests in land acquired from this local share would be for regionally or locally significant natural areas, open space, trails, streams and wildlife corridors, including accessible waterways, that function for fish, wildlife, and people. Capital improvements would be for restoration or enhancement of natural areas, trail construction, access facilities, public use facilities and environmental education facilities. Ownership of lands will be consistent with the Master Plan. Provision must be made for lands acquired with the local share to be maintained for its intended recreational, natural area or trail activities. Agreements for park providers to acquire any interest in land shall be negotiated with willing sellers. Local governments will exercise their powers of eminent domain only where the local governing body has determined that extraordinary circumstances exist.

It is important to identify local projects to be funded and their estimated costs in time to inform the voters prior to the vote on this ballot measure. Therefore, a list of local projects with estimated costs matching nearly all providers' pro rata share has been delivered to Metro. The list of local projects, the sponsoring local government and the estimated acreage are:

#### Clackamas County

Springwater Corridor Trail	Land acquisition to complete trail near Boring
Barton Park Quarry Reclamation	Capital improvements of Barton Park; restoration and campground
Damascus Greenspace	Acquire 25-30 acres in the Damascus area for a park
Clackamas River North Bank Park trail	Acquisition of park land along the proposed greenway
Kellogg Creek Natural Area	Natural area acquisition near Jennings Avenue
Boardman Slough Wetland Park	Land acquisition for a wetland park near Gladstone



**Clackamas County** *continued*

Mt. Talbert	Acquire 15 acres on top and east slope; south of Sunnyside Rd.
Portland Traction Company Right-of-Way	Acquire about 7 miles of rail line between Milwaukie and Gladstone
Meldrum Bar Park, Gladstone	Riparian restoration and picnic shelters of this Willamette River park
Cross Memorial Park, Gladstone	Trail improvements
Glen Echo Wetlands, Gladstone	Land addition to wetland park; trails
Mt. Scott Creek Trail, Happy Valley	Trail construction to provide park access from Sunnyside Road
Scott View Nature Park, Happy Valley	Trail construction
West Waluga Park Trail, Lake Oswego	Perimeter trail and access points around natural area park
Rochr Park Willamette Greenway, L. Oswego	Acquire land and construct trail along park and greenway
Lusher Farm / Cook's Butte Trail, L. Oswego	Acquire land and construct trail between parks
Canal Acres Natural Area, Lake Oswego	Trail construction connecting to Bryant Woods Park
Milwaukie Waterfront	Acquire about 2.5 acres at the confluence of Johnson Creek
Kellogg Lake, Milwaukie	Acquire land west of Kellogg lake and east of McLoughlin Blvd.
Springwater Corridor, Milwaukie	Acquire land between Johnson Creek and the Springwater Trail
Rosewell Wetland, Milwaukie	Natural habitat enhancements to a stormwater detention pond
Willow Place Wetland, Milwaukie	Natural habitat enhancements to a stormwater detention pond
Ardenwald to Springwater Corridor, Milwaukie	Trail construction to connect Ardenwald neighborhood to Springwater
High Rocks River Bank, Oregon City	Acquire park land on south bank of the Clackamas River
Barclay Hills Park, Oregon City	Nature trail construction in the upper reaches of Newell Creek Canyon
Clackamette Park, Oregon City	Picnic shelters, restrooms, fishing dock
Tualatin River Access, Rivergrove	Boat ramp improvement at city park near SW Dogwood Road



Burnside Park, West Linn

Acquire 8 acres of natural area adjacent to city park on Willamette River

Memorial Park, Wilsonville

Trail construction in park and to the Willamette River Greenway

Boeckman and Mill Creek, Wilsonville

Habitat restoration along creeks at four public schools in area

Wilsonville City Trail System

Capital improvements to complete city trail system to natural areas

Gordon's Run Open Space, Wilsonville

Trail construction along Willamette Greenway near Charbonneau

### Washington County

Henry Hagg Lake / Scoggins Valley Park

Six individual picnic sites, one group picnic shelter, restrooms

City of Cornelius

Natural area project to be determined

Bethany, Reedville, Cedar Mill, Bull Mc. Parks

Acquire land to establish small natural area parks

Tualatin Hills Nature Park

Acquire 22 acres to add to existing park

Koll Center Wetland

Acquire right-of-way access, trail construction, viewing platform

Cedar Mill Creek Corridor

Acquire about 22 acres near Sunset Highway and Cornell Road

Golf Creek Corridor

Acquire about 10 acres west of Sylvan and north of Sunset Highway

Fanno Creek Greenway

Trail construction to connect Fanno Creek Park to neighborhoods

Stonegate Woods, Beaverton

Acquire about 7 acres of wetland forest along Willow Creek

Hart Road Natural Area, Beaverton

Acquire 18 acres to establish greenspace park near SW Hart Road

Johnson Creek Corridor, Beaverton

Acquire about 45 acres along greenway

Forest Glen Park / Hiteon Creek, Beaverton

Habitat restoration including native tree and vegetation plantings

Durham City Park

Trail and bridge construction

David Hill Forest Park, Forest Grove

Acquire up to 10 acres to establish greenspace park in NW area of city

Gales Creek Linear Park, Forest Grove

Acquire land along greenway in SW area of city

Fernhill Wetlands, Forest Grove

Trail access, trail construction, interpretive center near Tualatin River



Noble Woods Park, Hillsboro

Trails, picnic shelters, viewing areas for park on Rock Creek

Rood Bridge Road Park, Hillsboro

Restoration, canoe launch, trails, at confluence of Rock Creek & Tualatin River

Rock Creek Corridor, Hillsboro

Acquisition along the greenway

Cedar Creek Greenway, Sherwood

Acquisition and trail construction in the riparian zone

Fanno Creek / Summer Creek Greenway, Tigard

Trail construction

Natural Area Park, Tigard

Acquire about 7.5 acres of forest land for a city nature park

Tualatin River Corridor, Tualatin

Acquisition along the south bank of the greenway

### Multnomah County

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Burlington Bottom Wetlands, Mult. Channel

Road access, trails, wildlife blind

Howell Territorial Park, Sauvie Island

Picnic shelters, trails, and wildlife viewing blind for 73-acre site

Sauvie Island Boat Ramp

Improvements to launch ramp, boarding docks

Ancient Forest Grove

Trail construction and signage for 38 acre site north of Forest Park

Hogan Cedars

Acquisition along Johnson Creek near Telford Road / Springwater

Oxbow Regional Park, Sandy River

Water system upgrade, picnic shelters, group camp shelters

Blue Lake Regional Park, Fairview

Restore and enhance 10 acre wetland, boardwalks

Fairview Creek Riparian Area, Fairview

Enhancement of 50-acre wetland west of NE 207th connector

Springwater Corridor Trail, Gresham

Trail heads, trail construction, info center, native vegetation plantings

Fairview Creek Headwaters, Gresham

Enhancement of 18 acres, habitat plantings, picnic shelters, trails

Butler Creek Greenway Trail, Gresham

Soft surface trails, bridge over Johnson Creek

Kelly Creek Greenway, Gresham

Acquisition of 4.5 acres, soft surface trails

Beaver Creek Greenway, Troutdale

Acquisition, trails, pedestrian bridge, habitat restoration, erosion control

Wood Village City Park

Habitat improvements, trails, erosion control for 12 acre addition



**Multnomah County** *continued*

Springwater Corridor, Portland  
OMSI to Springwater Corridor, Portland  
Whitaker Ponds, Portland  
Tryon Creek Linkages, Portland  
M. James Glisan Boat Ramp, Portland  
Terwilliger-Marquam Natural Area, Portland  
Columbia Slough, Portland  
Johnson Creek Corridor, Portland  
Mocks Crest, Portland  
Kelly Point Park, Portland  
Oaks Bottom, Portland  
Powell Butte, Portland  
Community Natural Areas, Portland  
Hoyt Arboretum, Portland  
Leach Botanical Garden, Portland  
Crystal Springs Rhododendron Garden,  
Portland  
40-Mile Loop Trail, Portland  
River Place to Willamette Park, Portland  
Fanno Creek, Portland  
Forest Park Wildwood Trail, Portland

Trail heads and trail improvements in SE Portland

Trail heads and trail improvements on east  
bank of Willamette River

Acquisition for greenspace park along  
Columbia Slough in NE Portland

Acquisition in Tryon Creek watershed in  
SW Portland

Improvements to launch facility on Columbia  
River in NE Portland

Acquisition of upland forest in SW Portland

Acquisition of greenspace along or near slough  
in N and NE Portland

Acquisition of greenspace along creek in SE Portland

Acquisition of greenspace in N Portland

Acquisition of adjacent land in N Portland

Habitat restoration, improvements in SE Portland

Habitat restoration, improvements SE Portland

Acquisition of small greenspaces in NE King  
or Elliot neighborhoods

Acquisition of adjacent land in NW Portland

Acquisition of adjacent land in SE Portland

Acquisition of adjacent land in SE Portland

Trail right-of-way acquisition along the 40-Mile Loop

Acquisition and trail construction on the west  
bank of Willamette River

Acquisition along the greenway in SW Portland

Access and habitat improvements in NW Portland



Other local projects may be substituted if the target areas become degraded, cost prohibitive or otherwise infeasible. Capital improvements of lands acquired with bond proceeds are intended to be a secondary purpose of this entire program. However, for individual purchases or some local projects, greenspaces related capital improvements, may be a primary element. Allowable improvements include, but are not limited to, restoration or enhancement of natural areas, trail construction, nature centers, interpretative displays, facilities for disabled people, access roads and facilities, parking, boat ramps, trail heads, rest rooms, picnic tables, shelters, viewing facilities, water systems, camp sites, fishing piers, signs, fences, and security lighting.

Regionally significant lands acquired by Metro would be "land banked" with the property interest owned by Metro. The Metro Regional Parks and Greenspaces Department may operate and maintain these lands or other cooperative arrangements may be made consistent with the Greenspaces Master Plan. Initially, most of these lands will be held with limited maintenance and development. If the acquisition bond measure is approved by the voters, Metro excise taxes have been committed for this low level of maintenance. No bond funds can be legally used for any operating expenses. Some improvements could be done with bond funds and new grants to start public use. At the same time, user fees and other revenue must be developed to offset increased costs from increased public use. The July 1992 Financial Study identified the following alternatives for such revenue: Parking permits, day use or camping fees, concessions, volunteer services. Other revenue sources may be investigated depending on the type of improvement.

Other allowable expenditures for this program include acquisition administrative expenses, bond issuance costs and reimbursable bond preparation expenses relating to the design planning and feasibility of the acquisition program. Administrative expenses include, but are not limited to, assistance from professional realtors, real estate appraisals, title companies and environmental evaluation firms.

The preference is to issue bonds which mature in 20 years. However, to maintain the flexibility to respond to the market existing at time bonds are issued, the maturity period may be up to 30 years.



**METRO NATURAL RESOURCES COMMITTEE REPORT****CONSIDERATION OF RESOLUTION NO. 02-3253, FOR THE PURPOSE OF  
ADOPTING AN UPDATED REGIONAL GREENSPACES SYSTEM CONCEPT MAP**

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Date: December 9, 2002

Presented by: Councilor McLain

**Committee Action:** At its December 4, 2002 meeting, the Metro Natural Resources Committee voted 4-0 to recommend Council adoption of Resolution 02-3253. Voting in favor: Councilors Atherton, Bragdon, Hosticka, and McLain.

**Background:** Resolution 02-3253 adopts the first update of the regional concept map since 1992, when the Greenspaces Master Plan was adopted. Specific policies were eventually adopted into the Regional Framework Plan in 1997, but an updated map of the regional system was not included. The Regional Framework Plan did include a call for the creation of an inventory of regional parks, natural areas, open spaces, vacant lands, trails and greenways at the watershed level.

The Greenspaces Technical Advisory Committee (GTAC) guided department staff in developing a process and criteria for mapping natural area components with the highest ecological and community values.

The Regional Greenspaces System Concept Map has no regulatory impact and does not establish requirements or obligations for public or private landowners. The exact nature of what the map does convey was the subject of meetings with local park jurisdictions throughout the region. Virtually all of them have sent letters supporting adoption of the map. Many were letters of unqualified support while others recommended further considerations.

- **Existing Law:** Greenspaces Master Plan (Resolution 92-1637)  
Regional Framework Plan (Ordinance 97-715B)
- **Budget Impact:** No budget impact.

**Committee Issues/Discussion:** Charlie Ciecko introduced the resolution and delivered the presentation via Powerpoint format. The committee heard further information on details of the map, for example how it depicts private from public ownership. The committee did direct that the key on the map clearly indicate that it is not a regulatory document.



**NATURAL RESOURCES COMMITTEE REPORT**

CONSIDERATION OF RESOLUTION NO. 02-3251, FOR THE PURPOSE OF APPROVING AN EXCLUSIVE PERSONAL SERVICES AGREEMENT WITH THE BUEL GROUP TO SERVE AS THE SOLE AGENT OF METRO TO DEVELOP HOSPITALITY AND OTHER COMPATIBLE FACILITIES AT THE GLENDOVEER GOLF COURSE

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Date: December 6, 2002

Presented by: Councilor Hosticka

**Committee Action:** At its December 4, 2002 meeting, the Natural Resource Committee voted 3-0 to send Resolution 02-3251 to Council with no recommendation. Voting in favor: Councilors Atherton, Hosticka, and McLain.

**Background:** Metro assumed ownership of the Glendoveer Golf Course from Multnomah County in 1994-95. It is managed through a contract with Glisan Street Recreation, Inc., that expires in 2012. The Buel Group proposes that Metro enter into an exclusive personal services agreement designating the Buel group as Metro's sole agent for a three year period ( with an option for an additional three years), to develop hospitality (a hotel) or other compatible facilities at Glendoveer. Should a development proposal be forthcoming, Council approval will be required. If successful, Metro will lease the facility to the developer/operator on a long-term basis (60 years minimum).

This agreement does not call for any Metro money up-front, and allows for Metro to generate revenues from a percentage of gross receipts of the facility, and other possible revenues to be negotiated.

**Committee Issues/Discussion:** Councilor Hosticka introduced this resolution. He described it as an opportunity to do something new and generate revenue for Metro. He pointed out that the Buel Group gets no money up front, only if they are able to put together a successful proposal, which would still need Council approval. Mr. Buel then explained that this concept emerged from a discussion he had three years ago with Metro Executive Mike Burton. He has also negotiated an agreement with the current managers of Glendoveer, GSR, compatible with his proposal to Metro.

Charlie Ciecko, Director of the Regional Parks and Greenspaces Department, then stated that he had had conversations with Mr. Buel over the last three years, but had not concluded that he had seen a proposal favorable to Metro during that period. Generally though he had no problems with the concept of a hospitality facility at Glendoveer.

Councilor McLain said that she would like to hold this matter over in order to get more comfortable with details of the contract. Councilor Hosticka however, felt that the threshold question was the issue of granting exclusive rights to the Buel Group. If that was decided in the affirmative, other details in the contract could be worked out.