



METRO

Memorandum

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

DATE: March 16, 1989
TO: Metro Council
FROM: Ray Barker, Council Analyst
RE: WASTE TRANSPORT SERVICES BID

The purpose of this memo is to provide the Council with a Chronology of Metro activities/actions regarding the Waste Transport Services bid to transport waste from the Metro region to the Gilliam County landfill. Attached are newspaper articles, news releases, meeting notices, etc., regarding the transporting of waste to the Arlington area.

<u>DATE</u>	<u>ACTIVITY/ACTION</u>
	<u>1988</u>
January	Transportation and Transfer Station Cost Analysis published. Contains an analysis of rail, barge and truck options on transporting waste to Arlington. All three modes are viable.
May 31	Solid Waste Committee meeting. Briefing on St. Johns Landfill closure, East Transfer Station schedule, and waste transport services to Arlington Landfill. Staff stated that transport bid recommendations were based on containerized movement of solid waste so that containers could be moved by three possible transportation modes. Meetings to be held with Gilliam County officials to ascertain the best transportation methods for the area.
June 7	Solid Waste staff report recommending a privately operated system which would allow facilities and equipment to be in place by the time the Arlington Landfill opened. Private sector firms in trucking, barge and rail industries could provide the services.
June 14	Solid Waste Committee meeting. Status Report on the Request for Bids (RFB) for waste transport services. RFB Review Committee members named.

WASTE TRANSPORT SERVICES BID

March 16, 1989

Page 2

<u>DATE</u>	<u>ACTIVITY/ACTION</u>
June 21	Solid Waste Committee meeting. Discussion of the RFB for waste transport services. Consideration of draft <u>Resolution No. 88-948</u> , adopting policy. Rich Owings, Solid Waste Director, stated that because three different modes of transportation could be employed, he expected good competition.
June 27	Solid Waste Department report entitled "Bid Concepts for the Transportation Request for Bids." Overview of transport system envisioned; current assumptions; and key issues. Waste to be handled in intermodal leakproof containers. Containerized waste can be transported by truck, rail or barge. Containers will be watertight and not opened until they are unloaded at the landfill. The loads of waste should be indistinguishable from any other containerized load as it moves through the transport system. Barge and rail modes will require depots,; truck will not.
July 5	<p>Solid Waste Committee meeting. Consideration of Resolution No. 88-948, for the Purpose of Adopting Policy that Waste Transport Services to Gilliam County Shall be Privately Owned and Operated and That These Services Shall be Acquired Through a Request for Bids.</p> <p>A draft report "Bid Concepts for the Transportation Request for Bids" dated June 27, 1988, was distributed to the Committee.</p> <p>The Committee voted to recommend Council adoption of Resolution No. 88-948.</p>
July 19	Solid Waste Committee meeting. Briefing on RFB for transport services. Mr. Owings stated that the bid document was close to completion and that talks had been held with potential vendors and information provided to interested parties.
July 28	Council meeting. <u>Resolution No. 948</u> , Adopting a Policy that Waste Transport Services to Gilliam County Shall be Privately Owned and Operated and That These Services Shall Be Acquired Through a Request for Bids. Council adopted Resolution No. 88-948.
August 2	Solid Waste Committee meeting. Briefing on RFB for transport services. Update on the status of transportation bids.

<u>DATE</u>	<u>ACTIVITY/ACTION</u>
August 9	First draft transport bid document mailed to all interested parties.
August 16	Solid Waste Committee meeting. Consideration of <u>Resolution No. 88-971</u> , for the Purpose of Approving a Request for Bids for Waste Transport Services. Public input received from Union Pacific, Judge Laura Pryor (Gilliam County) and transportation experts. Consideration of Resolution No. 88-971 continued to August 30, 1988.
August 30	Solid Waste Committee meeting. Consideration of <u>Resolution No. 88-971</u> , for the Purpose of Approving a Request for Bids for Waste Transport Services. Mr. Martin noted that this agenda item was continued from the August 16, 1988, meeting so that concerned parties would have time to submit comments. The Committee said the language should be examined to ensure potential vendors were not eliminated. The Committee voted to continue consideration Resolution No. 88-971 to the September 6, 1988, Solid Waste Committee meeting.
September 6	Solid Waste Committee meeting. Briefing on waste transport issues. Transportation bid document nearly in final form. Chair Hansen said a public hearing could be held September 20, 1988. Solid Waste Management Plan Policies (agenda item). Transportation policy states: "The solid waste transportation system shall be cost-effective, reliable and readily adaptable to alternative modes of transportation."
September 14	Second draft transport bid document dated September 14, 1988, mailed to all interested parties.
September 20	Solid Waste Committee meeting. Consideration of <u>Resolution No. 88-971</u> , for the Purpose of Approving a Request for Bids for Waste Transport Services. Most discussion centered around the length of the contract to assure the greatest number of bidders. Committee voted to recommend the full Council adopt Resolution No. 88-971 as amended.
September 22	Council meeting. Council voted to defer consideration of <u>Resolution No. 88-971</u> to October 13 to provide for

<u>DATE</u>	<u>ACTIVITY/ACTION</u>
September 22 (con.)	the filing of a minority report regarding the length of the transport services contract.
October 13	Council meeting. Consideration of <u>Resolution No. 88-971</u> , for the Purpose of Approving a Request for Bids for Waste Transport Services. Council voted to adopt Resolution No. 88-971. The majority of discussion centered around the length of the contract. Council wants to encourage competition and wants to receive bids from barge, rail and trucking industries.
October 21	Metro issued a Request for Bids (RFB) for Waste Transport Services.
November 16	DBE/WBE pre-bid conference held on waste transport services bid.
November 22	Pre-bid conference held for waste transport bidders.
December 2	Addendum No. 1 to the contract documents distributed. Definitions revised.
December 12	Addendum No. 2 to the contract document distributed. Basis and method of payment; permits and regulations.
December 16	Addendum No. 3 distributed. Changed bid opening date from December 21, 1988, to December 29, 1988.
December 22	Addendum No. 4 distributed. Changed bid opening date from December 29, 1988, to January 6, 1989; fuel escalation/de-escalation price adjustment provision.
	<u>1989</u>
January 6	Bid opening for waste transport services contract. Two television stations and newspapers covered bid opening. Bids received from all three modes: barge, rail and truck. A total of six bids were received.
January 7 - February 6	Solid Waste Department staff evaluates waste transport bids. Determines Jack Gray Transport, Inc., is the lowest, responsible bidder. Recommends adoption of Resolution No. 89-1053 awarding contract to Jack Gray Transport, Inc.
February 14	Solid Waste Committee meeting. Consideration of <u>Resolution No. 89-1053</u> , for the Purpose of Awarding a

WASTE TRANSPORT SERVICES BID

March 16, 1989

Page 5

DATE

ACTIVITY/ACTION

February 14
(con.)

Contract for Waste Transport Services to Jack Gray Transport, Inc. Public hearing held. Consideration of resolution continued to February 28. (See Exhibit A attached for summary of Committee discussion and public input).

February 28

Solid Waste Committee meeting. Consideration of Resolution No. 88-1053, for the Purpose of Approving the Award of a Contract for Waste Transport Services to Jack Gray Transport, Inc. Public hearing held. (See Exhibit A attached for summary of Committee discussion and public input.)

March 2

Solid Waste Committee meeting. Consideration of Resolution No. 89-1053, for the Purpose of Approving the Award of a Contract for Waste Transport Services to Jack Gray Transport, Inc. Public hearing held. Solid Waste Committee voted to recommend full Council adoption of Resolution No. 89-1053. (See Exhibit A attached for summary of Committee discussion and public input.)

RB:pa

a:\RAYB.057

EXHIBIT A

Committee Report

Agenda Item 7.1

Meeting Date March 23, 1989

RESOLUTION NO. 89-1053, FOR THE PURPOSE OF APPROVING THE AWARD OF A CONTRACT FOR WASTE TRANSPORT SERVICES TO JACK GRAY TRANSPORT, INC.

Date: March 15, 1989

Presented by: Councilor
Gary Hansen, Chair Solid
Waste Committee

Committee Recommendation

The Solid Waste Committee recommends Council adoption of Resolution No. 89-1053.

Committee Discussion/Issues

On October 21, 1988, Metro issued a Request for Bids (RFB) for Waste Transport Services. On January 6, 1989, six bids were received. Jack Gray Transport, Inc. (JGT), was the apparent low bidder. After investigation of the bid submitted by Jack Gray Transport, Inc., the Solid Waste Department staff concluded that the firm is the lowest, responsive, responsible bidder for the Waste Transport Services Contract.

Resolution No. 89-1053 was considered by the Solid Waste Committee on February 14, 1989; February 28, 1989; and March 2, 1989. Public hearings were held on each of these dates.

The majority of the questions and issues raised during the public hearings, and discussed by the Solid Waste Committee, centered around the following:

1. The safety of the transport equipment proposed by Jack Gray Transport, Inc.
2. The legality of the contractor's proposed transport equipment (use of push axles and tag axles; weight limits, etc.).
3. Is the Jack Gray Transport, Inc., bid a responsive and responsible bid? Does it meet the technical requirements of the bid document?
4. The impact of the truck transportation mode on the Columbia Gorge (environment, highway maintenance, tourism).
5. The public information process: Citizens, organizations and local government representatives testified that there was not adequate notice or information given regarding the proposed waste transport contract.

Trucking industry experts testified that the transport equipment proposed by Jack Gray Transport, Inc., was safe and that the equipment would meet Oregon's highway regulations regarding axle weights. An official of the

RESOLUTION NO. 89-1053
Committee Report
March 15, 1989
Page 2

Oregon Department of Transportation stated that the Department would issue permits for the proposed equipment.

Metro's General Counsel stated that in his opinion the Jack Gray Transport, Inc., meets the technical requirements of the bid documents, and there are no grounds to disqualify them as a responsive and responsible bidder.

Information from Metro's Transportation Department indicates that the traffic impact of trucking garbage through the Columbia Gorge would be an approximate increase of one percent for overall traffic and five percent for trucks.

The Solid Waste Committee discussed the savings of the Jack Gray Transport, Inc., bid as compared to the next lowest bidder, over a 20 year period. An analysis indicates that Jack Gray Transport, Inc., remains the low bidder when using different increases in the CPI, different waste flows, and different contract period lengths.

Councilor Wyers strongly supported and requested another public hearing to provide additional opportunity for citizens of the Columbia River Gorge to testify. Metro Presiding Officer Mike Ragsdale stated that a public hearing would be held before the Council on March 23, 1989, to consider the proposed Waste Transport Services Contract.

Vote

The Solid Waste Committee voted 4 to 1 to recommend Council adoption of Resolution No. 89-1053. Voting aye: Councilors Hansen, Kelley, Buchanan and Ragsdale. Voting nay: Councilor Wyers. This action taken March 2, 1989.

RB:pa
a:\RAYB.052

Stockyards eyed as waste recycling, transfer site

By ANDREW OMAN

The Portland Stockyards property on Marine Drive could be the site of a multi-million-dollar solid waste recycling and transfer station, although neighborhood representatives are already vowing resistance.

Oregon Waste Systems Inc., a subsidiary of giant Waste Management of North America Inc., announced Jan. 13 it has obtained an option to buy a 47-acre site on Marine Drive west of the Multnomah County Expo Center. The site is the company's "preferred alternative" for construction of a 100,000-square-foot collection center for Portland-area garbage, where recyclables would be removed and unrecyclables would be packaged and loaded for shipment to the company's landfill, soon to be constructed near Arlington in Eastern Oregon's Gilliam County.

Waste Management had negotiated to lease a site on the Columbia River on North Suttle Road, but the Port of Portland, the land's owner, ruled out the lease after adjacent tenants expressed concern about their potential neighbor. The stockyard site is owned by United Stockyard Corp. of New York City.

Michael Sievers of Northwest Strategies Inc., a consultant firm to Oregon Waste Systems, says the company has signed an option to buy the land pending environmental testing to determine whether the site is physically acceptable for the facility. The Portland Union Stockyard building and a building that houses the Red Steer Restaurant (both on the city's Historic Resource Inventory) will remain standing if the deal goes through, Sievers says, but other buildings on the site may be leveled. A wetlands area on the southern portion of the property would remain unaffected, he adds.

"We looked at other sites in that area," Sievers says, but found the stockyards best fit the company's requirement for rail, highway and barge access. Although the property is divided from the river by Marine Drive, he says the company could find a solution if it found barge access necessary. Waste Management has stated earlier that rail is its preferred method of transportation to Eastern Oregon and Sievers says the present plan does not include the immediate construction of a barge facility.

Asked whether Waste Management would lobby for the northern or southern alignment of Marine Drive, a choice that will soon go before City Council, Doug Babb, also of Northwest Strategies, said Waste Management has not taken a position on the alignments. Because the company plans to use North Force Avenue as an access point, he said, either alignment would be workable.

Barry Brownell, owner of Red Steer Restaurant and Lounge, says he supports the proposed transfer station as a neighbor.

"I think it would be quite an asset to the community," Brownell says, citing the size of the project and improvements the company could afford to make to the land and the stockyards building.

Brownell's enthusiasm, however, is not shared by representatives of nearby neighborhoods. Jack Thompson, a member of the Kenton Neighborhood Association Board and chairman of the North Portland Citizen Committee's Solid and Toxic Waste Committee, doesn't like Waste Management's choice of location.

"I will be opposing that location for the same reasons I opposed the Port of Portland site," Thompson says. Top on Thompson's list of concerns is that North Portland would continue to be the "dumping ground" for tri-county trash. He says he is also concerned about the historic value of the stockyards, the other businesses housed there and the depth of the proposed construction relative to the water table. Finally, Thompson says, he is concerned about the company's reputation.

"I frankly don't like Waste Management's track record nationwide or worldwide," he says, citing reports of aggressive tactics used by the company. "I really don't want them for neighbors."

"I'm sure the neighborhood will oppose it," says Pam Arden, president of the Kenton Neighborhood Association. Arden says she is concerned because, since the site is on private property, the neighborhood association and NPCC will not have an intermediate agency such as the Port of Portland to act as a buffer.

"It's really in our laps now," she adds.

Cusma gets Metro rolling on garbage-train to Arlington

By HARRY BODINE
of The Oregonian staff

Now that Executive Officer Rena Cusma has recommended that Portland-area garbage be shipped to a new landfill 140 miles east of the city, the Metropolitan Service District faces several hurdles before waste actually arrives there.

First, Metro must decide how garbage will be brought to one central point in Portland and then be transported 140 miles up the Columbia River to Oregon Waste Systems Inc.'s site south of Arlington.

"The bottom line is we need something available (and operating) when the St. Johns landfill closes," said Richard Owings, Metro's solid-waste director. The closure could come as early as August 1990, depending on how fast waste fills it up in the meantime, he added.

Owings' staff and two committees advising Cusma and the Metro Council solid-waste committee are working on various aspects of the program.

The council's solid-waste committee, which had been focusing on proposals to burn garbage or develop a publicly owned landfill in Washing-

ton County, will concentrate now on the Oregon Waste Systems landfill contract, said Gary Hansen, its chairman.

Representing a 20-year legal and financial commitment, the Oregon Waste Systems' contract is perhaps the most important document the council committee has ever examined, Hansen added.

The committee will start its work at 7 p.m. Thursday at Metro's headquarters in Portland.

A separate solid-waste planning policy committee appointed by Cusma, which includes officials from other local governments, decided Friday that Metro should seek bids from private firms to build a new East Transfer & Recycling Center in North or East Portland. The committee also decided to determine how much it would cost for Metro to build and operate the facility under public ownership.

Metro already owns a transfer station in Oregon City operated under contract by a private firm — Wastech, Inc. A consultant's report has recommended that the new transfer station be privately owned, in part because a private company

probably could get it built faster.

Four firms have expressed a desire to build the facility, Owings said.

They are Oregon Waste Systems, which also wants to bid on the contract to transport garbage to its new landfill; Riedel Environmental Technologies Inc., which wants to build a plant for Metro that would convert waste into compost; Wastech, which operates the Clackamas County transfer station in Oregon City; and the East County Recycling Center.

In addition, Knappton Corporation has contacted Metro in regard to transporting waste, Owings added.

Metro will structure its call for bids so that a single company can bid on both the transfer station and the depot-transportation contracts, with both facilities possibly located on the same site, he said. A key point is that a bidder would have to have the necessary permits in hand by July 1, 1988.

Richard A. Daniels, Oregon Waste Systems' vice president, said his company had filed an application with the city of Portland last week to obtain permits to build and operate

a transfer station and loading depot at the old Portland stockyards site on North Marine Drive.

"We have optioned the property and are doing environmental analyses on it," he said.

Once the necessary permits are obtained, a transfer station and loading depot could be built in 12 to 15 months, Daniels said.

It also would take about that long to prepare the landfill site in Gilliam County so that it could start receiving Portland garbage, Daniels said.

Oregon Waste Systems Inc. has obtained land-use permits from Gilliam County and hopes to have its environmental-regulation permit from the Oregon Department of Environmental Quality shortly after the DEQ conducts a public hearing in Arlington on Feb. 18, he said.

Daniels said Oregon Waste Systems had not ruled out barging garbage up the Columbia River to Arlington, but it thought that moving waste by rail would be cheaper. (A Union Pacific Railroad branch line reaches the landfill site.)

Arlington Mayor Dennis M. Gronquist said the city would prefer to see the garbage transported by rail, which would be far less disruptive to

the small community than heavy truck traffic traveling southward on narrow highway Oregon 19.

At certain times 40 to 50 trucks per day use the road, which now goes to a chemical-waste landfill adjoining the new 2,000-acre Oregon Waste Systems site, Gronquist not-

ed. "We don't have any demands" the project at this point, Gronquist said. He estimated that 90 percent 95 percent of the local residents supported the new landfill, viewing it an economic boost to a community in need of a boost.

Tuesday, Feb. 16, 1988 Hillsboro (Ore.) Argus

Landfill foes still need financial help with debt

Although they are elated that garbage appears headed elsewhere, activists who fought against siting a regional landfill near Banks still need help meeting their debts.

The fight against the Bacona Road proposal was led by the Helvetia/Mountaindale Preservation Coalition.

Its members have campaigned against the site for more than a year.

The effort has cost more than \$95,000, and according to spokesman Greg Brown, they're still about \$27,000 short.

People who would like to help retire the debt can send a check to HMPC, Rt. 1, Box 192, Cornelius 97113.

HMPC hired consultants to analyze the state Department of Environmental Quality's technical report on the feasibility of the Bacona Road site. An administrative law judge then ordered more investigation into the potential for pollution of underground water supplies and the possibility of underground landslides. DEQ has suspended further testing at the site until the Metro Council makes a final decision on whether to send the region's garbage to a private landfill in eastern Oregon.

Cusma: send the garbage east

By ANDREW OMAN

Metro executive Rena Cusma has recommended that the Metropolitan Service District buy space in an Eastern Oregon landfill for Portland-area garbage, but it is still uncertain whether the trash collection and shipping point will fall in North Portland.

At a press conference Feb. 11, Cusma announced her support for a proposal to enter into a 20-year contract with Oregon Waste Systems, a subsidiary of Waste Management of Oregon. The contract would fill the metro-area's landfill needs for two decades in a landfill under construction outside Arlington in Gilliam County. Cusma also recommended that, upon execution of a contract with Oregon Waste Systems, Metro inform the Department of Environmental Quality that the proposed Bacona Road landfill site will no longer be needed.

Cusma told those gathered the company's proposal would take the weight of finding a landfill off Metro's shoulders for 20 years and allow the organization to focus on methods for reducing the trash that must be relegated to landfills.

"The St. Johns Landfill has been scheduled to close and kept open, scheduled to close again and once again kept open," Cusma read from the statement. "The people of North Portland have borne this burden long enough. We now have the chance to close that landfill on time."

Under the contract recommended by Cusma, Metro would buy space in the Eastern Oregon landfill equal to 90 percent of the area's landfill need. Initial cost-per-ton for Metro would be \$21.70, not including transportation, and the price could rise only as fast as the Consumer Price Index. In addition, if Oregon Waste Systems contracts with another community to take trash at a lower cost, the proposed contract would require the company to give Metro the same price. Overall, she said, the Arlington landfill option will cost Metro less than developing the proposed Bacona Road site because the municipality will not have to finance the landfill's construction.

The agreement would give people within the Metropolitan Service District a reason to recycle, Cusma said, because the agreement assumes a 30-percent increase in recycling. If the amount of recycling does not increase, the space will run out in less than 20 years.

Laura Pryor, Gilliam County's ranking executive, said the county government is "very, very pleased" at Cusma's recommendation and looks forward to entering into what both executives termed a "partnership" to solve the Portland-area's trash problems. She said the revenue created by the landfill would help that part of Eastern Oregon build and diversify from its cattle-and-wheat-based economy.

Cusma also announced her recommendation that the Metro Council halt negotiations with Combustion Engineering, which purposes to build a garbage incinerator in Columbia County. Although the county originally courted Metro to site the incinerator there, environmental and other concerns have blocked the identification of a site for the burner and the county council has failed to repeal an ordinance that prohibits waste from entering the county.

Cusma's recommendations to dump Bacona Road and halt burner negotiations brought cheers from environmentalists in the crowd and a coalition of citizen groups quickly took credit for involving the public and turning Metro around. The groups have attacked the burner with concerns about air emissions and have opposed the Bacona Road dump site because of the area's natural setting and the fact that the area receives about 40 inches of rainfall each year. The Gilliam County landfill site receives an average of nine inches of rainfall each year.

"We will celebrate this citizens' victory for a long time, but we know it's just a beginning," Judy Dehen of the Sierra Club read from a prepared text. The groups vowed to push Metro to increase its recycling efforts.

If the Metro Council accepts Cusma's recommendation on the Gilliam County landfill, the question of where the garbage will be collected and how it will travel 140 miles east will remain. Cusma said Metro will probably issue a request for proposals or a request for bids in mid-March.

"We very deliberately split that for a separate bid," Cusma said.

Although the bid is split, Oregon Waste Systems is already negotiating to purchase a site to build a recycling and transfer station on North Marine Drive. Bob Applegate, a spokesman for Metro, says unless the council changes its policy, any transfer station will have to be publicly owned. A recommendation to change the policy is currently before the council's solid waste committee.

Although Oregon Waste Systems might be ahead of other companies who might submit bids for a transfer station, Applegate says he expects other companies to develop other plans. Oregon Waste Systems has proposed to train the trash, but the Metro spokesman says transfer and transportation are still wide open.

"The rail lines should be able to bid on it, the barge lines should be able to bid on it, even the truckers should be able to bid on it," he says.

Effort saves dump space

About 600 tons of telephone directories were recycled this year through Operation Phone Book, a program of metropolitan-area Lions clubs. The 300,000 books — enough that, if laid end to end, they would stretch from Portland to Bend — would have been deposited in the St. Johns Landfill.

The program was carried out with assistance from Metropolitan Service District, which provided information about drop sites and a referral system for large businesses through its Recycling Information Center. Anderson Brothers Co. and the Oregon Air National Guard donated trucks, trailers and drivers for collection of books and volunteers from Tualatin Valley Amateur Radio Club, Portland Recycle and Refuse Operators and Oregon State Frisbee Golf Club worked with Lions Club members to haul and stack the books.

The drive raised \$21,000 for the Lions Sight and Hearing Foundation of Oregon.

Buy 20 years of technology

Consider the technological revolution of the past 20 years. Imagine what may lie ahead in the next two decades. Given the technology likely to evolve, the Portland region is wiser to have a 20-year solid-waste plan than attempting to project needs for twice that long.

That is one reason a contract for a landfill near Arlington for a score of years has greater appeal than having the Metropolitan Service District open its own dump along Bacona Road north of Manning.

Metro may also clear away some of the confusion over which is less expensive to operate by focusing on the 20-year span during which Waste Management Inc. agrees to take half of the region's garbage in its Gilliam County landfill rather than on the 44-year life of the Bacona site.

Over 44 years, the Bacona dump — assuming it ever could surmount legal challenges and environmental problems — would cost less than the Waste Management contract. But it is necessary to plan on the full life of the landfill to realize the saving.

For the first 20 years, operating costs at Arlington, apart from trans-

portation, are estimated to be less. The main reason is that construction costs for Bacona would be financed by a 20-year bond. Thus, development expenses would be factored into operating costs the first two decades, but would not be part of the overhead for the remaining 24 years. The present generation, in effect, would pay for the next one's bargain garbage rates.

But technological development by the time the Waste Management contract expires may make a landfill a much less important factor in solid-waste disposal. Great progress already has been made in recycling, composting and turning garbage into energy through incineration, enough that Metro assumes these alternatives now can accommodate half of the region's refuse.

Assuming progress continues, the region may have to put little of its waste in the ground 20 years hence. At least, the metropolitan area ought to be constantly alert for new, safe and economical methods of turning waste into something usable rather than using up land with throw-aways.

Solid Waste

Metro backs Arlington site

□ The council's endorsement of a 20-year contract means that the Portland area will have a replacement for the St. Johns landfill

By HARRY BODINE

of The Oregonian staff

3-25-88

The Metropolitan Service District Council voted 9-3 Thursday night to enter into a 20-year contract for landfill services with Oregon Waste Systems Inc.

The vote clears the way for Metro Executive Officer Rena Cusma to complete negotiations with Oregon Waste Systems, guaranteeing that the Portland area will have a replacement for the St. Johns landfill in North Portland, which is scheduled to close by February 1991.

"I'm delighted," Cusma said after the council endorsed the contract, which will result in Portland garbage being transported to a 600-acre landfill 10 miles south of Arlington. The community is 136 miles east of Portland along Interstate 84.

The council had earlier rejected an alternative proposal to delay a formal decision on an Eastern Oregon landfill for 30 days.

Cusma noted that the vote would launch a partnership with Gilliam County, where the Oregon Waste Systems site is located. "We get a landfill. They get jobs," she said.

The decision came after almost

three hours of public testimony and debate among council members.

Proponents stressed that the proposed site — in an arid area with soil conditions that should limit future leaching problems — is environmentally sound, that Oregon Waste System's parent company, Waste Management of North America Inc., is experienced in operating landfills, and that local residents welcomed it.

Councilors George Van Bergen, Sharron Kelley and Corky Kirkpatrick asked for a delay.

They cited law violations by other Waste Management subsidiaries elsewhere in the nation and a new proposal by Tidewater Barge Lines Inc. of Vancouver, Wash., that offers a second landfill choice in Morrow County, also in Eastern Oregon. They also expressed concern about the development of a possible monopoly, in light of the fact that the nation's largest garbage company would be providing landfill services along with garbage collection in Portland and possibly be operating a new transfer station in East Portland.

"A solid waste solution at any price is not acceptable," Van Bergen said.

Councilor David Knowles, on the other hand, said: "We cannot send garbage to St. Johns (anymore). We cannot send it to a burner in Columbia County. We cannot send it to Bacona Road (a Portland-area site identified by the Oregon Department of Environmental Quality that has intense local opposition). We can send it to Arlington."

The major surprise of the evening's deliberations was the presentation of an alternative proposal by Tidewater Barge Lines to bury 200,000 tons of waste, about one-third of the volume Metro intends to ship east of the Cascades, at an alternate landfill site it is developing in Morrow County.

Rather than locking the Portland area into a 20-year commitment to ship waste to one site, Metro would be well advised to have a second option available, Tidewater attorney Stephen T. Janik said.

Gary Hansen, chairman of the council's solid waste committee, opposed delaying a decision on the matter another 30 days so that his committee could analyze the Tidewater proposal as some of its members requested.

Hansen pointed out that Tidewater did not offer Metro a bid prior to a Dec. 21, 1987, deadline. The solid waste committee has been reviewing the proposed contract with Oregon Waste Systems since Feb. 11, he added. If Tidewater has a proposal to offer, he asked, why didn't it present it to Metro 30 days ago?

Councilor Jim Gardner observed that the price quoted by Tidewater — \$21.50 per ton — "is in the ballpark" with the the \$21.63 per ton Oregon Waste Systems offered in its formal bid. This indicates the latter rate is not out of line, he said.

During the hearing, representatives of the Helvetia-Mountaineale Preservation Coalition urged the council to take formal action to preclude any further consideration of the Bacona Road area in Washington County as a local replacement for the St. Johns landfill.

A long haul poses next trash puzzle

By HARRY BODINE
of The Oregonian staff

The Metropolitan Service District Council's decision Thursday night to enter into a 20-year contract for landfill services in Eastern Oregon allows Metro to move onto related tasks.

Foremost on the agency's solid waste agenda in coming weeks is finding the cheapest and safest way to ship garbage 148 miles east to Oregon Waste Systems Inc.'s new landfill south of Arlington.

Equally important is determining whether a large new transfer station and recycling center to be built on Portland's east side will be publicly or privately owned, where it will be located and whether the station will be the shipping depot for waste headed to the landfill near Arlington.

An advisory committee including local city and county officials is helping Metro forge policies for determining how sites for future solid waste facilities in the Portland area will be selected.

And meanwhile, the Metro Council's solid waste committee is poised to consider both long-range policies and immediate questions about transporting waste and about the new transfer station.

Oregon Waste Systems, fresh from gaining the landfill contract Thursday night, expressed interest Friday in both the transportation and transfer center portions of Metro's solid waste program.

Prefers rail shipping

"We're not a transportation company," Richard A. Daniels, vice president and general manager of Oregon Waste Systems, said. But, he added, his company has looked at aspects of moving garbage between Portland and the new landfill.

"Our preference is rail," he said, noting that the Union Pacific Railroad has a branch line bordering the landfill site. At the same time, Oregon Waste Systems is interested in any system that is both dependable and cost effective, he said.

Daniels said his company also had examined the possibility of moving garbage by barge either to the Port of Morrow at Boardman, which is about 20 miles east of Arlington. It has facilities for loading the garbage on trucks for transport to the landfill, or of building a crane at Arlington that could transfer garbage containers from barges to trucks. Installing the crane would cost around \$1.5 million, he said.

Daniels also said Oregon Waste Systems had examined the possibility of a joint venture with the Knapp-ton Corporation, which operates barges on the Columbia River.

The transfer station

Daniels said his company also was interested in owning or operating the new East Transfer & Recycling Center that Metro plans to build somewhere on Portland's east side, which may also serve as a shipping depot for garbage sent east.

Larry Cooper, a Metro councilor, has talked of keeping Oregon Waste Systems from bidding on that transfer station, indicating fear of a monopoly situation. But Daniels said Metro would be the loser if that happened, because of diminished competition in the bidding process.

Cooper said Friday he had not made up his mind on whether Metro should "break the chain" by prohibiting the same firm from handling both the landfill and transfer station components of the system.

He wants the issue examined, however, he said.

Richard Owings, Metro's solid waste director, said Friday the new station would be twice the size of Metro's first transfer station that is operating in Oregon City.

The new center, costing an estimated \$16.5 million, will be much larger than its Clackamas and eventual Washington County counterparts because it will serve a much larger portion of the metropolitan area, Owings said.

Owings added that because of delays in deciding whether the new station would be publicly or privately owned, it is doubtful it will be completed in time to begin shipping waste to Arlington in the summer or fall of 1989 when the landfill becomes operational.

Metro driving another nail in landfill coffin

The Metropolitan Service District's Solid Waste Committee drove another nail into the coffin of a proposed landfill in rural Washington County last week by approving a resolution to contract with a private landfill operator instead.

The Metro Council is scheduled to consider the resolution tonight (Thursday). If approved, Metro officials would begin negotiating a contract with Oregon Waste Systems, a subsidiary of Waste Management Inc., for use of a proposed landfill in eastern Oregon's Gilliam County.

That contract, say Metro officials, could gross Oregon Waste Systems an estimated \$350 million to \$400 million over a 20-year period.

Included with the landfill resolution going before the Metro Council this week is a second resolution to notify the Oregon Environmental Quality Commission (EQC) that a controversial proposed landfill near Bacona Road in west Washington County will no longer be needed.

Metro Public Affairs Director Vickie Rocker said the Bacona Road resolution would go into effect as soon as Metro signs a contract with Oregon Waste Systems.

The Bacona Road proposal had already lost momentum with the EQC after the commissioners kicked the plan back to Department of Environmental Quality (DEQ) researchers for further landfill studies last October.

A solid waste permit for the Gilliam County landfill near Arlington could be issued within weeks, said Carolyn Young, public affairs director for DEQ.

Meanwhile, Linda Peters, president of the Helvetia-Mountindale Preservation Coalition, has said her group is keeping its fingers crossed pending the outcome of the Metro Council vote on the Arlington landfill.

Metro's Solid Waste Committee also forwarded a resolution without recommendation to the council last week to allow a proposed garbage transfer station in Oregon City to be privately or publicly operated.

Councilors say Oregon Waste won't do it all

By ANDREW OMAN

The Metropolitan Service District council voted March 24 to send the region's garbage to Oregon Waste Systems' landfill in Eastern Oregon, but opposition to that move is likely to increase if the council considers letting the same company prepare the trash for shipment.

Sharron Kelly was one of three Metro councilors who opposed the municipality's decision to ship the trash 136 miles east to a 600-acre landfill under construction near Arlington. While the majority decided to take Metro executive Rena Cusma's recommendation to fill the region's landfill gap by buying 20 years' worth of space in the new dump, the three, concerned about parent company Waste Management of North America's history of legal trouble in other states, asked the council to postpone the decision and look for other bidders.

The landfill is only part of a comprehensive system Oregon Waste Management has proposed to solve Portland's garbage problem; the rest is a proposed recycling and transfer station at the Portland Union Stockyards on Marine Drive and an agreement the company has reached with Union Pacific to ship the trash in sealed containers on flatbed rail-cars. The council has bought itself a piece of the landfill, but Kelly says she hopes it will steer clear of the company as Metro lays its plans for the rest of its solid-waste system.

"I don't think the council will allow them to at least operate it," Kelly says. "If they do, they will really have a monopoly if they already don't." At present, Waste Management of Oregon, the company's parent, is the largest single garbage hauler in the Metro area.

"There isn't any way, I think, this agency wants to continue to look over its shoulder while one hauling company weighs their own waste and then transports it to their own landfill." She says part of the Metro code may in fact preclude a hauling company from operating a landfill in the region and she is waiting for a response from legal counsel on the matter.

Kelly says she is sure Metro will at least operate the scales at the proposed East County Transfer Station, wherever the agency decides that should be.

Gary Hansen, who represents North Portland on the council, chairs the agency's solid waste committee, which is presently considering recommending the council change a policy that prevents private companies from owning transfer stations in the region. Hansen says it is "too close to call" whether the council will approve such a policy switch; beyond that, he says, "I would think it would be very doubtful" that Oregon Waste Systems would even be allowed to bid on the transfer project now that it has won the dump bid.

The company may have a master plan for area waste but "that system has never been agreed to by Metro," Hansen says. "Slowly but surely they'll get the message."

Doug Babb of Northwest Strategies, a consultant

Thursday, March 31, 1988 • St. Johns Review

firm to Waste Management of Oregon, says Metro's past experience with landfill operators justifies the council's concern about cheating. He adds, however, that the agency could impose a variety of controls on the operation of a transfer station to "ease those monopolistic fears."

"Our understanding is Metro is looking for the least-cost, most effective way of shipping that material to Eastern Oregon and for the proposal which will give them the greatest waste reduction and recycling," says Richard Daniels, executive vice president of Oregon Waste Systems. "I think those are their top priorities, some of these other things are side issues. They're going to be looking for the best product."

Daniels says performance guarantees and other methods can be used to protect against cheating and insure Metro gets what it bargains for from Oregon Waste Systems.

"We think we're very good at running transfer stations and getting the greatest possible waste reduction," he says. "A number of vendors would love to see us locked out of the process."

Oregon Waste Systems will continue to pursue building a recycling center on the Portland Union Stockyards property, Daniels says, because "recycling is a good business," made better by rising tipping fees at the St. Johns Landfill and later at the Arlington landfill. "Whether the recycling center is also a transfer station is Metro's to sort out."

Hansen says now Metro needs to let companies know formally it is considering privatization of the East County Transfer Station while it develops a site-specific "bid" of its own for the project — not necessarily in North Portland. The agency needs to decide how it will mix private and public operations in the transfer and shipping end of the solid waste disposal system and, although closure of the St. Johns Landfill is projected for August, 1990, he says, "It might be better for us to take a step back and look at it."

Although Metro's dumpster of solid waste problems is still half-full, Hansen says "The good news is that Arlington is picked so that St. Johns can be closed on time." The Arlington landfill is expected to be ready for trash Jan. 1, 1990, so some waste could head east from the existing Clackamas Recycling and Transfer Center before St. Johns is full. However the transition is handled, Hansen says, the March 24 means the St. Johns Landfill's death warrant is signed and the chance of needing another temporary pardon from the governor — or more accurately the Oregon Legislature — is low.

"I started in neighborhood activities in 1972," Hansen says, and then a top priority was to close the St. Johns Landfill. "I've never known it was do-able until last Thursday night — and now it's do-able and it will be done."

Next step for waste can't wait

With a landfill in place, the next stage of solid-waste development for metropolitan Portland is nearly as critical and almost as difficult.

Involved is the siting and development of a depot as the final point to collect the region's garbage to be shipped by train, truck or barge to the Oregon Waste Systems landfill near Arlington in Gilliam County.

When it agreed to the 20-year contract with the local subsidiary of Waste Management Inc., the Metropolitan Service District ended more than a decade of frustrating dead ends for the siting process and anxiety for residents worried about having a dump for a neighbor.

Noteworthy as that achievement was, however, the regional government cannot rest on its success, for it still must close the St. Johns landfill no later than February 1991. Thus, the next step must not take a decade, but experience with selecting locations for transfer stations indicates approval of a site will not be easy.

Metro already has made the decision to divide the final disposal into three parts — the landfill, a transfer station, and transportation from the latter to the former. The goal was to avoid a monopoly situation and

assure reuse and recycling.

Metro still must determine how it can best protect the public's interest in both regards. A private company in control of the total flow would have less incentive to recycle everything possible if it had an economic stake in using its landfill.

One promising proposal is the two-can plan. Households would put recyclables in the dry can to go to a recycling center and garbage in the wet can to go to the composter. Only the unusables from both points would be shipped to the dump. Therefore, reuse and recycling would be concluded before the waste reached the depot for shipment.

In this arrangement, Metro would be more the keeper of the gate than the operator, working with industry as the governmental regulator rather than owner. That might answer the agency's basic question of how it best performs its responsibility to the public to avoid monopoly entanglements and to promote conservation over discard into the ground.

Whatever course is taken, Metro's next major mission in solid waste cannot wait for the flush of achievement over a landfill site to fade away.

Trash collection to be discussed

The siting of a waste transfer station and the business practices of a garbage collection company will be discussed at a meeting of the East County Coordinating Committee on Monday.

The group will meet at 7:30 p.m. in the auditorium of the Multnomah Educational Service District offices, 220 S.E. 102nd Ave.

Franklin Jenkins, a member of the

group, said Oregon Waste Systems representatives will present information about a proposed waste transfer station.

A discussion of business tactics used by Waste Management of Oregon will follow.

Oregon Waste Systems and Waste Management of Oregon both are owned by Waste Management of North America, Jenkins said.

THE OREGONIAN, TUESDAY, MAY 3, 1988

Opinions divided about evenly over garbage transfer station

By DAVE HOGAN
of The Oregonian staff

A proposal to build a trash transfer station in North Portland sparked three hours of testimony Monday that frequently disagreed on whether the site was as perfect as its designers claimed.

In a crowded hearing in the Portland Building, officials of Waste Management Inc., the world's largest garbage company, lauded their proposed facility for its unique accessibility to river, highway and rail transport.

The project would be built on the site of the Portland stockyards along North Marine Drive, west of the Multnomah County Exposition Center.

The opponents, however, complained that possible problems such as noise and traffic congestion made the site a poor one for a transfer station.

The hearing was held to consider zoning and comprehensive plan amendments needed for the project. The station would have a recycling center to separate recyclable items from Portland-area garbage. The remaining trash would be loaded into large containers for shipment to the Waste Management landfill in Eastern Oregon after Portland's St. Johns Landfill closes in the next few years.

In all, about 20 people testified during Monday's hearing. They made city hearings officer Elizabeth Normand's job a difficult one, splitting evenly between opposition and

support of the project.

Normand said she would rule on the requested zoning and planning changes within 15 working days of the hearing.

The opponents of the transfer station, mostly North Portland residents, complained that analysis of effects on local traffic was flawed because it did not include traffic from Clark County, Wash.

Waste Management has proposed trucking large, closed containers of compacted trash from Clark County to the North Portland site to be loaded on railroad cars for transport to the Arlington landfill.

But the traffic concerns were unfounded, said Richard A. Daniels, general manager of Oregon Waste Systems, the Waste Management subsidiary proposing the transfer station.

If approved by Clark County and Metro officials, the Clark County shipments would amount to no more than about 20 truckloads a day, he said.

Several persons also complained that the project would continue to funnel the area's garbage to North Portland just as the St. Johns Landfill has long done.

"North Portland has been the (garbage) solution for 50 years and deserves to have a chance to change its image and others' perceptions of the area," said Pamela Arden, chairwoman of the Kenton Neighborhood Association.

City staff members recommended approval of the requested changes, subject to several conditions.

Waste station decision pending

By ANDREW OMAN

The would-be builders of a solid waste transfer and recycling station proposed for North Portland will learn by May 23 whether their plans to build can pick up speed.

City of Portland hearings officer Elizabeth Normand has until then to make her decision on proposed zone and comprehensive plan change that will make it easier for Oregon Waste Systems to build a solid waste transfer and recycling station on land now occupied by the Portland Union Stockyards on North Marine Drive at Force Avenue. The change, from zoning M1 (general manufacturing) to HI (heavy industrial), would make the transfer station a permitted use on the site and would require the company only to obtain the necessary permits to operate the station. The present zoning would force the company to obtain a conditional-use permit from the city to operate the station at all.

Oregon Waste Systems, a wholly owned subsidiary of Waste Management of North America, the largest garbage company in the country, seeks to build the solid waste transfer and recycling station.

According to company plans, the station would serve as a collection center for waste and recyclables from the public and private haulers from throughout the Metropolitan Service District. Once collected at the site, the recyclables would be distributed to area recyclers and the trash would travel by rail to the company's soon-to-be-built landfill in Eastern Oregon's Gilliam County.

The Metropolitan Service District has signed a contract for Oregon Waste Systems to provide 20 years worth of space for Portland-area trash in the 700-acre landfill near Arlington. Metro has not requested bids for the transfer or shipping services required to get the trash to Arlington, but the regional government has informed potential vendors they may prepare for a request for bids. Present Metro policy, however, would prohibit the private ownership of such a transfer station.

Representatives of the solid waste company say they requested the change so they can respond to Metro's call for bids fast enough to have their transfer station on line when the St. Johns Landfill closes, an event scheduled for 1990.

"We are coming to you as a matter of time" because, although the city would likely make the zone change in a revision process currently underway, that could take months, Steven Able, an attorney working for the company, told the hearings officer.

City Planning Bureau staff have agreed with the company and, with the conditions that the company make some street improvements and respect buffer requirements, planners have recommended the zone change be granted.

In mixed testimony on the hearing, however, residents and businesspeople raised a number of local and regional questions regarding the site and solid waste.

State Rep. Mike Burton (D-North Portland) started public testimony by questioning whether the request for a zone and plan change fulfills the code criteria of being in the public interest and in the public interest at the given time and location. Because the change would give the waste company a better position in the bidding process it would be in the company's interest, not necessarily the public's, he said.

Because Metro has no fixed plan or dates established for seeking bids or building its own transfer station, Burton continued, the request does not establish a clear need for the use at the given time and location. Metro has a number of options for transfer and shipping, he said, but approval of the transfer site by the city may give the district a "fait accompli."

Several members of the Kenton Neighborhood Association testified in opposition to the change, citing a number of reasons. Jack Thompson, a neighborhood association board member and chair of the North Portland Citizens Committee's Solid and Toxic Waste Committee, expressed concern over the amount of toxic waste that would be squeezed out of the trash during compaction on the site. Unacceptable amounts, he said, would evaporate into the atmosphere or be pumped into the city's sanitary sewer system.

Bob Carn of URS Corp., a contractor to Oregon Waste Systems, said dust-suppression systems, ventilation and regular cleaning would eliminate odors before they escape the building and the company would have to conform with storm water and sewage standards set by the city Bureau of Environmental Services and other regulatory agencies.

Another major concern among residents was traffic — the main question being whether haulers or private citizens would take the requested route. — Interstate 5 to Marine Drive — when I-5 is infamous for its daily backups. Once the freeway starts to slow down, neighborhood association president Pam Arden said, the trucks would leave the interstate and find their way to the station through neighborhood streets.

In addition, she said, traffic snarls from the Exposition Center and Portland International Raceway on busy weekends will make traffic through the neighborhoods and illegal dumping in the area more common.

Addressing the issue earlier, Carn said closing some of the businesses presently on the site and opening the transfer station would cause a net reduction of daily traffic to the site. Presently, he said, 835 vehicles, 418 of them trucks, visit the site each day; with the transfer station, Oregon Waste Systems estimates approximately 500 vehicles, 340 to 380 of them trucks, will visit the site each day. Later, John Bustraan of the city's Bureau of Transportation testified that scheduled improvements to Interstate 5 and North Marine Drive should alleviate the present problem with slow traffic.

Mike Hayakawa, a planner who prepared the staff report, said the Portland Bureau of Parks and Recreation owns a stretch of Force Avenue south of the

proposed transfer station and could choose to gate the road to make the transfer station accessible only from Marine Drive.

The neighborhood association's Arden also expressed concern the proposal could spoil Multnomah County's plan to build a recreational vehicle park with private investment on a site across Force Avenue from the proposed transfer station.

"I can't imagine a private investor would come in with millions of dollars to see a parade of garbage trucks," she said. No representative of Multnomah County spoke at the hearing.

In addition to attacking the physical merits of the proposal, neighborhood residents also made a plea to Normand based on the negative perception they say a garbage facility would bring.

"In our neighborhood, we feel we have enough problems," Kenton resident and North Portland Citizens Committee vice president William "Mikey" Jones told the hearings officer. He said the site would be better used as a public facility that would enhance nearby the nearby wetlands and golf course.

Arden said the region should look elsewhere to solve its solid waste problems. "We've been that solution," she said, referring to the St. Johns Landfill.

Not all of those from the area who spoke at the hearing were against the proposal, however. Keith Richey, representing Lombard North Business Association, told Normand of the association's decision to support the proposal. At the group's April 18 meeting, the membership voted 14 to support the zone change, eight to forward no opinion and none to oppose the change.

Reading a statement from the association, Richey also expressed the group's desire that a surcharge on trash entering the station be collected, like the 50 cents per ton collected on trash entering the St. Johns Landfill, to be spent on local economic development projects.

Robert Smith, a Kenton business owner and representative of the local Sierra Club, said the club supported the Eastern Oregon landfill and sees the need for a Portland-area transfer station. He said the stockyards location is acceptable but urged Oregon Waste Systems to donate the wetlands adjacent to Force Lake on the south side of the property to the Bureau of Parks or some non-profit organization. Under upcoming environmental zoning regulations, it is expected that wetland would be protected from future building.

Roger Anderson, who listed his business address at the Port of Portland's Terminal 5, lauded Oregon Waste Systems for its initiative and called the stockyards an "eyesore."

"I, for one, think that this will be a big improvement for the area," he said.

John Biewener of the Portland Audubon Society had asked for the record of the hearing to remain open until May 16 to allow Mike Houck, the society's expert on bird habitat who is presently studying in Europe, to return and submit written testimony on the potential impact on the Great Blue Heron rookery in a wetland near the site. Normand said enough information is available on the issue and denied the request.

The beauty of privatization

The beauty of privatization is that it works by using the energy of all participants, each seeking their own purposes, while at the same time creating cost-effective options for taxpayers. It's a powerful tool.

This summer the spotlight is on the Metropolitan Service District. While often the target of spending critics, the Metro council appears ready to unleash the ideas, the energy, the capital of private firms to solve its years-long responsibility to "handle" recycling and disposal of the region's garbage.

A host of proposals are in the works. Private proposals. Riedel Environmental proposes a \$19 million mass composting facility. They back construction bonds. They take the risks. Metro would even share the revenues from marketable compost.

A ground-breaking party took place June 25, in Gillam County, a celebration of the com-

munity that plans to make economic development out of all that garbage by hosting the private landfill.

Rail, barge and trucking firms await their chance to bid to transport the waste to Gilliam. Private firms are ready to bid to site and build transfer stations in Washington and Multnomah counties, taking the pressure off Oregon City.

The landfill is approved; the rest of this is opportunities awaiting Metro approval. County residents with the ear of Metro councilors should encourage them to set in motion all that private energy. We could have our solid waste taken care of at a price we can afford.

Jeanne Robinette
Executive director

Oregonians for Cost-Effective Government
P.O. Box 384
Lake Oswego

The Clackamas County Review Week of July 14-20, 88

Transfer station groups to finish zoning battle

By ANDREW OMAN

At halftime before Portland City Council, both parties in a contested zone change that would allow a solid waste transfer and recycling station say they feel good about their chances for victory.

Oregon Waste Systems Inc., a subsidiary of Waste Management of North America, the largest garbage hauling and disposal company in the world, requested the zone change from M1 (manufacturing) to HI (heavy industrial) on a piece of land now occupied by the Portland Union Stockyards and other businesses at the corner of Marine Drive and North Force Avenue.

The new zoning would allow the company to build a transfer station to package and ship trash to its landfill in Arlington as a permitted use. Under the present zoning, the station could be built as a conditional use through a more time-consuming process.

In June, a Portland hearings officer approved the zone change with a long list of conditions on the recommendation of the city Planning Bureau. The Kenton Neighborhood Association has opposed the transfer station site since shortly after it was announced. After the hearings officer's decision was announced, the neighborhood association appealed to City Council.

A hearing on the appeal began July 6 but has been extended due to the large number of individuals, approximately 40, who signed up to testify. The hearing is set to continue at or after 2 p.m. today, Thursday, July 14, in Council Chambers, where only those who requested to testify at the first hearing date will be allowed to speak. The council will likely render a decision upon the conclusion of testimony.

Both sides apparently see the appeal as an important battle in their ongoing war over the transfer station — the neighborhood association turned out a number of residents to testify and sit on their side of the aisle and the Oregon Waste Systems contingent included Mildred Schwab, a former commissioner-turned-consultant who did not sign up to testify but made her presence known by chatting with her former colleagues before the session.

To open testimony, representatives of Oregon Waste Systems and the Kenton Neighborhood Association

were allotted 15 minutes each to present their cases. Neither plea differed significantly from information offered earlier by either side.

Pam Arden, president of the neighborhood association, repeated environmental, odor, traffic and image concerns regarding the transfer station but centered her attack on the idea that development of a transfer station would damage adjacent Force Lake, the Great Blue Heron rookery and West Delta Park. Plans to add nine more holes and other improvements to Heron Lakes Golf Course could be ruined, she said, if the station smells and causes increased traffic problems already aggravated by the Multnomah County Expo Center, Portland International Raceway and generally heavy usage of Interstate 5.

"Delta Park is a marketing and liveability tool of the city — why risk it?" Arden asked the council.

Arden also reminded the council that Oregon Waste Systems has yet to receive a contract from the Metropolitan Service District to operate a transfer station for Metro-area trash and, by some accounts, the Metro Council will be unwilling to allow the same company that operates the landfill in Arlington and a local hauling business to operate the third leg of the landfill stool.

She said the company has stated it will build a transfer station even if it does not get the Metro contract and so the park could be threatened so that garbage from Clark County, Wash., or other areas could be shipped to the Eastern Oregon landfill.

Jack Thompson, vice president of the neighborhood association, said the area also could be rich in archeological artifacts and, if such artifacts were found, construction on the site would have to be halted until the area could be excavated.

For Oregon Waste Systems, attorney Steven Abel told the council that Waste Management of North America and its subsidiaries operate 111 landfills and approximately 30 transfer stations in the U.S. The company's expertise, the site design and the stiff conditions demanded by the hearings officer, he said, are enough to ensure "no unmitigatable environmental harm" would occur to the site or the surrounding area.

As the company has argued before, Abel said the request for zone change is simply hurrying a process now underway within the city that should lead to such a zone change in the next several months. Metro, he said, is opening for proposals for privately owned transfer stations and the regional government wants proposers with a workable site and permits in hand. The zone change, he said, will simply allow Oregon Waste Systems to compete for the east county transfer station contract.

"A transfer station in nothing more than another industrial process," which brings in materials from other sites, processes them indoors and ships the finished goods out, he said.

Responding to a question from City Commissioner Bob Koch, Oregon Waste System vice president and general manager Richard Daniels said the company would seek to build the station even without the Metro contract, to sort the garbage for recyclables its own trucks pick up if for no other reason. He said the station might also be used to place containers of compacted trash from other areas onto rail cars but would not accept raw garbage from outside the Metropolitan Service District.

While the testimony of the main combatants changed little, the Bureau of Parks and Recreation, which had asked the hearings officer for conditions to be placed on the plan, changed its tune and declared its opposition to the plan at the appeal.

Ronald Maynard, acting superintendent of parks, said the placement of the transfer station could affect use of the park, where 160,000 rounds of golf were played last year, and dampen plans to expand.

Maynard said the bureau changed its position because some of the requested conditions were not granted and more information has been collected since the initial hearing. Commissioner Earl Blumenauer, however, rebuked Maynard for the bureau's change of heart. Visibly agitated, Blumenauer said city bureaus should do their homework in advance so the city doesn't "change the goalposts" on companies seeking to develop.

"I want it clear that at least the city doesn't do that," he said.

Others testifying on the appeal included:

- Michael Houck of the Portland Audubon Society, who said the group is concerned about the ecological health of Force Lake and the nearby rookery. He said the group supports all of the conditions applied by the hearings officer and recommended group should be formed to monitor the long-term operation of the station and its impact on the surrounding environment.

- Dick Cantlin, an attorney for Portland Union Stockyard, said the company does not oppose the station but is distressed that no consideration is being given to the cattle company, which employs up to 140 workers during peak operations. He said the stockyards, which supply livestock for shipment to Asia in the same ships that bring automobiles to Portland, is a "very significant economic force" in the community.

- Michael Jones, a Kenton resident, said he agreed with Blumenauer that information has been withheld from the process and traffic and environmental information should have been demanded by the hearings officer but was not. If all of the information were in on the transfer station and that site, he said, it never would have made it before City Council.

- Jean Robinette, a Lake Oswego resident representing Oregonians for Cost-effective Government, urged the council to approve the zone change and add "this little piece of the answer to Metro's problem."

During the hearing, Kenton's Arden complained that some information was received by the neighborhood association too late for thorough review, including a noise report that was received the night before the hearing. Because the hearing was extended to the next week, the council will allow each group 10 minutes at

Garbage solution a step closer

It looks like the Metropolitan Service District has finally found the answer to the area's solid waste disposal problem! That's remarkable, given all the objections from NIMBYs (No landfill In My Back Yard), environmentalists, recyclers and taxpayers.

There is a good chance final decisions will be made this summer, outlining a series of least-cost solutions to the region's problems, hammered out through competitive proposals and negotiations by Metro staff, but created and financed by private firms.

That's especially exciting to those of us who are looking for cost-effective solutions. It appears Metro will use privatization as a major tool to develop the solid waste management system. That can mean collection, recycling, transfer, transportation and disposal of the region's garbage — at least cost to taxpayers and ratepayers — ready in time for the close of St. John's landfill in January of 1991! Disbelievers, read on.

A host of proposals are in the works. Several are now before Metro's Solid Waste Committee, which is making recommendations to the full council, item by item.

Riedel Environmental's \$19 million mass composting facility has been forwarded to the council for approval. The Riedel proposal would process 185,000 tons a year and requires no tax dollars; the firm will



TAX SAVERS
Jeanne Robinette

back the bonds and take the risks of market fluctuations and equipment problems.

Riedel would be paid by your garbage hauler (\$41.20 per ton dumped), less than the costs of landfilling, and a marketable product is produced. Metro will even share the revenues from compost sold. It's the type of solution Metro's been chasing for years. All that is needed now is the council's approval.

The Metro Council made the biggest decision in March, when it entered into a 20-year contract with Oregon Waste Systems Inc. for space in that firm's Gilliam County landfill. That decision followed extensive analysis of costs and benefits

of a public vs. private facility. The private landfill was found the best buy, even considering anticipated transportation costs.

The job now under discussion is transfer facilities and depot, where garbage is sorted, recycled or prepared for shipment to Gilliam. It appears that problem is even nearing solution — another private solution. Firms stand ready in both Washington and Multnomah counties, ready to bid for the right to provide transfer facilities, as soon as Metro adopts language to allow it.

At early June meetings with local officials, councilors drafted an agreement, which would let local firms and officials create workable, small-scale facilities, rather than the giant facilities originally planned. This could take much of the heat out of facility siting.

What about communities like Lake Oswego, which will probably not be asked to site a transfer station, since we can use the Oregon City facility? I believe they're handling that also. We're probably going to be charged an extra fee for garbage pickup, which can be used to reimburse Oregon City for street repair and litter pickup. Isn't that fair?

Top all this with the fact that rail, barge and trucking firms await their chance to present bids to transport non-recycled waste to Arlington's private landfill. Firms are now negotiating to buy leak-proof shipp-

ing containers, and are preparing land use plans for public hearings.

Metro's contract experts and attorneys are hard at work drafting specifications and standards to protect the public's interest, assuring that language in the agreements controls rates, protects the environment and creates the incentive for all involved to increase the percent of waste recycled.

Over in Arlington, a groundbreaking party took place June 25, with food, entertainment and landfill tours by Oregon Waste Systems Inc., a celebration for the happy Gilliam community which plans to make economic development out of all that garbage.

That's a tremendous amount of activity, public and private. That's the beauty of privatization. It works with the energy of all the participants, each seeking their own goals while negotiating cost-effective options for us. It surely is an exciting turn of events for the tired taxpayer.

If this sounds good, drop Councilwoman Corky Kirkpatrick and other councilors a note. Let them know you approve of what they're doing. Encourage them to put together the documents necessary to channel all this energy as soon as possible. They can now solve the problem of your garbage and mine, at a price we can afford.

Robinette is executive director of the Lake Oswego-based Oregonians for Cost-Effective Government.

Interest high in transporting Metro waste to Gilliam dump

Agency to put contract out for bid shortly; \$27,000 a day fee seen

By HARRY BODINE
of The Oregonian staff

The prospect of earning \$27,000 per day transporting garbage is generating a lot of interest in a contract that the Metropolitan Service District intends to put out for bid late in August.

With a new landfill 150 miles east of Portland scheduled to replace the aging St. Johns dump by February 1991, Metro is turning to the private sector to move a mountain of

solid waste — up to 650,000 tons per year — to the new Gilliam County site.

Based on contacts with the rail, barge and trucking industries, Metro is anticipating receiving competitive bids, Richard Owings, the regional agency's solid waste director, noted last week.

In its initial computations, Metro envisioned paying about \$15 per ton to transport waste up the Columbia River. Now, "we hope to do better than that," Owings said.

Owings told the Metro Council's solid waste committee recently that the forthcoming bid request would ask the private companies to pick up the waste at transfer stations in the Portland area and move it in a safe and efficient manner to Oregon Waste Systems Inc.'s new landfill 10 miles south of Arlington.

Metro will require that Portland's garbage be transported in sealed, leakproof containers, according to Bob Martin, director of Metro's waste transportation project.

Each of the three transportation modes — rail, barge, truck — has advantages and disadvantages, Martin said.

The Union Pacific Railroad, for example, has track running to the front door of the new landfill, but it would have to build a siding along with a special yard so that garbage containers could be transferred to trucks for the short haul to the landfill's dumping site, he pointed out.

Barge lines face the hurdle of transferring waste containers from barge to truck in Arlington, and truckers must offset their effect on traffic in Gilliam County, he noted.

Martin said he would meet with Oregon

Department of Transportation officials next week to discuss the possibility of trucks hauling waste directly from Portland using an alternative route that would bypass Arlington, thus taking 80 trucks per day off the small community's streets.

One company that is not vying for the Metro transportation contract is the landfill owner-operator. The company has decided that the business of transporting garbage should be left to those in the transportation business, according to Richard A. Daniels, Oregon Waste Systems' vice president and general manager.

The Union Pacific does not haul solid waste anywhere on its system. But Tom LaHood, a spokesman for the railroad's top management in Omaha, Neb., said Friday, "It's a commodity which fits our purpose

and our mode of transportation very nicely."

Tidewater Barge Lines, one of two barge companies with which the Metro staff has had extensive preliminary discussions, is attempting to develop its own landfill in Morrow County about 30 miles beyond Arlington.

Tidewater is interested in the transportation component of Portland's new Easter Oregon landfill program, according to Wesley Hickey, its executive vice president.

Martin said that Metro would work closely with Gilliam County officials to reduce the effect of more traffic, particularly trucks, on Arlington's 440 residents. And, he emphasized, Metro's call for bids will require that portion of the jobs created to transport garbage east go to Gilliam County residents.

Thursday, August 18, 1988 • St. Johns Review

Wrong time for meeting

To the Editor:

In February of this year Oregon Waste Systems Inc., a subsidiary of Waste Management Inc. of Chicago, applied to the Portland City Council for a zone change which would permit them to site a garbage transfer station at the Portland Stockyards site, next to the Expo Center and Delta Park.

This request was opposed by NPCC and the Kenton Neighborhood Association before the hearings officer and subsequently before City Council. In late July, a majority of city commissioners expressed their opposition to the zone change, to the relief of the neighborhood association.

Now North Portland's state representative, Mike Burton, wishes to moderate a public meeting between Oregon Waste Systems, the neighborhood association and the public to resolve their differences. If Rep. Burton is so interested, he should have spent more time at the public meetings which have already been held on this issue. His plan to hold a public meeting at this time is puzzling. I had thought the issue closed. For that reason, I will not attend Rep. Burton's meeting except, perhaps, to protest his unwarranted interference in matters already dealt with by City Council.

Jack C. Thompson
Chair, Solid and Toxic Waste Committee
Kenton Neighborhood Association

Costly mistake

To the Editor: The recent decision by the Portland City Council to refuse, by a narrow vote, the zone change that would have allowed Waste Management to enter the bidding process for a transfer station to serve the citizens of the Metro region may well prove to be a costly mistake.

The transfer station, proposed for the old stockyard property on Marine Drive, has the potential to offer a much-needed service to the residents of the tricity area. Faced with the necessity of locating such a facility near rail, river and highway transportation options, the Portland City Council should realize that such sites are not exactly in abundance in the region.

Any transfer station must be environmentally sound and of economic benefit to the area, and the proposer must have the financial capability to maintain and operate the facility properly. Waste Management offers all of that and more. Arguments of potential monopoly situations are silly, rates will be set by contract, and environmental considerations are controlled by law.

Waste Management's proposal is solid, offers great opportunity for increased recycling, and may well prove to be more cost effective. The City Council would do well to reconsider.

TED STANWOOD
Warren

B4 4M

THE OREGONIAN, THURSDAY, AUGUST 18, 1988

Company says Metro should let it bid on waste transfer station

By HARRY BODINE
of The Oregonian staff

Prohibiting Oregon Waste Systems Inc. from submitting a bid to build and operate a new solid waste transfer station in Portland would penalize the public financially and not help recycling, spokesmen for the company told the Metropolitan Service District Council's solid waste committee Tuesday night.

The new transfer station is part of Metro's overall plan for shipping waste to a new Eastern Oregon landfill while simultaneously boosting recycling to lower costs of using the dump.

Before the committee is a proposed ordinance that would block any company owning a landfill used by Metro — that is, Oregon Waste Systems, a subsidiary of Waste Management of North America Inc. — from bidding to build and operate the new transfer station, which will

be located on the north or east side of Portland. Another Waste Management subsidiary is in the garbage collection business in Portland and Milwaukie.

"We have already given OWS a landfill. If we give them another piece (the new transfer station), we will incrementally allow them to take over the entire region," Metro Councilor Sharron Kelley said.

Richard M. Botteri, an attorney representing Oregon Waste Systems, told the council that the public — which is about to encounter major increases in garbage bills to pay for closing the St. Johns Landfill — will pay even more if the company is not allowed to compete for Metro's forthcoming transfer station contract.

Botteri noted the recent low bid by the company's Washington state affiliate to transport and bury Clark County's waste in Eastern Oregon. It bid \$42.50 per ton, well below other bids, which ran up to \$67.50 per ton.

Also, he said, Oregon Waste Systems is prepared to offer Metro a firm guarantee to recycle a specific portion of the waste received at the new transfer station and to pay Metro a penalty fee if it fails to meet its commitment.

Waste Management of North America Inc. has been called the world's largest garbage company. It also is the world's largest provider of recycling services, Don Kneass, the company's Northwest district reduction manager, told the council committee.

The committee may consider the proposed ordinance again Aug. 30.

The Metropolitan Service District (Metro) is proposing to issue a Request for Bids (RFB) for Waste Transport Services, from the Metro service area in Portland, Oregon to a landfill located approximately 140 miles east. The RFB would result in a 10-20 year contract for transport of approximately 7-17 million tons of mixed solid waste. RFBs will be available on or about August 29, 1988, with responses due on or about November 1, 1988.

After release of Waste Transport Services RFB, Metro proposes to release the following:

- a Request for Proposals (RFP) for siting, construction and operation of a private transfer station (approximately 500,000 tons/year);
- an RFB for the operation of Metro's existing public transfer station (approximately 250,000 tons/year);
- an RFB for the short-term hauling of waste from the existing transfer station to the current landfill (located in the Portland area, approximately 225,000 tons); and
- an RFB for the purchase and installation of a compactor at the existing transfer station.

Documents for these latter projects will be available in late 1988 or early 1989. To be placed on the mailing list for one or more of these projects, write Chuck Geyer, Solid Waste Department, Metropolitan Service District, 2000 S.W. First Avenue, Portland, OR 97201-5398.

ASSISTANT PUBLIC WORKS DIRECTOR WASTE MANAGEMENT

Salary Range: \$31,500-\$44,100

Alachua County, FL, population 180,000 is seeking a person to direct complex waste management operations, manage engineering and construction contracts, and comply with waste management regulations. Minimum requirements are a bachelors degree in civil engineering or related field and four years progressively responsible solid waste management experience of which two years must be supervisory.

Send resume postmarked no later than 9/30/88 to Alachua County Personnel, P.O. Box 1467, Gainesville, FL 32602. EOE.

NOTICE OF INTENT TO ISSUE REQUEST FOR PROPOSALS

Burlington County, New Jersey, population 383,000, intends to issue, in September, 1988, a Request For Proposals for operations and maintenance of its new sanitary landfill, and associated leachate treatment facility and transfer station. Estimated amount of solid waste to be handled is one and a half million (1.5M) cubic yards per year. Term of contract is three years.

People wishing to be notified directly of the RFP when released should provide name and address to:

Robert W. Simkins
District Solid Waste Coordinator
Burlington County Office of
Waste Management
49 Rancocas Road, Mt. Holly, NJ 08060

SANITATION OPERATIONS ADMINISTRATOR

\$36,098-\$51,189

Directs the collection efforts of the Sanitation Operations Division and assists the Deputy Director of Solid Waste Management in the administration of the City's Solid Waste Management Program. Requires five years of administrative/supervisory experience in the operation of a large fleet of trucks preferably in mechanized refuse collection and disposal which includes routing sanitation districts, and a Bachelor's Degree in Engineering, Business Administration, Public Administration or a related field. Open until selection made. To request application, call (602) 262-6277 or write: City of Phoenix, Personnel Department, 135 N. 2nd Avenue, Phx., AZ 85003.
AAEEOH Employer

OPERATIONS MANAGER

Fast growing waste hauling and contractor's service company has an immediate opening. Send resume and salary requirements to:

CSI

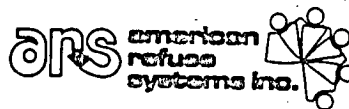
P.O. Box 27354
Cincinnati, Ohio 45227
Attention: General Manager

REGIONAL SALES MANAGER

American Refuse Systems, Inc. a Waste Management Partner seeks qualified individual to join corporate staff as sales manager.

Candidate will be experienced in developing, coordinating and directing sales strategies. Motivate and manage existing sales personnel in three state operational area. Individual will be part of corporate management team and will be available to relocate to north central North Carolina area.

Experience of eight to ten (8 to 10) years sales and service or related industry. Sales management experience of three to five (3 to 5) years. Compensation and benefits are highly attractive, along with relocation allowance. Qualified applicants may respond in confidence to:



284 roanoke avenue/po box 1321
roanoke rapids, north carolina/27870

American Refuse Systems, Inc.
Post Office Box 1321
Roanoke Rapids
North Carolina 27870
Attn: Lisa Anderson

Transfer twist leaves both parties waiting

By ANDREW OMAN

The Kenton Neighborhood Association must wait nearly two months before the City Council decides its appeal of a zone change that would clear the way for construction of a solid-waste recycling and transfer station on North Marine Drive and Force Avenue.

Oregon Waste Systems Inc., a subsidiary of Waste Management of North America Inc., the world's largest solid-waste handling company, needs a zone change from M1 to HI to build the transfer station.

The City Council, which tentatively upheld the association's appeal 3-2 on July 14, was scheduled to take the final vote Aug. 31. Instead it voted 3-1 to reopen the hearing process so new information can be submitted. Mayor Bud Clark had a personal appointment and did not attend the meeting.

Pam Arden, president of the Kenton Neighborhood Association, said the new hearing is "one more attempt to be ultrafair to this company." Reviving the hearing process is "probably getting us angrier — the fact that it just keeps dragging on and on," she says.

Commissioner Dick Bogle, one of the three commissioners who had voted against the zone change, moved for the reconsideration. He said his staff had met with representatives of Oregon Waste Systems and then showed him that modifications to the original site plan could solve potential traffic problems that had led him to vote against the zone change.

Richard Daniels, vice president and general manager of Oregon Waste Systems, said the company will present its new plan for traffic before the new hearing.

Commissioners were concerned about lack of adequate space for cars and trucks waiting in line to dump trash or recycleables. Daniels said architects have created about 6,000 more feet of space by moving the entrance from Force Avenue to Marine Drive. Users would enter from the north and drive along the west and south sides of the site before entering the service areas. Instead of installing a light at the corner of Force Avenue and Marine Drive, he said it could be placed at the new entrance area on the boundary of the stockyards and James River Corp. on Marine Drive.

The new Oregon Waste Systems zone-change application must be submitted within two weeks of the Aug. 31 hearing. City staff will write a report on the application for public review before the Oct. 26 hearing, which opens the council session that day at 2 p.m. in City Hall.

After the hearing, the City Council can reaffirm its tentative vote against the zone change based on the earlier findings, deny the change based on new findings or overturn the tentative vote and approve the zone change under new findings.

If the City Council approves the zone change, it will probably impose strict conditions on construction of a transfer station on the site. The hearings officer who first approved the change specified more than 30 building conditions.

So far, the neighborhood association has not had a part in suggesting possible conditions.

Arden said the group did not want to give the impression that "we didn't want it but we would accept" the transfer station. She says the association may discuss possible conditions before the Oct. 26 hearing, but there has been no such interest in the past.

The company has proposed a transfer station on Marine Drive to serve as the "front door" for a waste management landfill in Arlington. At the station, recycleables would be separated and the remaining garbage would be compacted into sealed containers for shipment east by rail or barge.

Oregon Waste Systems has a contract to dispose of 90 percent of the Metro area's landfill-bound trash for the next 20 years, but no company has been awarded the rights to build and operate the new transfer stations that will be needed to collect and prepare the trash for shipment.

The Metropolitan Service District controls the flow and disposal of the area's solid waste and ultimately will decide who will build and operate the transfer stations. Oregon Waste Systems, however, has vowed to build the facility if it receives the zone change, regardless of Metro's actions.

Company officials say they are confident they will make the best transfer station proposal. But even without a Metro contract, Oregon Waste Systems plans to use the facility to gather recycleables, transfer waste from its own hauling company and ship waste from outside the Metro area.

Bogle downplayed City Council's role in deciding where solid-waste transfer stations will be built.

"We're talking about a zone change. We're not talking about siting a transfer station," he said.

In voting on Bogle's motion, commissioners Mike Lindberg and Earl Blumenauer agreed a new hearing would be the fairest way to resolve the case considering the twists and turns it has taken over the past several months. Commissioner Bob Koch, however, strongly opposed the continuation.

Koch said it appeared Oregon Waste System's strategy was that "if they would just work hard enough" lobbying for the change they would get someone to turn his vote, and the company apparently succeeded.

"Am I disappointed that, after a hearing is closed, additional testimony is allowed? Absolutely," Koch said after the hearing. Throughout the hearing process, representatives of Oregon Waste Systems have asked to continue contacting city bureaucrats and commissioners' offices to resolve the city's problems with the proposal.

Koch asked the company to stay away from his bureaus while the hearing process is under way. Other commissioners said they would keep their bureaus open as long as contact with a commissioner directly or through staff is declared publicly.

The meeting of Bogle's staff with Oregon Waste System before the Aug. 31 hearing was not appropriate because the vote was pending, Koch said.

As he cast his vote against reopening the hearing, Koch said, "My vote reflects the need to have honor in the system."

After the hearing, Blumenauer said he also was unhappy with the Bogle staff contact but added he has been uncomfortable with the course of the case ever since it reached the City Council. He said it underscores the council's need for a stricter procedure for dealing with land-use issues.

Blumenauer, who originally voted for the zone change, said he supported reopening the hearing because that would result in the fairest outcome for the process.

Although he said in the hearing he had received information that led him to think the station could be built at the site, Bogle said after the hearing that he only wanted to reopen the hearing and had not changed his mind on the zone change.

Continued St. Johns Review
"Transfer twist. . . 9/8/88

"I couldn't consider what my staff was told in making a vote (on the zone change) today," he said. "That's why I asked for the hearing to be reopened, so that information that I heard that was not a matter of record could become a matter of record."

"It's just an opportunity to make a better vote," he said. "I'm saying I have some questions that I want answers to that could lead to my changing my vote."

Contrary to an Aug. 30 story in the Oregonian, "I haven't pledged to change my vote," Bogle said. "That was just some newsman's interpretation."

He said he has had no direct contact with representatives of Oregon Waste Systems, but he has met with Rita Lucas and former City Commissioner Mildred Schwab, who are representatives of Northwest Strategies, Oregon Waste System's public relations consultants. However, Bogle said those meetings were social and the waste transfer station was not discussed.

Arden of the neighborhood association said residents have been "extremely irritated" by the company's intensive lobbying campaigns to sway public support for the project. She said leaflets like those in a 23,000-household mailing before the hearing are misleading.

The leaflets told residents, "Three good things a recycling and transfer center can do for North Portland (are) jobs for disadvantaged youth ... expanded parks and recreation centers programs (and) senior citizen assistance programs."

The leaflet cited some of the projects funded by the North Portland Enhancement Committee with a surcharge from trash entering the St. Johns landfill and added that the transfer station would probably pay a similar fee.

The company's lobbying effort has also included City Hall. As Koch spoke to a reporter just minutes after the Aug. 31 hearing, Daniels handed him a letter that referred to efforts by Koch and the Bureau of Environmental Services to study the Columbia Slough and plan for its improvement.

"Your efforts and vision are to be applauded," the letter stated. "Oregon Waste Systems Inc. and Waste Management of Oregon Inc. would like to join your efforts and offer our resources to contribute to this community project."

Garbage rate hike smells of necessity

Lake Oswego's may want to hold their noses when opening up their garbage bills this fall. A newly approved \$2 monthly hike for home garbage service may be painful, but it shouldn't come as a surprise. The scent of higher garbage disposal prices has been in the wind for quite awhile.

Communities across the United States are grappling with garbage disposal dilemmas. While ahead of the pack in many ways, Portland-area residents also face a future of rising garbage service costs.

Residents shouldn't place the blame for rising costs on Rossman Sanitary Service, which has provided reliable service to Lake Oswego for many years. Rossman will not benefit from the hefty price hike which goes into effect in November. Nor will it likely benefit from another price hike which is expected next fall.

Higher prices to collect residential and commercial garbage cans merely reflect the rapidly escalating price to safely and cleanly dispose of the solid waste we all produce. Disposal at Portland's St. Johns Landfill has provided a relatively cheap solution for decades. But the landfill is closing down in 1991, and the search for a suitable replacement site was met by a predictable "not in my backyard" attitude by residents. So officials turned to a private landfill option in Eastern Oregon, near Arlington.

Closing down St. Johns may require up to \$30 million or more. Technicians must assure they leave behind a reasonably clean, safe, and not unsightly environment.

Regional policy-makers decided it's better to start "ramping" — increasing in regular stages — garbage rates now, so cash could be banked and an even larger rate hike avoided down the road. The "ramp" also will lead to another rate hike which ultimately brings prices in line with the costs of using Arlington.

Next year, officials likely will seek to boost rates again, this time to reflect rising costs of transporting the region's garbage to Arlington by barge. If that seems like an overly expensive proposition, consider that Seattle is also considering use of the same dump. Only Seattle, like Los Angeles and other cities, would send its garbage by train to a faraway landfill.

We advise those who squawk about upcoming rate hikes to do their part to support alternatives to landfills. Recycling of household materials has been made as easy as taking out the garbage. We hope it soon becomes as simple to recycle yard debris and other items.

Metro to seek bids on moving Portland garbage to E. Oregon

By HARRY BODINE

of The Oregonian staff 10-14-88

The Metropolitan Service District Council on Thursday night authorized a call for bids for transporting Portland-area garbage to a new Eastern Oregon landfill once the St. Johns Landfill in North Portland closes.

The contract could involve up to \$170 million worth of business over a 20 years for the company that is awarded the contract, according to Metro.

Some council members thought Portland-area residents and businesses would be better served by having Metro call for bids for 10 years instead of 20. After an hour's discussion, the council rejected that view 6-4.

Gary Hansen, chairman of the council's solid waste committee, said he was confident that Metro would receive bids from rail, barge and trucking companies. All will be able to bid effectively for a 20-year contract, he said.

Councilors Jim Gardner and Corky Kirkpatrick favored a 10-year contract because they thought the

longer period would place trucking companies at a disadvantage compared with rail and barge companies.

"We want as much flexibility in the process as possible. We want a lot of bidders," Kirkpatrick said.

In opting for 20 years, the council made the transportation contract coincide with Metro's landfill services contract with Oregon Waste Systems Inc.

Laura Pryor, a Gilliam County judge, or county commissioner, said the council's decision was "good for Metro and good for us." The longer period was particularly important for her county and the city of Arlington, because it provided more options for improvements, particularly roads that a small county would have difficulty financing, she noted.

Richard A. Daniels, vice president of Oregon Waste Systems, said construction of the new landfill was ahead of schedule. It will be open for business by July 1989, six months earlier than the company's contract with Metro requires, he said.

County commissioners hear of waste transportation issues

by Cindy Hinton

Jeff Bachrach, a Portland attorney who has periodically done legal work for the county, met with the Gilliam County Court Oct. 5, to update its members on various issues related to the transportation of solid waste to the regional landfill site near Arlington. He stated that METRO has included a \$7 per truckload fee in its bid document, to offset the cost of needed highway repairs, if the transportation mode chosen is either long-haul truck or barge/truck. He assured the court that METRO is comfortable that this fee will not favor any one transportation mode in the bidding process.

The Oregon Dept. of Transportation appears agreeable to making improvements on Highway 19 between Arlington and the Cedar Springs Junction on a cost share basis. The project would cost \$3 million, with the county's share, \$1.8 million, to be paid from the \$7 per truckload fee.

Bachrach pointed out three ways the county's share could be paid: 1) Metro can pay the cost up front and be reimbursed by the county from the fees collected; 2) the Dept. of Transportation can front the money and be reimbursed by the county; or 3) the entire matter can be turned over to METRO to handle.

The fee can be collected by an overweight truck ordinance or by revising Oregon Waste Systems' Conditional Use Permit. Both of these options would have the same effect.

Bachrach did stress that, assuming the METRO bid document is approved next week, an answer regarding which mode of transportation will be used should be forthcoming in January, 1989 and the county should have a plan in place by that time.

District Attorney Pat Wolke and County Planner Alcenia Byrd also met with Bachrach

to discuss the need to look at the county's zoning ordinances in regards to the possible construction of some type of truck repair or barge-truck transfer facility. Bachrach advised that the county should take the initiative to define its standards before the need arises.

The court also:

- Agreed to modify its personal service contract with Shannon Barry. Barry will continue as caretaker of the air base but will cease to function as the courthouse maintenance person as he has taken on full-time employment elsewhere in Condon. The court agreed to discuss hiring a new courthouse maintenance person at its next court meeting Oct. 19.

- postponed the appointment of a Chem-Security Systems, Inc. Task Force until county commissioners have prepared reports on possible appointees. It was also suggested that the entire court meet in a work session to further determine the role/necessity of such a task force.

- directed Pat Wolke to draw up an appropriate contract for Darrell Potter's services in performing repairs to Road Dept. equipment.

- agreed to function under the terms of the previous roadside weed spraying contract with Inland Chemical until the contract can be re-bid next spring.

- heard from an individual interested in property foreclosed on by the county. After researching the sales procedures, Pat Wolke advised the court that he would prepare the necessary papers by the next court meeting to initiate the sheriff's sale on these properties.

- heard from Trudie Wilson, recently selected county coordinator for the Community College Advisory Board. Mrs. Wilson said 6-8 classes would be offered in the county each year starting with this year's winter term. She could not report for sure which classes

would be offered yet but the surveys indicated the greatest interest was in computer and business management classes.

- reviewed a letter from Dave Jones, chairman of the Gilliam Co. Solid Waste Landfill Site Citizen Advisory Committee (C.A.C.). The court discussed each point in the letter and directed that a letter be sent to the C.A.C. regarding its findings.

- commissioners Alan Anderson and Alfred B. Clough reported, for the record, on their attendance at a joint meeting of the county courts of Gilliam, Wheeler, Sherman and Wasco counties held at Moro on Oct. 4th. A motion was passed to endorse and approve the North Central Oregon Regional Strategies Plan as amended at Moro, adopting a regional strategy directed tourism.

Jim Lutz, county roadmaster, also met with the court to discuss several matters pertinent to the operation of the Road Dept.

He indicated the rock crusher and all associated equipment had been moved back from Wheeler County. It was suggested that commissioners from Gilliam and Wheeler counties meet to summarize the project and discuss the possibility of similar projects in the future.

Road Dept. employee Bill Brehaut will be off work for three weeks beginning Oct. 3 due to an injury. The court directed that a memo be sent to Brehaut requesting that he provide Lutz with the necessary doctor's statement regarding his injury.

The court reconsidered its decision to send Road Dept. employee Bob Mallgren to bridge inspection school Oct. 26. Because of union ramifications the matter was tabled until these duties could be incorporated in the roadmaster's job description following Lutz' retirement and someone else is hired for the position.

The court will meet again Wednesday, Oct. 19, 10 a.m. at the Gilliam County Courthouse in Condon. The public is invited to attend.



Norma Broussard, Co-Publisher/Editor

Send address changes, inquiries, subscriptions

AMERICAN CONTRACTOR PUBLICATION
P.O. BOX 11233
Portland, Oregon 97211
12200 N. Jantzen Ave., Suite 140
Portland, Oregon 97217
(503) 285-9000



Sealed bids will be for the projects.

County

Clackamas

Clatsop

Columbia

Coos

Deschutes

Douglas

Douglas

Douglas

Linn

Marion

Marion

Multnomah

Tillamook

Tillamook

Umatilla

Plans, specificat
Transportation Bu
be prequalified t
tional informatio

If your business
prise (DBE) or a
Office of Women a
phone (503) 378-5



METRO

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

INVITATION TO BID

The Metropolitan Service District (Metro) is requesting bids for waste Transport Services. The requested services consist of the transport of approximately 17,000,000 tons of waste over an approximate 20-year period, from the Metro service area to a landfill located in Gilliam County, Oregon. Bid documents may be obtained by contacting Mr. Chuck Geyer, Senior Solid Waste Planner, at (503) 221-1646, or they may be picked up at the solid Waste Department of Metro, 2000 S.W. First Avenue, Portland, Oregon, 97201. Bids will be received until 4 p.m. on December 21, 1988 at Metro and then will be publicly opened and read. Bids should be directed to the attention of Mr. Chuck Geyer. Metro may reject any bid not in compliance with all prescribed public bidding procedures and requirements, and may reject for good cause any or all bids upon a finding of Metro that it is in the public interest to do so.

Metro encourages disadvantaged and women-owned business enterprise participation in all its projects. The participation goals are 7% DBE and 3% WBE.

BIDS WANTED

Portland District Corp of Engineers
Bonneville Navigation Lock
Diaphragm Wall Contract

BID DATE : NOVEMBER 15, 1988

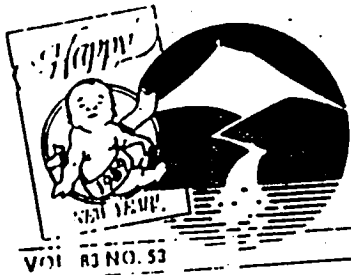
All subcontractors and suppliers
interested in Subcontracting work or
supplying materials should contact:

Poi

BI

in

c



Hood River News

HOOD RIVER, OREGON, WEDNESDAY, DECEMBER 28, 1988

48 PAGES, 4 SECTIONS

Official Newspaper, City of Hood River
and Hood River County

50¢ COPY

VOL 83 NO. 53

6 Hood River News, Hood River, Oregon, Wednesday, December 28, 1988

Garbage transport expected

It won't be long until Hood River is playing host to Portland garbage -- however briefly -- and an important day in that process arrives on Jan. 6.

It will be on that date when bids are opened on transporting the waste from Portland transfer stations to landfills being prepared in Gilliam County. The actual shipping process still is a year away, but the public bid opening on Friday, Jan. 6, by the Metropolitan Service District could be critical in determining the method of transportation from Portland to the destination point.

Two barge companies are bidding; so are several trucking companies and rail-based firm. In any event, Hood River County will be one of

those traversed by the garbage on its way to Gilliam County.

Bids will be opened on the transportation contract on Dec. 29 at the offices of the Metropolitan Service District, where they will be examined before the public unveiling just over a week later.

While the cargo isn't of a type that would be welcome here very long, environmental and public concerns are expected to be addressed in the contract planning. For instance, if a truck alternative were chosen, concerns about leakage and odor would have to be addressed by bidders.

One of bidders, Taylor/Montgomery Transportation, Inc., of Beaverton has been making contacts in communities along the

route to explain what their company would do if it is the successful bidder.

Taylor/Montgomery plans to use custom-designed equipment that will be leak-proof. "We believe our proposal offers the highest environmental protection possible," said Ken Montgomery, executive vice president of the firm.

He said other bidders are expected to use existing multi-use containers.

In the event that a barge option is chosen, it would mean daily barge loads of 75 containers a day added to the river traffic, according to estimates. The site being prepared for the material uses plastic and clay liner to protect the groundwater in the landfill environment.



METRO

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

Waste Transport Services

Bid opening statement
Solid Waste Director Bob Martin
Metropolitan Service District
Friday, Jan. 6, 1989

Good morning and thank you all for coming today for the opening of the bids for the Metropolitan Service District's Waste Transport Services contract.

Before I explain the procedure for opening the bids, I want to announce one caveat: because of the peculiarities of each form of transport, our staff will be analyzing the various bid numbers to reach the apparent low bidder. While we will do this as expeditiously as possible, we will also do it as carefully as possible.

With a contract of this size, duration and importance, I'm sure you can all appreciate that we want to do this right. Hence, we will try and announce the apparent low bidder today. However, if we don't feel as if we can make that announcement today and need to do further analysis, we will take the time we need. Of course, we will announce the apparent low bidder within 90 calendar days of the opening. The announcement of the apparent low bidder will be mailed to all plan holders.

What I will be announcing today is the following:

First, an announcement of the close for the submission of the bids.

Second, the opening of the bids by firm name.

Third, the reading of the following items from each bid:

- A. Price per load
- B. Fixed costs
- C. Percent adjustment
- D. Tons per load

As these are read, each item amount will be listed on the display board. Finally, I will announce the close of the bid opening.

Each firm submitting a bid should submit to Metro a Disadvantaged Business Enterprise and Women-Owned Business Enterprise form by 5 p.m. Monday, Jan 9. Firms may FAX completed forms to: Metro, Solid Waste Department, Attention: Chuck Geyer. The FAX number is (503) 241-7417. A sheet for recording the items read is attached.



METRO

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

News Release

Monday, Jan. 9, 1989

For immediate release

For more information, call Bob Applegate, 220-1165 or Vickie Rucker,
220-1163

Cusma announces apparent low bidder on garbage hauling contract

Rena Cusma, executive officer of the Metropolitan Service District, announced today that Jack Gray Transport, Inc. of Gary, Ind., is the apparent low bidder to haul the region's garbage to a new landfill in Gilliam County, Oregon, beginning in 1990.

The company bid to truck the garbage to the landfill at a cost of approximately \$12.30 per ton. Metro had anticipated a cost of \$15 per ton to ship the garbage east when doing cost projections for the Gilliam County landfill. Metro staff estimates the total cost of the 20-year contract to be \$208,231,690.

Metro also received bids from Union Pacific Railroad, Knappton Corporation (a barge company) and two other trucking firms.

"The bids we received for transport of our garbage show the benefit of the competitive process," said Cusma. "We had five serious bidders for this contract. That really made the companies give us the best price possible. The real winners are the Oregonians who pay the rates for hauling the garbage."

Cusma noted that Metro now will begin work on a request for proposals for a privately owned transfer station in Multnomah County. "Metro is really pioneering a public-private approach to handling solid waste that is drawing national attention," said Cusma. "Working with the private sector, Metro has made tremendous progress in getting a new solid waste system built."

Cusma said she expects to bring the contract to the Metro Council for approval in February.

Monday, Jan. 9, 1989

Metro awaits analysis of garbage hauling bids

By ROBERT GOLDFIELD

Metropolitan Service District officials opened bids Friday from six transportation companies hoping to land a 20-year contract to haul garbage from Portland to the district's planned landfill near Arlington.

A railroad, a barge line and four trucking companies bid for the contract, which would go into effect in 1991.

Metro officials said they would name an apparent low bidder this morning. Staff analysis of each bid required additional time because of the differing forms of transportation, they said.

According to the bid terms, companies presented a fixed price they would charge Metro during the 20-year contract, plus a base price to be charged Metro for delivering each load of waste.

Bidders also included a percentage rate at which the base price would be adjusted as the national Consumer Price Index changed.

As part of the bid, the companies supplied the number of tons of waste they would carry in one load.

The six bids were:

- Union Pacific Railroad bid to send the waste by rail for \$398 per load. The Omaha, Neb.-based company would charge Metro a fixed cost of \$16.19 million, and 28 tons of waste would be carried per load.

- Knappton Corp.'s offer to ship the waste by barge for \$250.96 per load. Portland-based Knappton would charge a fixed cost of \$84.7 million and would carry 27 tons of waste per load.

- Taylor/Montgomery Transportation Inc.'s bid to truck 35 tons per load at a price of \$590 per load. Metro's fixed cost with the Beaverton company would be \$10 million, and 35 tons would be delivered per load.

- Jack Gray Transport Inc.'s offer to truck the waste for \$339 per load. The Gary, Ind., company would charge a fixed cost of \$16.59 million and would ship 32 tons in each load.

- Seattle's Trans Industries bid to truck loads for \$421. The fixed cost would be \$435,500 and 38.6 tons of waste would be carried in each load.

- Stevedoring Services America's last-minute offer to truck loads at \$288.12. The Seattle company would charge a fixed cost of \$21 million and would truck 30 tons of waste in each load.

Metro Solid Waste Director Bob Martin said the regional agency expected the final cost of transporting the waste to be in the range of \$10 per ton to \$15 per ton.

Although the project drew bids from as far away as Indiana, Martin said he was not surprised that only six companies submitted proposals.

"It's a very big project; it's a very complicated project," he said.

Metro signed a 20-year contract with Oregon Waste Systems Inc. last year to ship most of the Portland area's garbage to that company's landfill 10 miles south of Arlington in Gilliam County.

The landfill is scheduled to open in July, several months before the St. Johns landfill will be closed.

The winning transportation company will ship the waste from Metro's existing transfer station and from one yet to be built in Multnomah County. Metro plans to solicit bids this summer to build the Multnomah County transfer station.

Daily Journal of Commerce

Landfill up for permit renewal

The municipal landfill serving the Portland metropolitan area is up for a permit renewal that will allow continued filling of a 55-acre wetland until 1991.

The Department of Environmental Quality is holding a public hearing on the water quality permit renewal on Jan. 10 at 2 p.m. at DEQ's Portland office. The permit is required for continued operation of St. John's Landfill because the fill area is wetlands. The proposed renewal would extend the use of the wetland to the same time period the landfill's solid waste permit is approved for.

The public hearing will be held at 811 S.W. Sixth Ave. Written comments should be postmarked by 5 p.m. Jan. 10 and sent to DEQ, Water Quality Division, at the aforementioned address.

THE OREGONIAN, SATURDAY, JANUARY 7, 1989

Firms seek contract to haul Portland-area trash

By HARRY BODINE
of The Oregonian staff

Six companies submitted bids Friday seeking a 20-year contract to haul an estimated 600,000 or more tons of Portland-area garbage annually to Eastern Oregon.

The Metropolitan Service District must find a hauler to handle waste that currently is going into the St. Johns Landfill in North Portland. The landfill is scheduled to close in February 1991, when it reaches capacity.

The Metropolitan Service District's fiscal and legal staff members immediately began sending numbers contained in the bid documents through a computer to identify an apparent low bidder.

Bob Martin, Metro's solid-waste director,

said the agency hoped to announce an apparent low bidder later Friday but decided it needed more time to analyze the bids over the weekend. "We want it to be right," Martin said.

Bidding on the Metro transportation contract were: Union Pacific Railroad, Omaha, Neb.; Knappton Corp., Portland; Taylor Montgomery Transportation, Sheridan; Jack Gray Transport Inc., Gary, Ind.; Trans Industries, a joint venture of Rabanco Inc., a major Seattle garbage-hauling company, and Browning-Ferris Industries, one of the nation's largest waste-disposal firms; and Stevedoring Services of America, also of Seattle.

Not bidding were Oregon Waste Systems Inc., owner-operator of a new Gilliam County landfill, which will receive the Portland

area waste, and Tidewater Barge Lines, an Oregon Waste Systems competitor that seeks to open a second Eastern Oregon landfill south of Boardman.

Three modes of transportation — rail, river barge and truck — were represented in the bids submitted to Metro.

In seeking the lowest possible cost for transporting garbage during a 20-year period, Metro asked the companies to: bid a base price per load, submit a specific figure for fixed costs that Metro will have to bear, and factor in adjustments for inflation.

All of the requests will be considered to determine which company offers the best deal, Metro officials said.

The companies' bids on price per load ranged from a low of \$9.29 per ton (Knapp-

ton) to \$16.86 per ton (Taylor Montgomery). The spread on fixed costs stretched from \$435,000 (Trans Industries) to \$84,699,000 (Knappton).

Gilliam County Judge Laura Pryor, Arlington Mayor Dennis Gronquist and Metro Executive Rena Cusma and business representatives viewed the bid opening. Pryor and Gronquist are interested in the impact the transportation of garbage will have on communities near the arid landfill site.

Oregon Waste System's landfill is scheduled to open later this year.

Once St. Johns closes, Metro's 20-year contract with Oregon Waste Systems requires Metro to send no less than 90 percent of Portland area's garbage slated for landfill burial to Gilliam County.

THE OREGONIAN, TUESDAY, JANUARY 10, 1989

Metro identifies low bidder to haul away garbage

By HARRY BODINE
of The Oregonian staff

Jack Gray Transport Inc., a Gary, Ind.,-based trucking company, is the apparent low bidder for hauling Portland-area garbage to Eastern Oregon, Metropolitan Service District officials announced Monday.

Gray offered to transport 16.9 million tons of waste to Oregon Waste Systems Inc.'s new landfill south of Arlington during a 20-year period for \$208.2 million, Rena Cusma, Metro's executive officer, said.

Altogether, Metro received six

bids, one of which subsequently was withdrawn "because of substantial errors," said Bob Martin, the agency's solid waste director.

Other bids received were \$216.2 million from Trans Industries, a joint venture between Rabanco Inc. of Seattle and Browning Ferris Industries, which also proposed using trucks; \$229.8 million from Knappton Corporation, which intended to barge garbage up the Columbia River; \$265.4 million from the Union Pacific Railroad, which has track leading to the landfill site; and \$315.6

million from Taylor/Montgomery Transportation Inc., a trucking company based in Sheridan.

Cusma said she was pleased that Gray's bid was well below the amount Metro had estimated would be required to transport waste to Eastern Oregon. "The apparent low bid is \$30 million under what we anticipated," she noted.

The transportation contract will not cause another hike in residential and business garbage bills in the Portland area, Cusma said. Disposal rate increases imposed by Metro

Nov. 1 will provide additional funds to pay for both transporting garbage to Eastern Oregon and building a reserve fund for closing the St. Johns landfill in 1991, she added.

Oregon Waste Systems' landfill will be open for business July 1. Metro will begin shipping garbage to it from the Metro South (Clackamas) transfer station in Oregon City in January 1990.

Gary Goldberg, Gray's executive vice president, said his company currently hauls garbage from Hempstead, Long Island, to two sites, one

at Goshen, N.Y., and the other miles away in Challenge, Pa.

Goldberg said the company long-haul bulk carrier which transported hazardous waste from Kent, Wash., to Chem-Security landfill near Arlington in the past will employ about 30 workers at unloading site and at truck maintenance facilities in Arlington.

Gray also will be taking applications for 60 to 70 truck drivers whom the company will not bring from other parts of the country, said.

Trucking firm wins garbage hauling war

By ROBERT GOLDFIELD

John Gray Transport Inc. of Gary, Ind., is the apparent low bidder on a 20-year contract to haul the Portland-area's garbage to an Eastern Oregon landfill.

The Metropolitan Service District announced Monday that John Gray's bid to truck the compacted waste to a new landfill near Arlington for \$208.23 million, or \$12.30 per ton of waste, was the lowest of five bids. Metro staff opened proposals Friday but waited to announce the apparent low bid because staff members needed time to analyze the competing proposals for truck, rail, and barge shipment.

Gary Goldberg, executive vice president with John Gray, said the award would likely provide 100 jobs for Oregonians. A truck trailer procurement company in Redmond and a trailer-maintenance firm in Boring also will gain work under the bid's minority-owned business and women-owned business provisions.

Goldberg said the 35-year-old, private company would make capital investments in Oregon exceeding \$16 million. That includes building staging areas near Portland waste transfer stations and unloading facilities at the landfill near Arlington in Gilliam County.

"We are well under the \$15-per-ton cost for transport that we were estimating," said Metro Executive Director Rena Cusma. "And when you're talking about shipping almost 17 million tons of garbage, you're talking about a real savings — the apparent low bid is approximately \$30 million under what we anticipated."

The lowest three bids were within 10 percent of each other, said Bob Martin, Metro's solid waste director. Trans Industries of Seattle offered the second-lowest bid, at \$216.27 million, and a barge line — Knappton Corp. of Portland — had the third-lowest bid at \$229.99 million.

Union Pacific Railroad bid \$265.4 million and Taylor/Montgomery Transportation Inc. of Beaverton bid \$315.67 million. A sixth company, Stevedoring Service America of Seattle, removed its bid from consideration, a Metro spokesman said.

The contract, expected to come before the Metro Council in February, would start running in January 1990.

Cusma said all bids satisfied Metro's requirements for participation by minority-owned and women-owned businesses.

John Gray's bid calls for awarding a \$15 million subcontract to R.L. Brown, a minority-owned company based in Redmond that will perform unloading services at the Arlington site.

The bid also provides for a \$7.5 million subcontract with Young Equipment, a woman-owned sales agency that procures and modifies truck trailers.

"All of the positions will be hired from within the state," Goldberg said. "We'll zero in on both ends (Portland and Arlington)."

He said most positions will be truck driving jobs, but that mechanics and administrators also will be needed.

John Gray has prior experience in trucking garbage. It currently has similar contracts with the city of Hempstead on Long Island, N.Y.

The Times-Journal

January 5, 1989

Waste

transport

bids to be

opened Friday

Bids for the transportation of solid wastes from the Portland metropolitan area to the Oregon Waste Systems, Inc. landfill now under construction near Arlington are to be opened Friday, Jan. 6, in Portland.

However, the Metropolitan Service District in Portland has indicated it would not announce its decision for three months.

Several trucking firms, rail and barge lines were all expected to submit bids on the 20-year contract.

Trucking company low bidder to haul garbage

An Indiana trucking company has bid more than \$208 million for the right to transport metropolitan-area garbage to a new landfill in Eastern Oregon for 20 years.

The Metropolitan Service District said the apparent low bid came from Jack Gray Transport Inc., of Gary, Ind. Other bidders included two trucking firms, the Union Pacific Railroad and a Columbia River barge company.

Next year, Metro will shut down its landfill at St. Johns in north Portland and begin using a private facility south of Arlington, about 140 miles east of Portland on Interstate 84.

The decision won't have much impact on western Washington County. Most of this area's garbage goes to another private landfill near McMinnville.

Gray Transport said it expects to make about 20 trips a day to Arlington from the Metro South transfer station in Oregon City.

Metro apparently has dropped plans to build a large centrally located transfer station in Washington County.

Local garbage haulers are working on a plan to utilize several small privately operated satellite facilities, like the one in Forest Grove.

METRO

Council Solid Waste Committee

5:30 p.m. Tuesday, Feb. 14

- Res. 89-1052 1% for Recycling criteria, guidelines and RFP
- Res. 89-1053 waste transport contract (public hearing)
- Waste Reduction Program (EQC stipulated order)

Metropolitan Exposition- Recreation Commission

12:45 p.m. Tuesday, Feb. 14

Memorial Coliseum

Council Solid Waste Committee

(special meeting)

4 p.m. Thursday, Feb. 16

- Status report on St. Johns Landfill closure

Metropolitan Service District
2000 SW First Ave., Portland
For ordinances and agendas,
call 221-1646.

THE OREGONIAN, FRIDAY, MARCH 3, 1989

Garbage contract OK'd

A plan to use a fleet of trucks to haul Portland-area garbage through the Columbia River Gorge to a landfill in Arlington moved closer to approval Thursday despite opposition from an environmental group.

The Solid Waste Committee of the Metropolitan Service District Council approved a \$208.2 million contract with James Gray Transport Inc. of Gary, Ind., to haul 16.9 million tons of garbage over the next 20 years. The decision goes to the full council for final approval March 23.

James Gray offered the lowest bid among six bidders, some of whom proposed sending the garbage up the Columbia River by barge or via a Union Pacific Railroad track leading to the landfill.

The use of trucks to haul garbage, however, was criticized by the Friends of the Columbia River Gorge because of its impact on the area's scenic beauty, traffic and tourism, said Nancy Russell, founder and chairwoman-emeritus of the group.

She said the rail and barge options would use less fuel and contribute less air pollution to the area. She also said driving along Interstate 84 could be hazardous, citing Thursday's snowstorm, and could disrupt the trucks' schedules.

The Metro staff estimated that in the year 2001, 94 trucks would make the trip one-way each day, resulting in a 5 percent increase in truck traffic and a 1 percent increase in overall traffic.

The motion approving the contract passed 4-1.

Panel opposes garbage trucks

STEVENSON, Wash. — Members of the Columbia River Gorge Commission unanimously agreed Tuesday to continue their no-holds-barred effort to persuade the Portland Metropolitan Service District not to use trucks to haul Portland-area garbage to a new landfill near Arlington.

The gorge commission staff has estimated that garbage trucks owned by Jack Gray Transport Inc. of Gary, Ind., the apparent low bidder for Metro's waste-hauling contract, will be making 188 round trips a day through the gorge. The truck traffic, gorge commissioners said, would be totally unwelcome in the Columbia River Gorge National Scenic Area that they are charged with protecting.

Commissioner Bob Thompson's motion, approved Tuesday, called for commissioners to "do everything within our power, politically, legally and any other way to stop this irresponsible influx of vehicles in an area that we are even trying to divert tourists in another way, by using rail or other transportation."

The Oregonian

Founded Dec. 4 1850. Established as a daily Feb. 4, 1861. The Sunday Oregonian established Dec. 4, 1881. Published daily and Sunday by the Oregonian Publishing Co., 1320 S.W. Broadway, Portland, Oregon 97201.

FRED A. STICKEL, President and Publisher

WILLIAM A. HILLIARD, Editor

ROBERT M. LANDAUER, Editorial Page Editor

PETER THOMPSON, Managing Editor

ROBERT N. SCHOENBACHER, Advertising Dir.

PATRICK L. MARLTON, Circulation Dir.

DONALD J. STERLING JR., Asst. to the Publisher

FRIDAY, MARCH 17, 1989

Keep truckin' in gorge

The sudden opposition to trucking garbage from Portland to Arlington is as baseless as it is belated. Taxpayers didn't build Interstate 84 through the Columbia River Gorge just for residents and tourists. It is more than a pretty path through the wilderness; it is a major national artery for goods and services.

Furthermore, the process by which the Metropolitan Service District solicited bids from truckers, railroads and barge companies to transport Portland-area garbage to Arlington in Eastern Oregon was lengthy and fully public. Those opponents who insist they just learned that a trucking company might get the long-term hauling contract cannot live in the gorge or Portland. They must live in Outer Space.

Jack Gray Transport Inc. of Gary, Ind., was lowest of six bidders for the 20-year hauling contract at \$208 million. The trucking firm's bid was \$20 million less than a river-barge bid and almost \$60 million less than the only rail-company bid.

One train or barge a day might be more desirable in terms of traffic congestion and air and noise quality than 90 to 100 sealed-container trucks making round trips each day. But Gray's round trips would increase the traffic through the gorge by only 1 percent. That

amounts roughly to the annual growth in traffic hoped for with Congress' designation of the gorge as a National Scenic Area.

It doesn't amount to environmental degradation, or even significant impact.

Amazingly, some opposition has surfaced in Cascade Locks, which recently beat out The Dalles and Troutdale for siting of the Oregon Port of Entry truck stop. Now it is worried about truck traffic!

When barging of the garbage containers was proposed, opponents talked about intruding on wind-surfing and how much more difficult it would be to clean up a midriver barge sinking than a land accident. With rail hauling, hands were wrung over potential derailments. If air hauling had been suggested, crashes surely would have been the issue.

Metro shares concerns about protecting the new National Scenic Area. But the concerns must be more substantial than those advanced against trucking the garbage on I-84, for the agency also has an obligation to deliver the lowest cost of service for its ratepayers.

March 23, the Metro Council should welcome Jack Gray Transport to the Northwest and get the region's long-awaited garbage solution on the road.

CONSIDERATION OF ORDINANCE NO. 88-271D AMENDING METRO CODE
CHAPTER 2.04 RELATING TO CONTRACTING PROCEDURES

March 15, 1989

Presented by: Councilor Bauer

Committee Recommendation: At the March 9, 1989 meeting, the Internal Affairs Committee voted to recommend that the Council adopt Ordinance No. 88-271D. Committee members supporting the Committee recommendation included Councilors Hansen, Ragsdale and Bauer. Councilor Collier opposed the recommendation and served notice of an intent to file a minority report. Councilor Knowles was absent.

Committee Discussion and Issues: Ordinance No. 88-271D was, for the most part, the result of a special Contracting Task Force appointed by the Presiding Officer on December 22, 1988. Task Force members included Councilors Bauer, DeJardin, Knowles and Ragsdale and Executive Officer Cusma. The Task Force decided to "step back and take a fresh look" at the contracting issue. The Task Force identified three major points that appeared to be of concern to the Council as follows:

1. fiscal oversight
2. whether or not the council needed additional statutory authority over contracting, and
3. policy oversight

These concerns of the Task Force are discussed in a memo from Dan Cooper to the Task Force dated January 9, 1989 attached as Attachment A. The Committee reviewed the work of the Task Force and developed Ordinance No. 88-271D. Ordinance No. 88-271D amends the Metro Contract Code as follows:

1. In Section 2.04.010 Definitions (pages 1-7) the definitions are reorganized in alphabetical order. A definition of "Emergency" is added to spell out more clearly what constitutes an emergency contract which may be approved by the Executive Officer without Council review. A definition of "Notice of Award" is added to clarify when an appeal process might be started by an aggrieved bidder or proposer (the appeal process is added in Section 2.04.031).
2. In Section 2.04.030 Rules and Procedures Governing All Personal Services and Public Contracts (pages 7-11) language relating to "Monthly Contract Report" is deleted. This is replaced with a new section 2.04.032 relating to "Contract Information Reports." Language is also deleted requiring the Executive Officer to file a written report with the Council on sole source contracts or certain contracts for which only one bid was received prior to

signing the contract. This language is replaced in the new Section 2.04.032.

3. A new Section 2.04.031 Notice of Award and Appeals (pages 11-13) is added to provide an appeals procedure for aggrieved bidders or proposers. The procedure is a two-step process commencing with an appeal to the Executive Officer and then, if needed, an appeal to the Contract Review Board (Council).
4. A new Section 2.04.032 Contract Information Reports (pages 13-17) is added. This section does the following:
 - a. Requires the Executive Officer to provide a monthly report to the Council on 1) all new contracts awarded; 2) all contracts amended; 3) all current or open contracts; and 4) all contracts closed.
 - b. Requires the Executive Officer to inform the Council prior to executing a sole source contract or certain other contracts for which only one bid is received of the reasons for the award.
 - c. Authorizes the Council to designate certain contracts by ordinance (possibly the annual budget ordinance) for which the RFB or RFP must be filed with Council. Such documents must be filed at least 35 days prior to their release. If the Council or a committee has not scheduled a hearing within 14 days of the filing, the document may be released. The documents may be released by the Executive Officer on the 35th day after filing with the Council.
 - d. For all other contracts not designated by ordinance, the RFB or RFP must be filed with the Council at the time they are released for response by potential bidders or proposers with information on the contract purpose, appropriation and future fiscal impact.
5. A new Section 2.04.033 Council Approval of Contracts (pages 17-18) is added which requires Council approval of the following contracts:
 - a. any contract which requires expenditure in a future fiscal year except those contracts exempted by ordinance (possibly the budget ordinance);
 - b. any intergovernmental agreement acquiring or transferring real property or assuming or transferring a function or duty; and

- c. any contract for the sale, lease or transfer of district property.

In addition, language is added which provides that for all contracts requiring Council approval the RFB or RFP's must be approved by the Council prior to their release.

6. In Section 2.04.045 Public Contract Extensions and Amendments (pages 31-35) new language is added regarding Council approval of public contract amendments or extensions. The language requires Council approval if the extension commits the District to expenditures in a future fiscal year. This provision only applies to contracts which the Council has authority to approve (contracts in two or more fiscal years) according to 2.04.033 and that have not been previously exempted by the Council.
7. In Section 2.04.053 Personal Services Contracts of \$10,000 or More (pages 41-43) new language is added regarding notification to newspapers and potential vendors of RFPs and requirements for including with the RFP information on the proposed project, scope of work and evaluation criteria.
8. In Section 2.04.060 Sole Source Contracts (page 47) new language is added which prohibits the execution of sole source contracts over \$2,500 without an exemption granted by the Contract Review board (Council).
9. In Section 2.04.090 Food Items and Food Service Contracts (pages 48-53) changes are proposed to make the Code conform to provisions previously adopted by the Council in Ordinance No. 88-249 (deletes reference to the Council Management Committee approval of contracts between \$10,000 and \$50,000 and Council approval of contracts over \$50,000).

The Internal Affairs Committee at its March 23, 1989 meeting is considering two possible amendments to Ordinance No. 88-271D which, if approved, will be brought to the Council meeting. The amendments deal with the process for approving change orders for public improvement contracts (construction contracts) and the process for approving amendments or extensions to personal service contracts.

Background Information: Since this is the first time this ordinance is before the Council for actual consideration, background information on its development would be useful. On December 18, 1987, General Counsel Dan Cooper issued an opinion (in response to a question asked by the Executive Officer) which stated that the Council nor any committee of the Council has the authority to approve contracts prior to their execution by the Executive Officer. Mr. Cooper indicated the only exceptions are certain long term solid waste facility contracts

which by statute (ORS 268.317 and 268.318) must be approved by the Council. In May, 1988, the Executive Officer introduced Ordinance No. 88-249 to implement Mr. Cooper's opinion. Ordinance No. 88-249 was adopted on July 14, 1988. It did two major things:

1. Deleted the requirement that the Council approve contracts over \$50,000 and the Internal Affairs Committee approve contracts between \$10,000 and \$50,000. It also deleted requirements for Council and committee approval of certain contract amendments.
2. Inserted language in the Code that limits the Executive Officer's authority to execute and amend contracts to an amount not to exceed the dollar amount authorized in the budget adopted by the Council. The operative language in Ordinance no. 88-249 was as follows:

"No contract or contract amendment may be approved or executed for any amount in excess of the amount authorized in the budget."

To give meaning to the budget limitation language, the Council determined that the budget and appropriations ordinance No. 88-247 should be amended to make clear the dollar amounts of the contracts authorized in the budget. Thus a delayed effective date was placed in Ordinance No. 88-249 as follows:

"Section 3. The effective date of this ordinance shall be December 31, 1988, or the date of adoption of an ordinance amending Ordinance No. 88-247 adopting a schedule of contract appropriations which appropriates funds for specified contract purposes whichever date is the sooner."

On September 1, 1988, the Finance Committee started its discussions on preparing a Schedule of Contract Appropriations. It held three other meetings (9/29, 10/6 and 10/20/88) which led to the development and introduction of Ordinance No. 88-271. The ordinance was prepared to implement the following committee objectives regarding contracting:

1. Do not budget and appropriate by specific contracts;
2. Revise the existing contract code to make it more efficient and effective for the purchase of goods, services and public improvements;
3. Prepare and submit legislation to the 1989 Legislature to clarify the Council's authority to approve contracts so the ordinance could be implemented;

4. Extend the effective date of Ordinance No. 88-249 to July 1, 1989 so the legislation could be enacted; and
5. Establish a Council quarterly program and budget review function utilizing appropriate Council committees.

Following the recommendation of the Finance Committee, the Council included in its package of legislation presented to the Interim Task Force on Metropolitan Regional Government a bill which clarifies Council authority to approve contracts. The resolution (No. 88-996) requested that the Task Force introduce the bill in the 1989 legislative session. The Interim Task Force included the Council's contract bill in its package of legislation introduced in the 1989 session.

Ordinance No. 88-271 was before the Council for first reading on October 24, 1988 and referred to the Internal Affairs Committee. On December 1, 1988, General Counsel Dan Cooper informed the Internal Affairs Committee that if the Council adopted Ordinance No. 88-271, he could not "approve the ordinance as to form" because it does not conform to his December 18, 1987 legal opinion. As a result of this notification, Council staff prepared a revised draft of the ordinance (No. 88-271A) for consideration by the Internal Affairs Committee. This draft suggested language to bring the ordinance into compliance with General Counsel's opinion. The Internal Affairs Committee considered Ordinance No. 88-271A at meetings held on December 7 and 12, 1988 and developed a revised ordinance (No. 88-271B). The Committee scheduled a final meeting on the ordinance for December 22, 1988, and in anticipation of a favorable Committee recommendation, the Presiding officer placed Ordinance No. 88-271B on the December 22, 1988 Council agenda. At the December 22, 1988 Committee meeting, the Chair reported that the Executive Officer requested that Ordinance No. 88-271B be removed from the Committee and subsequent Council agenda and that a Task Force be established to review the contracting issue. The ordinance was removed from the Council agenda, and the Presiding Officer appointed a task force which included Councilors Bauer, DeJardin, Knowles and Ragsdale and Executive Officer Cusma.

The Contracting Task Force met on January 3, 9 and 16, 1989. The work of the Task Force resulted in a revised ordinance No. 88-271C. The Internal Affairs Committee met on January 27, February 7 and 21, and March 9, 1989 to review the ordinance and at the end of its deliberations, the current revised Ordinance No. 88-271D was produced and recommended for adoption.



METRO

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

ATTACHMENT A

(Internal Affairs Committee Report)
Ord. No. 88-271D

January 9, 1989

The Honorable Mike Ragsdale
Presiding Officer
Metropolitan Service District
2000 S. W. First Avenue
Portland, OR 97201-5398

Executive Officer
Rena Cusma

Metro Council

Mike Ragsdale
Presiding Officer
District 1

Corky Kirkpatrick
Deputy Presiding
Officer
District 4

Richard Waker
District 2

Jim Gardner
District 3

Tom DeJardin
District 5

George Van Bergen
District 6

Sharron Kelley
District 7

Elsa Coleman
District 8

Tanya Collier
District 9

Larry Cooper
District 10

David Knowles
District 11

Gary Hansen
District 12

The Honorable Rena Cusma
Executive Officer
Metropolitan Service District
2000 S. W. First Avenue
Portland, OR 97201-5398

The Honorable David Knowles
3655 N. E. Merges
Portland, OR 97212

The Honorable Tom DeJardin
6267 Belmont Way
West Linn, OR 97068

The Honorable Lawrence Bauer
14225 S. W. 20th
Beaverton, OR 97005

Dear Contracting Task Force Members:

At the Task Force meeting of January 3, 1989, the Task Force discussed in broad terms policy concerns of the Council and the Executive Officer that in the judgment of the Task Force participants were the underlying reasons why contracting procedures at Metro have been a major discussion item for the period of more than one year.

Presiding Officer Ragsdale set forth what he understood to be three major concerns of the Council. He described the first as being the "fiscal oversight" issue. For example, the convention center project is currently furnishing weekly reports to the Council giving financial information regarding the progress of those contracts and the potential for cost overruns. Presiding Officer Ragsdale felt that the concern of the Council in this area was for information and not necessarily contract approval. The concern was that the Council not be "surprised" by overruns due to mismanagement of

projects and that they be well aware of ahead of time where the potential for cost overruns were. While the convention center project is seemingly being managed in a fashion that meets the Council's concerns, the Council has a problem with not knowing whether other projects that the District is operating are not being managed in a similar fashion.

After the discussion, the Task Force concluded that the computerized contract information system currently under development might well provide much information for the Council in the future and that a further briefing of the Task Force in this area might go a long way toward solving this concern.

Further, General Counsel provided an opinion that this is an area where the Council has clear authority to legislatively require whatever management reports it deems appropriate be furnished to it by the Executive Officer. The Executive Officer was in concurrence that as a general matter she had no objection to timely reporting mechanisms. Consensus was apparently reached that this was an area that could be solved rather readily and General Counsel was directed to prepare a brief report to the Task Force as to how this might be accomplished.

General Counsel's report at this time is that Ray Phelps will brief the Task Force at its next meeting on Monday, January 9, 1989, at 4:00 p.m. to explain the computerized contract information system and at that time the Task Force could give further direction as to whether the information that would be made available through the system was sufficient to solve its concern and to decide whether it would recommend that the Council legislatively require that this information be furnished.

A second area of concern identified by Presiding Officer Ragsdale was the potential for abuse in contract approvals. He described this as the so-called "in-law treatment" issue. The question he raised was whether contract approval authority by the Council was necessary in order to answer this concern.

General Counsel discussed with the Task Force the fact that the procedural requirements could be established by the Council that created considerable protection for preventing abuses in this area through both fairly tight control of the exceptions to the general rule that all contracts must be let through sealed, competitive bids with price being the sole determining factor, and an appeals process to deal with any deviations. The Task Force reached a consensus that this area

Contracting Task Force
January 9, 1989
Page 3

was one where it would defer further action pending resolution of other issues, but would revisit the matter in the future.

General Counsel recommends that the Task Force review a memorandum dated September 26, 1988, to Presiding Officer Ragsdale from General Counsel regarding the purpose and powers of a Contract Review Board, and examine those areas where the Task Force feels it is appropriate to adopt contract procedures that go beyond those presently in force. Areas that might be addressed by the Task Force include the area of sole source contracts, exemptions to competitive bidding, an appeal process for reviewing challenges by bidders to determinations regarding disqualifying bidders or rejecting bids, and criteria to be utilized in considering RFPs.

The third issue identified by the Presiding Officer is the policy oversight issue. Contracting is viewed by the Council as a policy implementation tool and the Council is concerned that policies legitimately adopted by the Council would be affected by contracting issues. Certain contracting decisions might amount to de facto policy making without Council involvement. The Executive Officer indicated an interest in coming to an agreement with the Council members of the Task Force that they in fact had a legitimate legislative policy-setting role in certain contract areas, while asserting that many contracts were, in fact, purely administrative matters that had little or no legislative policy implications.

The Task Force agreed to discuss this matter further, but felt that it would be quite possible to reach consensus in this area as well.

At this time General Counsel was asked to prepare a short memorandum to the Task Force outlining the two policy areas that had been identified where the Task Force felt it could move on rapidly. This memorandum is an attempt to do so and General Counsel awaits further direction from the Task Force as to the specific drafting of language to accomplish the Task Force goals.

Yours very truly,

Daniel B. Cooper
General Counsel

gl
cc: Ray Phelps
Jessica Marlitt

NOTE: Due to the length of the document, Ordinance No. 89-271D has not been printed in this agenda packet. The ordinance has been distributed to all Councilors. Other parties wanting a copy of the document may contact Marie Nelson, Council Clerk, 221-1646, extension 206.

KELLEY



METRO

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

Memorandum

271E/amendments

March 21, 1989

TO: METRO COUNCIL
FROM: DON CARLSON *DC*

RE: Corrected Minority Report on Ordinance No. 88-271D

Please find attached a copy of the corrected Minority Report on this Ordinance. The correction is necessary because a sentence was inadvertently left out of the text at the bottom of page one. The inserted sentence appears at the top of page 2 of the corrected Minority Report. I apologize for the inconvenience.

(March 21, 1989)

INTERNAL AFFAIRS COMMITTEE
MINORITY REPORT

Meeting Date: March 23, 1989
Agenda Item: 8

CONSIDERATION OF ORDINANCE NO. 88-271D AMENDING METRO CODE
CHAPTER 2.04 RELATING TO CONTRACTING PROCEDURES

March 20, 1989

Presented by: Councilor Collier

RECOMMENDATION: I recommend that the Council adopt this minority report which substitutes Ordinance No. 88-271E (a copy of which is attached) for Ordinance No. 88-271D recommended by the Internal Affairs Committee and that the Council consider the question of whether or not to pursue contracting legislation after the minority report or committee recommendation are decided.

DISCUSSION: Ordinance No. 88-271E proposes the following changes to Ordinance No. 88-271D:

1. In section 2.04.032 Contract Information Reports (pages 16-18) language is added in subsection (d) (highlighted in yellow) which requires the Executive Officer to submit a list of potential contracts during the annual budget process for the ensuing fiscal year. The remainder of this subsection and subsection (e) are unchanged from the Internal Affairs Committee's proposed ordinance. They continue to authorize the Council to designate certain contracts for which the RFB or RFP would be filed with the Council for review. The contracts selected would come from the list proposed initially by the Executive Officer or expanded during the budget deliberations by the Council.

A new subsection (f) is added which requires that certain contracts (public contracts \$15,000 or more and personal service contracts \$10,000 or more) proposed during the year that were not on the original list proposed by the Executive Officer will be subject to the RFB/RFP review process outlined in the section. The dollar levels are suggested because they conform to existing Code thresholds for formal bidding or request for proposal requirements.

The purpose of this change is to assure that unanticipated contracts proposed during the fiscal year are subject to the same Council review and/or approval procedures as other contracts considered during the fiscal year.

2. In section 2.04.045 Public Contract Extensions and Amendments (pages 33-34) language is added to require that a public contract extension greater than \$10,000 not be approved unless the Council exempts the contract extension from public bidding procedure. An exception to this requirement is provided for extensions to public improvement contracts (construction contracts) which: 1) do not on a cumulative basis exceed 5 percent of the initial face value of the contract and 2) do not materially change the original scope of work of the contract.

The dollar level is suggested because it is consistent with the threshold level for extensions which required approval by the Internal Affairs Committee under prior Code provisions. The language is consistent with General Counsel's legal opinion (December 18, 1987) and his subsequent advice given on October 20, 1988. The exception language for public improvement contracts is consistent with the provisions of Ordinance No. 88-271 (Finance Committee) which was developed in consultation with the District's Construction Project Manager. The language in this section is a substitute for the proposed public contract extension language on page 35 of Ordinance 88-271D (see highlighted note on page 33 of the "E" draft).

The reason for this change is to clarify and simplify the provisions for contract extensions. The proposed extension language in Ordinance No. 88-271D (page 35) is ambiguous and will lead to inconsistent treatment of contract extensions. The operative language for extensions in the "D" draft is as follows:

[the extension] ". . . shall be subject to Council approval if the . . . extension commits the District to any increase in the District's obligation in a future fiscal year . . ."

Such language will lead to the following results:

- . A contract not approved by the Council (either by exemption or because it is to be completed within a fiscal year) may be extended without Council approval.
- . A contract approved by the Council (multi-year) may be extended in the first year without Council approval as long as the money for the extension is spent during that year. This could require additional accounting requirements to track the expenditure of the extension money to assure that it is spent in the fiscal year.
- . A contract approved by the Council (multi-year) may be extended in the second or any succeeding year as long as the money is spent in the succeeding year.
- . A contract which because of the timing of the award and the timing of the fiscal year would require Council approval of the extension if the money were to be spent in the succeeding fiscal year.

I submit that using a point in time as the reason for requiring Council approval of a contract extension is just as arbitrary, if not more confusing, than using a level of expenditure as a reason for requiring Council approval of a contract extension.

The language proposed in Ordinance No. 88-271E clearly requires that regardless when the contract is awarded or when the new fiscal year occurs the Council must review and approve the need for additional work and money through an exemption to the competitive bidding procedures.

3. In section 2.04.053 Personal Service Contracts of \$10,000 or More (pages 42-44) changes are proposed to correct a drafting error in Ordinance No. 88-271D. The Internal Affairs Committee draft incorrectly shows what is actual Code language particularly in section (a)(1) on page 42. The language in Ordinance No. 88-271E contains the correct Code language for the section. The proposed added language (section (a)(2) on page 43) setting certain information requirements for a RFP is the same as in Ordinance No. 88-271D.

In Ordinance No. 88-271E, the words "notice of" are added in subsection (1) on page 42 to reflect the actual practice of the District to publish notice of the RFP in the paper rather than the RFP document. Other than this change, there are no policy differences between the two drafts.

4. In section 2.04.054 Personal Service Contract Extensions and Amendments (pages 45-46) language is added to require that a personal service contract extension greater than \$10,000 not be approved unless the Council exempts the contract extension from the competitive procurement procedures of the Code.

The reasons for and the effect of this language is the same as discussed in point number 2 above relating to public contract extensions.

5. In section 2.04.075 Purchase of Recycled Paper Products and Equipment that Uses Paper (pages 48-50) the entire section is added to reflect a Code change approved by Ordinance No. 89-280 on February 9, 1989 which has not yet been codified.

Ordinance No. 88-271E is an improvement on the Internal Affairs Committee "D" draft because it corrects several technical errors, "plugs a hole" regarding potential unanticipated contracts which will arise during a fiscal year and strengthens and clarifies the Council role in contract extensions at the same time taking care of the unique needs for construction contract change orders.

I want to discuss the issue of the proposed legislation. First, let me remind you why it is important for the Council to play an active role in the contracting process of this organization. In this year's budget approximately 68 percent of the proposed expenditures of the

District will be made through various contracts. All expenditures in the Materials & Services and Capital Outlay categories are made through the use of a contract. In the aggregate this amounts to \$68.2 million out of a total \$107 million available for expenditure (excludes unappropriated balances totaling \$55 million). The Council has a responsibility to 1) assure that these expenditures are made for the purposes and programs approved in the annual budget and at other times; and 2) assure that they are made in a fair and impartial manner. The primary vehicle for the Council to carry out this responsibility is the Contract Code.

It is clear to me that as this issue has evolved from Dan Cooper's original opinion; to Ordinance No. 88-249; to the Finance Committee; to the Special Task Force; and finally, to the Internal Affairs Committee, the Council has substantial authority to review and approve contracts. We started from the point that the Council has no authority to approve contracts (except certain long-term solid waste contracts) to the point that the Council can approve multi-year contracts and contract extensions through the granting of exemptions to the bidding process. I am convinced, however, that the process we have created as a result of all this effort is more complex, inefficient and less direct than the process previously used for the past seven years by this District or as proposed by the Finance Committee in Ordinance No. 88-271.

For those of you who don't know (because that ordinance was never before the Council for discussion), Ordinance No. 88-271 proposed revising our old procedures not for more control, but rather to expedite the process of contract review and approval. In light of General Counsel's opinion, for that ordinance to be implemented legislation was required giving the Council authority to approve contracts. The Finance Committee in its deliberations rejected the notion that the Council should use its budgetary powers and appropriate money at the level of individual contracts because such action would increase the time required to process contract matters before the Council (must use an ordinance which requires two readings rather than use of a resolution) and it would increase the number of contract items before the Council (based on 1987-88 data, an estimated increase from 55 actual actions to an estimated 192).

There is an ideological dispute in this organization regarding contracting authority. The separation of powers advocates resist the idea of the more direct and simplified contract procedures as embodied in Ordinance No. 88-271. The resistance stems largely from the fact that implementation requires legislation giving the Council direct contract approval authority. Such action is an anathema to the "separatists" because it violates principles of government promulgated over 200 years ago by our forefathers. It's sad, but true, that simplicity and efficiency have been sacrificed in an ideological

Internal Affairs Committee Minority Report
March 20 , 1989
Page 5

dispute. The irony of all this is that Ordinance No. 88-271E gives the Council substantial contract "approval" authority (albeit in a less direct way) that we are not supposed to have according to separation of power principles.

I am willing to live with Ordinance No. 88-271E. But, I also believe that the Council should seek legislation to give it direct authority to approve contracts. The reason is simple. If this new process fails or bogs down, we need the ability to fix it in a direct and simple manner.

TC:gpwb
88271E.MR
3/20/89

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING)	ORDINANCE NO. 88-271E
METRO CODE CHAPTER 2.04 RELATING)	
TO CONTRACTING PROCEDURES)	Introduced by the Council
)	Finance Committee and
)	Revised by the Internal
)	Affairs Committee

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

SECTION 1. Metro Code Chapter 2.04 is amended to read as follows:

2.04.010 Definitions:

[~~(d)~~] (a) COMPETITIVE BIDS OR BIDS -- A competitive offer in which price and conformance to specification will be the award criteria.

[~~(a)~~] (b) CONTRACT REVIEW BOARD or BOARD -- The Council is the Contract Review Board for the Metropolitan Service District with the powers described in ORS Chapter 279 and Section 2.04.020 of this Chapter.

(c) EMERGENCY -- An emergency for the purpose of this Chapter means the occurrence of a specific event or events that could not have been reasonably foreseen and prevented and which require the taking of prompt action to remedy the condition and

thereby avoid further physical damage or harm to individuals or the occurrence of avoidable costs.

[~~(i)~~] (d) EMERGENCY CONTRACTS -- A contract may be exempt from the competitive bidding process if an emergency requires prompt execution of a contract, but only if the contract is limited to remedying the emergency situation.

(e) EXEMPTIONS FROM COMPETITIVE BIDDING -- Exemptions include any exemption or exception from the regular competitive bidding process for Public Contracts as defined in ORS 279.011 to 279.061, this chapter, and any exemption made by the Board pursuant to Section 2.04.041 of the Code.

(f) NOTICE OF AWARD -- Means written communication to a responsive, responsible bidder or proposer stating that their bid or proposal has been conditionally determined to be the lowest, responsive, responsible bid or most responsive proposal and that the District intends to enter into a contract upon completion by the bidder/proposer of all required conditions.

[~~(e)~~] (g) PERSONAL SERVICES CONTRACT.

(1) The following are Personal Services Contracts:

- (A) Contracts for services performed as an independent contractor in a professional capacity, including but not limited to the services of an accountant; attorney; architectural or land use planning consultant; physician or dentist; registered professional engineer; appraiser or surveyor; passenger aircraft pilot; aerial photographer; timber cruiser; data processing consultant or broadcaster.
- (B) Contracts for services as an artist in the performing or fine arts, including but not limited to persons identified as photographer, filmmaker, painter, weaver, or sculptor.
- (C) Contracts for services of a specialized, creative and research-oriented, noncommercial nature.
- (D) Contracts for services as consultant.
- (E) Contracts for educational and human custodial care services.

(2) The following are not Personal Services Contracts:

- (A) Contracts, even though in a professional capacity, if predominantly for a product, e.g., a contract with a landscape architect to design a garden is for personal services, but a contract to design a garden and supply all the shrubs and trees is predominantly for a tangible product.
- (B) A service contract to supply labor which is of a type that can generally be done by any competent worker, e.g., janitorial, security guard, crop spraying, laundry and landscape maintenance service contracts.
- (C) Contracts for trade-related activities considered to be Labor and Materials Contracts.
- (D) Contracts for services of a trade-related activity, even though a specific license is required to engage in the activity. Examples are repair and/or maintenance of all types of equipment or structures.

~~(g)~~ (h) PUBLIC AGENCY -- Any agency of the federal government, state of Oregon, or any political subdivision thereof, authorized by law to enter into Public Contracts and any public body created by intergovernmental agreement.

~~(b)~~ (i) PUBLIC CONTRACT -- Any purchase, lease or sale by Metro of personal property, public improvement or services, including those transacted by Purchase Order, other than agreements which are for personal services. Public Contracts may be obtained by Purchase Order as determined by the Executive Officer.

~~(h)~~ (j) PUBLIC IMPROVEMENT -- Projects for construction, reconstruction or major renovation on real property by or for a public agency. "Public improvement" does not include emergency work, minor alteration, ordinary repair or maintenance in order to preserve a public improvement.

~~(f)~~ (k) PURCHASE ORDER -- A Public Contract for purchase of goods in any amount, or for goods and services \$500 or less, or for services \$500 or less.

~~(k)~~ (l) REQUESTS FOR PROPOSALS OR RFPs -- A Request for Proposal is the process described in Section 2.04.050, "Personal Services Contracts." This process may be used for Public Contracts only when the Board has granted an exemption for that

type of contract or for a particular contract as set out in Section 2.04.041, "Requirement of Competitive Bidding, Exemptions." The Board may adopt a particular RFP process for a particular contract by setting forth the amendments in the exemption approval.

[~~(j)~~] (m) SOLE SOURCE CONTRACTS -- Contracts for which it can be documented there is only one qualified provider of the required service or material.

2.04.020 Public Contract Review Board:

(a) Creation of the Public Contract Review Board: Pursuant to ORS 279.055 the Council is designated and created as the Metropolitan Service District Contract Review Board.

(b) Powers of Board: The Contract Review Board shall have all the powers in the award of District contracts allowed under ORS 279.011 to 279.061.

(c) Contract Review Board Meetings:

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

(2) The rules of procedure adopted by the Council for its proceedings shall also govern proceedings of the Contract Review Board unless they conflict with rules adopted by the Board.

(d) Rules: The Contract Review Board may adopt rules relating to the award of District contracts. Such rules of the Contract Review Board shall be adopted by ordinance.

(e) Regulations: The Executive Officer may establish such other contract regulations, not inconsistent with this chapter as may be necessary and expedient.

2.04.030 Rules and Procedures Governing All Personal Services and Public Contracts:

(a) Applicability: All Personal Services Contracts and Public Contracts are subject to the applicable selection, review and approval procedures of this Chapter.

(b) Initiating a Contract: When a department initiates a contract not in the form of a Purchase Order, it must first notify the Department of Finance & Administration of its intention and request the issuance of a contract number which shall appear on all copies of the contract. The department must

complete a Contract Summary form indicating the specifics of the contract. This form must be forwarded to the Department of Finance & Administration either with a fully executed contract (one copy) if the amount is estimated to be \$2,500 or under, or with an unexecuted contract (three copies) for review, approval and signature if the amount is over \$2,500.

(c) Documentation Required for Contract Files: The Department of Finance & Administration will maintain central files for all contracts. An original copy should be given to each contractor. All correspondence relating to a contract which alters conditions or amounts must be included in the central files as should all papers which document the process of obtaining competitive bids, quotes, or proposals. In any case where a low bid, quote, or proposal is not accepted, a detailed justification must be included with the contract file. Other documentation, if applicable, that should be included in the file includes:

- Mailing Lists
- Affidavits of Publication
- Insurance Endorsements and Certificates
- Amendments
- Extensions
- Related Correspondence
- Quotes, Proposals, and Bids

- Bonds
- DBE/WBE Information
- Contract Closure Form
- Personal Services Evaluation Form

(d) Contract Review: Prior to approval by the appropriate person or body, contracts shall be reviewed as follows:

(1) Any contract which deviates from a standard contract form, exceeds \$10,000 for a Personal Services Contract or \$15,000 for a Public Contract, or is with another public agency must be reviewed by the General Counsel.

(2) Contracts involving federal or state grant funds must be reviewed by the Deputy Executive Officer.

(e) Disadvantaged Business Program: All contracting and purchasing is subject to the Metro Disadvantaged Business Enterprise Program. Metro will take affirmative action to do business with Disadvantaged Business Enterprises. The Director of Finance and Administration will maintain a directory of disadvantaged businesses which shall be consulted and used in all contracting and purchasing of goods and services. If a disadvantaged business is included in the directory that appears capable of providing needed goods or services, that business

should be contacted and given an opportunity to compete for Metro business.

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

(g) Code of Conduct:

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

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

(h) Federal/State Agency Approval: When required by federal or state law or regulations, review and approval of Metro contracts shall include prior concurrence or approval by appropriate federal or state agencies.

(i) No contract or contract amendment may be approved or executed for any amount in excess of the amount authorized in the budget.

~~[(j)-Prior-to-entering-into-(1)-any-public-contract-or personal-services-agreement-pursuant-to-the-authority-granted-in Section-2.04.060-authorizing-Sole-Source-Contract,-or-(2)-any public-contract-or-personnel-services-agreement-in-an-amount exceeding-\$15,000-for-which-only-one-bid-or-response-to-a-Request for-Proposal-has-been-received,-the-Executive-Officer-shall-file a-written-report-with-the-Council-detailing-the-reasons-why-a sole-source-contract-was-entered-into-or-giving-an-explanation-of why-only-one-bid-or-response-was-received-]~~

2.04.031 Notice of Award and Appeals:

(a) At least five (5) days prior to the execution of any Public Contract over \$15,000 or a Personal Services Contract over \$10,000 the District shall provide a Notice of Award to the contractor selected and to all contractors who submitted unsuccessful bids or proposals. This requirement may be waived by the Executive Officer for any emergency contract entered into pursuant to this Code.

(b) Bid/Request for Proposals Appeal Procedures: The following procedure applies to aggrieved bidders and proposers who wish to appeal an award of a Public Contract above \$15,000 and a Personal Services Contract above \$10,000. The appeal process for bids is the same as for Requests for Proposals. In the case of Requests for Proposals, disagreement with the judgment exercised in scoring by evaluators is not a basis for appeal.

(1) All appeals shall be made in writing and shall be delivered to the Contracts Administrator at Metro's main office within five (5) working days of the postmarked date on the Notice of Award. The written appeal must describe the specific citation of law, rule, regulation, or procedure upon which the appeal is based.

(2) The Contracts Administrator shall forthwith notify the appropriate department head and the Executive Officer of the appeal. Within ten (10) working days of the receipt of notice of appeal, the Executive Officer shall send a notice of rejection of the appeal or a notice of acceptance of the appeal as applicable to the appellant. The appellant may appeal the Executive Officer's decision to reject the appeal in writing to the Contract Review Board within five (5) working days from the postmarked date on the Notice of Rejection.

(3) The Contract Review Board will review the grounds for appeal, all pertinent information, and the Executive Officer's recommendation, and make a decision. The decision of the Contract Review Board is final.

(4) No contract which is the subject of a pending appeal may be executed unless the Contract Review Board shall have given its approval at the request of the Executive Officer. The Executive Officer may request the Contract Review Board to determine a matter without waiting for the expiration of the time periods provided for herein.

2.04.032 Contract Information Reports:

(a) The Executive Officer shall provide a monthly report to the Council showing the status of all contracts in effect at Metro as of the date of the report. The report shall be divided into four sections: (a) Contracts Awarded; (b) Contracts Amended; (c) Open Contracts; and (d) Contracts Closed.

(1) Contracts Awarded. This section shall report all new contracts awarded since the date of the previous report to the Council of all new contracts. Information contained in this report will be the cost center of the department responsible for the contract, contract number, starting and ending dates of the contract, type of contract, amount of the contract, vendor name, and a brief description of the purpose of the contract.

(2) Contracts Amended. This section shall report all contracts amended by Change Order since the date of the previous report to the Council of contract amendments. Information contained in this report will be the contract number, vendor name, amendment number, type of amendment, the original amount of the contract, the amount of the contract amendment, the new total contract amount, the

percent of the amount of increase in excess of the original amount of the contract, and a brief description of the purpose of the contract.

(3) Contracts Open. This section shall report all contracts in effect on the last day of the month for which the report is prepared. Information contained in this report will be the cost center of the department responsible for the contract, contract number, starting and ending dates of the contract, type of contract, amount of the contract, the amount expended to date, vendor name, and a brief description of the purpose of the contract.

(4) Contracts Closed. This section shall report all contracts closed by the last day of the month for which the report is prepared. Information contained in this report will be contract number, vendor name, type of contract, date contract closed, amount of the contract, final amount expended, and a brief description of the purpose of the contract.

(b) Contract Type. Each contract will be identified by a type code to describe the class of contract entered into by Metro. There shall be six types of contracts at Metro:

- (1) Personal Services;
- (2) Pass-Through Agreements;
- (3) Labor and Materials;
- (4) Intergovernmental Agreements;
- (5) Procurement; and
- (6) Construction.

(c) Prior to entering into (1) any public contract or personal services agreement pursuant to the authority granted in Section 2.04.060 authorizing Sole Source Contract, or (2) any public contract or personnel services agreement in an amount exceeding \$15,000 for which only one bid or response to a Request for Proposal has been received, the Executive Officer shall file a written report with the Council detailing the reasons why a sole source contract was entered into or giving an explanation of why only one bid or response was received.

(d) The Executive Officer shall provide to the Council during the annual budget process a list of proposed contracts for the ensuing fiscal year. For contracts designated by the Council as being subject to this requirement by duly adopted ordinance, which may be the annual budget ordinance, copies of bid or

TO BE ENTERED INTO

proposal documents shall be filed with the Clerk of the Council and referred to the appropriate Council committee for review and comment. Documents must be filed with the Clerk of the Council at least thirty-five (35) days prior to the date of release for response by potential bidders. If the Council or a committee has not within fourteen (14) days of the date of filing scheduled the matter for a hearing the documents may be released to prospective bidders at any time after the 14th day. In any event, bid documents may be released to prospective bidders on the 35th day after filing with the Council.

(e) Except as provided in subsection (f), all other contracts not so designated by the Council shall be subject to the requirement that copies of bid documents shall be filed with the Clerk of the Council at the time they are released for response by potential bidders. The Executive Officer shall furnish the Council with information at the time bid documents are released stating the purpose and nature of the proposed contract, the appropriation to be charged with the contract, and a statement of the contract's impact on the District in future fiscal years.

(f) Any public contract \$15,000 or more or Personal Service Contract \$10,000 or more not on the list of proposed contracts submitted by the Executive Officer as required by subsection (d) shall be subject to the filing and Council or committee review

requirements in subsection (d) or if appropriate, the provisions of section 2.04.033.

2.04.033 Council Approval of Contracts:

(a) Notwithstanding any other provisions of Chapter 2.04 the following contracts shall be approved by the Council prior to execution:

(1) any contract which commits the District to the expenditure of revenues or appropriations not otherwise provided for in the current fiscal year budget at the time the contract is executed except those contracts or classes of contracts that the Council shall have by ordinance exempted from this requirement;

(2) any intergovernmental agreement by which the District acquires or transfers any interest in real property, assumes any function or duty of another governmental body, or transfers any function or duty of Metro to another governmental unit; or

(3) any contract for the sale, lease or transfer of real property owned by the District.

(b) All contracts which require Council approval pursuant to subsection (a)(1) above and which are subject to competitive bidding or Request for Proposals procedures shall require Council approval of the Request for Bids or Request for Proposals prior to release of bidding or proposal documents to vendors.

2.04.035 Metropolitan Exposition-Recreation Commission:

The Metropolitan Exposition-Recreation Commission shall have authority to enter into contracts pursuant to Metro Code Section 6.01.04(j); provided, however, that prior to the adoption of the contracting rules by the Commission such purchases shall be made pursuant to the procedures and policies set forth in this chapter; and provided further that the Metropolitan Service District Contract Review Board created pursuant to Section 2.04.020 of this code shall be the local Contract Review Board for the Commission for the purpose of granting exemptions from competitive bidding or other requirements of public contract law. The Metropolitan Exposition-Recreation Commission may without the prior approval of the Executive Officer enter into contracts in any amount. No contract or contract amendment may be approved or executed for any amount in excess of the amount authorized in the budget. The Metropolitan Exposition-Recreation Commission shall file copies of all contracts and amendments thereto with the Department of Finance & Administration.

2.04.040 Public Contracts, General Provisions:

(a) Competitive Bidding: Unless exempt from competitive bidding, all public contracts shall be awarded to the lowest responsive, responsible bidder.

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

(c) Rejection of Bids: The Executive Officer or the Deputy Executive Officer may reject any bid not in compliance with all prescribed public bidding procedures and requirements and may, for good cause, reject any or all bids upon a finding that it is in the public interest to do so, for example, when all bids exceed the budget or estimate for that project.

(d) Bonds: Unless the Board shall otherwise provide, bonds and bid security requirements are as follows:

(1) Bid security not exceeding 10 percent of the amount bid for the contract is required unless the contract is for \$15,000 or less.

(2) Labor and Materials bond in an amount equal to 100 percent of the contract price is required for contracts over \$15,000.

(3) Performance bond in an amount equal to 100 percent of the contract price is required for contracts over \$10,000. If the contract is under \$50,000, the performance bond and labor and material bond may be one bond; if the contract is \$50,000 or more, there shall be two bonds.

(4) Bid security, labor and material bond and performance bond may be required even though the contract is of a class not identified above, if the Executive Officer determines it is in the public interest.

(5) Bid security and bonds may be provided in the form of a surety bond, cash, cashier's check or certified check.

2.04.041 Requirement of Competitive Bidding, Exemptions:

(a) State Law: The following contracts are exempt from the competitive bidding selection process pursuant to State Statute:

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

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

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

(4) Contracts for supplies estimated to be less than \$500.

(b) Board Rule: The following classes of public contracts are exempt from the competitive bidding process based on the findings by the Contract Review Board that the exemption will not encourage favoritism or substantially diminishing competition for public contracts and that such exemptions will result in substantial cost savings:

(1) Purchase and sale of Zoo animals.

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

(3) All contracts estimated to be less than \$15,000 provided that the selection process described in the appropriate Code sections is followed.

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

(5) Emergency contracts when the Executive Officer makes written findings that an emergency exists and that the emergency consists of circumstances that could not have been reasonably foreseen and requires prompt execution of a contract to remedy that condition. An emergency contract must be awarded within sixty (60) days of the declaration of the emergency unless the Board grants an extension.

(6) Purchase of food items pursuant to Section 2.04.090.

(7) Contracts for warranties in which the supplier of the goods or services covered by the warranty has designated a sole provider for the warranty service.

(8) Contracts for computer hardware and software. Selection procedures for these contracts, however, must follow the RFP process outlined in Section 2.04.050, "Personal Services Contracts."

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

(10) Contracts for the lease or use of the Oregon Convention Center or other facilities operated by the Metropolitan Exposition-Recreation Commission.

(11) For the purchases by the Metropolitan Exposition-Recreation Commission, all contracts estimated to be less than \$31,000 provided that any rules adopted by the Commission which provide for substitute selection procedures are followed.

(12) For purchases by the Metropolitan Exposition-Recreation Commission, emergency contracts when the General Manager makes written findings that:

- 1) immediate procurement is essential to prevent a delay in work or extra expense to the Commission in circumstances which could not have been foreseen and avoided;
- 2) there is a threat of immediate damage to

Commission property; or 3) there is an immediate danger to citizens or employees. The General Manager shall report to the Commission at its next regularly scheduled meeting of any contracts entered into pursuant to this section.

(13) For purchases by the Metropolitan Exposition-Recreation Commission, contracts for equipment repair or overhaul but only when the service and/or parts required are unknown before the work begins and the cost cannot be determined without extensive preliminary dismantling or testing.

(c) Board Resolution: Specific contracts, not within the classes exempted in subsection (b) above, may be exempted by the Board by resolution subject to the requirements of ORS 279.015(2) and ORS 279.015(5). The Board shall, where appropriate, direct the use of alternate contracting and purchasing practices that take account of market realities and modern innovative contracting and purchasing methods, which are consistent with the public policy of encouraging competition.

(d) Limitation: The exemptions in subsections (a)-(c), above, are exemptions to the competitive bid process only; all other procedures, including review and approval, apply to these contracts.

2.04.042 Public Contracts Under \$2,500:

(a) Selection Process:

(1) Under \$500: Unless completely exempt from competitive bidding under Section 2.04.041, competitive bids are not required for public contracts less than \$500. The District should, where feasible, obtain competitive quotes.

(2) Between \$500 and \$2,500; Unless completely exempt from competitive bidding under Section 2.04.041, when the amount of the contract is \$500 or more, but less than \$2,500, the District must obtain a minimum of three (3) competitive quotes. The District shall keep a written record of the source and amount of the quotes received. If three (3) quotes are not available, a lesser number will suffice provided that a written record is made of the effort to obtain the quotes.

(b) Approval Process: For public contracts of an amount of less than \$2,500, the Director of the initiating department, or a designee of the Director approved by the Executive Officer, may sign contracts if the following conditions are met:

- (1) A standard contract form is used;
- (2) Any deviations to the contract form are approved by the General Counsel;
- (3) The expenditure is authorized in the budget;
- (4) The contract does not further obligate the District for \$2,500 or more;
- (5) The appropriate Scope of Work is attached to the contract;
- (6) The contract is for an entire project or purchase; not a portion of a project or purchase which, when complete, will amount to a cost of \$2,500 or more;
- (7) No contract may be approved or executed for any amount in excess of the amount authorized in the budget.

(c) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

(d) Prior to the award of a contract to any bidder other than the apparent low bidder the Executive officer shall obtain the prior approval of the Contract Review Board.

2.04.043 Public Contracts Between \$2,501 and \$15,000:

(a) Selection Process: Unless completely exempt from competitive bidding under Section 2.04.041, when the amount of the contract is \$2,500 or more, but less than \$15,000, the District must obtain a minimum of three (3) competitive quotes. The District shall keep a written record of the source and amount of the quotes received. If three (3) quotes are not available, a lesser number will suffice provided that a written record is made of the effort to obtain the quotes.

(b) Review Process: After selection and prior to approval, the contract must be reviewed by the Department of Finance and Administration.

(c) Approval Process: (1) For contracts of \$2,500 or more, either the Executive Officer or Deputy Executive Officer must sign; however, the Director or Assistant Director of the Zoo may sign purchase orders of \$10,000 or less. When designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the Director of Finance and Administration may sign contracts. No contract may be approved

or executed for any amount in excess of the amount authorized in the budget.

(d) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

2.04.044 Public Contracts of \$15,000 or More:

(a) Selection Process: Unless exempt from competitive bidding by Code section 2.04.041, the following competitive bidding procedures shall apply to all contracts:

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

(2) The bid document will be reviewed by the Department of Finance and Administration and by the General Counsel before bids are solicited or advertised, and shall include the contract form to be used.

(3) A request for bids will be advertised in the manner required by law and in a local minority newspaper, and in any appropriate trade magazine.

Additional advertisement may be appropriate depending upon the nature of the contract.

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

(5) The opened bids will be reviewed by the requesting department and a recommendation and contract will be submitted to the Department of Finance and Administration.

(6) After selection and prior to approval, the contract must be reviewed by the Department of Finance and Administration.

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

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

(b) Approval Process: All initial contracts with a contract price of \$15,000 or more shall be approved and executed by the Executive Officer or Deputy Executive Officer. When

designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the Director of Finance & Administration may approve and execute contracts of \$15,000 or more. No contract may be approved or executed for any amount in excess of the amount authorized in the budget.

(c) Within thirty (30) days of award of a construction contract, the Department of Finance and Administration shall provide the notice required by ORS 279.363.

(d) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

(e) Prior to the award of a contract to any bidder other than the apparent low bidder the Executive Officer shall obtain the prior approval of the Contract Review Board.

2.04.045 Public Contract Extensions and Amendments (including Change Orders, Extra Work and Contract Renewals):

(a) Selection Process: Any contract amendment for additional work including contract renewals, change orders, extra work, field orders and other changes in the original specifications which increase the original contract price may be

made with the contractor without competitive bidding subject to the extent any of the following conditions are met:

(1) The original contract was let by competitive bidding, unit prices or bid alternates were provided that established the cost for additional work and a binding obligation exists on the parties covering the terms and conditions of the additional work. However, in the event that the increase in price results solely from extension of the termination date of the contract, the extension shall not be greater than three months; or

(2) The amount of the aggregate cost increase resulting from all amendments does not exceed 20 percent of the initial contract if the face amount is less than or equal to \$1,000,000 or 10 percent if the face amount is greater than \$1,000,000; amendments made under subsection (1) are not included in computing the aggregate amount under this section; or

(3) The increase in price is due to unexpected conditions which arise during performance of a construction, maintenance or repair contract and the Executive Officer determines that extension of the scope of work on the current contract is the most

economical method of dealing with the unexpected conditions; or

(4) The total cost of the contract, including amendments, does not exceed \$5,000 but if the amendment is for more than \$500, three (3) competitive quotes shall be obtained as described in Sections 2.04.042(a)(2) and 2.04.043(a).

(5) In addition to the requirements of this subsection, any contract amendment or extension exceeding ^{THE AMOUNTS PROVIDED IN SUB-SECTION (2.)} ~~[\$10,000]~~ shall not be approved unless the Contract Review Board shall have specifically exempted the contract amendment or extension from the public bidding procedure except as provided in subsection (6) below.

(6) In addition to the requirements of this subsection, individual change orders for a public improvement contract may be approved by the Executive Officer if they:

~~(A) do not exceed on a cumulative basis more than five (5) percent of the initial face value of the contract; and~~

(B) do not materially add to or delete from the original scope of work included in the original contract.

THE AMOUNTS PROVIDED IN SUB-SECTION (2)

Change orders exceeding [\$10,000] which materially add to or delete from the original scope of work shall not be approved unless the Contract Review Board has specifically exempted the change order from the public bidding procedure. ~~[Change orders exempted by the Contract Review board shall not be considered part of the five (5) percent limit of this subsection.]~~

(b) Review Process: After selection and prior to approval, the contract must be reviewed by the Department of Finance and Administration.

(c) Approval Process:

(1) In applying the following rules for approval of contract amendments, when an amendment falls under two different rules, the amendment shall be approved under the rule for the higher dollar amount; e.g., an amendment of under \$2,500 (rule 2) which results in a contract price of \$2,500 or more (rule 3) shall be approved under the rule for contract prices of \$2,500 or more.

(2) Under \$2,500: All contract amendments and extensions which are less than \$2,500 if the contract was originally for \$2,500 or more or which result in a total contract price of less than \$2,500 may be approved by the Director of the initiating department or by a designee of the Director approved by the Executive Officer if the following conditions are met:

- (A) A standard contract form is used;
- (B) Any deviations to the contract form are approved by the General Counsel;
- (C) The expenditure is authorized in the budget;
- (D) The contract does not further obligate the District beyond \$2,500;
- (E) The appropriate Scope of Work is attached to the contract;
- (F) No contract amendment or extension may be approved in an amount in excess of the amount authorized in the budget.

(3) \$2,500 or More: All contract amendments and extensions which are for \$2,500 or more or which result in a total contract price of more than \$2,500 if the original contract was for less than \$2,500 may be approved by either the Executive Officer or Deputy Executive Officer. When designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the Director of Finance and Administration may sign contract amendments and extensions. No contract amendment or extension may be approved in an amount in excess of the amount authorized in the budget.

~~X DELETE PROPOSED SUBSECTION (4) OF ORD. NO. 88-271 D (page 35)~~

(d) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

2.04.050 Personal Services Contracts, General Provisions:

(a) Distinguishing Between Employees and Independent Contractors: Employees shall not be hired under the guise of a Personal Services Contract. To determine whether a particular worker is to be an employee or an independent contractor, the most important factor to consider is the employer's right to control. If the employer is to retain the right to control the manner and means of accomplishing a desired result, the worker is

generally considered an employee; if, however, the employer has the right to control only the results of the work, the worker is considered an independent contractor. This test of control does not require actual exercise of control, but rather the employer's right to control. The following factors shall be considered in determining a worker's status:

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

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

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

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

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

(b) An emergency contract for personal services may be let without obtaining quotes in writing when the Executive Officer makes written findings that an emergency exists because of circumstances which could not have been reasonably foreseen and requires the prompt execution of a contract to remedy that condition. The Executive Officer shall inform the Council of all such contracts declared to be an emergency at the Council meeting immediately following the adoption of findings declaring an emergency.

2.04.051 Personal Services Contracts Under \$2,500:

(a) Selection Process: For Personal Services contracts of less than \$2,500, the Department Director shall state in writing the need for the contract. This statement shall include a description of the contractor's capabilities in performing the work. Multiple proposals need not be obtained. This statement will be kept in the Department of Finance and Administration contract file.

(b) Approval Process: For Personal Services contracts of less than \$2,500, the Director of the initiating department, or a

designee of the Director approved by the Executive Officer, may sign contracts if the following conditions are met:

- (1) A standard contract form is used;
- (2) Any deviations to the contract form are approved by the General Counsel;
- (3) The expenditure is authorized in the budget;
- (4) The contract does not further obligate Metro beyond \$2,500;
- (5) The appropriate Scope of Work is attached to the contract;
- (6) The Contract is for an entire project or purchase; not a portion of a project or purchase which, when complete, will amount to a cost of \$2,500 or more.
- (7) No contract may be approved or executed for any amount in excess of the amount authorized in the budget.

(c) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

2.04.052 Personal Services Contracts Between \$2,500 and \$10,000:

(a) Selection Process: For Personal Services contracts \$2,500 or more but less than \$10,000, the Department Director shall use the following process:

(1) Proposals shall be solicited from at least three potential contractors who, in the judgment of the Department Director, are capable and qualified to perform the requested work.

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

(3) Evaluation, as determined by the Department Director, may require oral presentations and shall include use of a contractor evaluation form. The objective is the highest quality of work for the most

reasonable price. The quality of the proposal may be more important than cost.

(4) **Personal Services Evaluation Form:** The Personal Services evaluation form shall document the reasons for the selection. Proposals shall be evaluated according to predetermined criteria. The evaluation process may include the evaluators assigning a quantifiable score on how each aspect of a proposal meets the predetermined criteria. The contract may be awarded to the firm receiving the highest average score.

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

(b) **Review Process:** After selection and prior to approval, the contract must be reviewed by the Department of Finance and Administration.

(c) **Approval Process:** For contracts of \$2,500 or more, either the Executive Officer or Deputy Executive Officer must sign. When designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the Director of Finance and Administration may sign contracts. No contract may

be approved or executed for any amount in excess of the amount authorized in the budget.

(d) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

2.04.053 Personal Services Contracts of \$10,000 or More:

* REVISED ENTIRE SECTION TO CONFORM TO EXISTING CODE

(a) Selection Process: For Personal Services contracts of \$10,000 or more an evaluation of proposals from potential contractors shall be performed as follows:

- (1) A request for proposals shall be prepared by the initiating department and shall be reviewed by the General Counsel and the Department of Finance and Administration. Where appropriate, notice of the request shall be published in a newspaper of general circulation or in trade magazines. In addition, Metro shall notify in writing at least three
- (3) potential contractors, who, in the judgment of the Department Director are capable and qualified to perform the requested work. The initiating department will be responsible for maintaining the file and making the appropriate notification.

(2) All requests for proposals shall at a minimum contain a description of the project and a brief summary of the project history, contain a detailed proposed scope of work or other specifications setting forth expected performance by the contractor, include a description of the criteria that will be utilized to evaluate proposals and the estimated budget for the project.

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

[(3)] (4) Personal Services Evaluation Form: The Personal Services evaluation form shall document the reasons for the selection. Proposals shall be evaluated according to predetermined criteria. The evaluation process may include the evaluators assigning a quantifiable score on how each aspect of a proposal meets the predetermined criteria. The contract may be awarded to the firm receiving the highest average score.

[(4)] (5) After evaluation is complete, the Department Director will recommend final selection through the Department of Finance and Administration.

[(5)] (6) Notifications of selection and rejection shall be made in writing by the initiating department.

[(6)] (7) Personal Services contracts with the Scope of Work must be approved by the department head and then forwarded to the Department of Finance and Administration for internal review and execution. General Counsel review is required.

(b) Approval Process: All initial contracts with a contract price of greater than \$10,000 be approved and executed by the Executive officer or Deputy Executive Officer. When designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the Director of Finance & Administration may approve and execute contracts of \$15,000 or more. No contract may be approved or executed for any amount in excess of the amount authorized in the budget.

(c) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing personal Services and Public Contracts."

2.04.054 Personal Services Contract Extensions and Amendments:

(a) Selection Process:

(1) A Personal Services contract may be renewed without receiving competitive proposals if the contractor is performing a continuing activity for the agency. This applies, but is not limited to contracts for construction observation, public relations consulting, outside legal counsel and annual auditing. Except as provided in subsection (2) below, competitive proposals must be solicited for these services at least once every three (3) years and annually if the contractor proposes a price or rate increase of more than 10 percent over the previous year.

(2) Personal Services contracts may be renewed, extended or renegotiated without soliciting competitive proposals if, at the time of renewal, extension or renegotiation, there are fewer than three (3) potential contractors qualified to provide the quality and type of services required and the initiating department makes detailed findings that the quality and type of services required make it unnecessary or impractical to solicit proposals.

(3) In addition to the requirements of this subsection, any contract amendment or extension exceeding \$10,000 shall not be approved unless the Contract Review Board shall have specifically exempted

the contract amendment or extension from the competitive procurement procedures of section 2.04.053.

(b) Approval Process:

(1) Less than \$2,500: All contract amendments and extensions which are less than \$2,500 if the contract was originally for \$2,500 or more or which result in a total contract price of less than \$2,500 may be approved by the Director of the initiating department or by a designee of the Director approved by the Executive Officer if the following conditions are met:

- (A) A standard contract form is used;
- (B) Any deviations to the contract form are approved by the General Counsel;
- (C) The expenditure is authorized in the budget;
- (D) The contract does not further obligate Metro beyond \$2,500;
- (E) The appropriate Scope of Work is attached to the contract;

(F) No contract amendment or extension may be approved in an amount in excess of the amount authorized in the budget.

(2) \$2,500 and Over:

(A) All contract amendments and extension which are for \$2,500 or more or which result in a total contract price of more than \$2,500 shall be approved by either the Executive Officer or Deputy Executive Officer. When designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the Director of Finance and Administration may sign contract amendments and extensions. No contract amendment or extension may be approved for an amount in excess of the amount provided for in the budget.

(c) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

2.04.060 Sole Source Contracts:

(a) Selection Process: If there is only one qualified provider of the service required, the initiating department need not solicit and document proposals. The initiating department must document that there is only one qualified provider of the service required [~~and the Council shall be given notice of the execution and the justification for the contract~~]. Sole Source Contracts may not exceed \$2,500 unless the Contract Review Board shall have specifically exempted the contract from the public bidding or applicable alternative procurement procedure.

(b) Approval Process: The approval process for Sole Source Contracts is the same as described for regular Personal Services or Public Contracts, depending on the nature of the work.

(c) All contracts are subject to the rules and procedures of Code Section 2.04.050, "Rules and Procedures Governing Personal Services and Public Contracts."

2.04.070 Sale of Metro Goods and Services: Approval of agreements for the sale of Metro Goods and Services shall follow the procedures for purchase of goods and services.

2.04.075 Purchase of Recycled Paper Products and Equipment that Uses Paper:

* INSERT ENTIRE SECTION WHICH WAS APPROVED BY ORD. NO. 89-280 BUT NOT YET CODIFIED.

The following criteria and standards shall apply to the purchase of paper products and equipment that uses paper:

(a) In all contracts and subcontracts the District shall prefer the purchase of recycled paper products with a 50 percent (50%) recycled content or the highest percentage of recovered material practicable, when practicable includes 1) performance in accordance with applicable specifications; 2) availability at a reasonable price; 3) availability within a reasonable period of time; and 4) maintenance of a satisfactory level of competition.

(b) The District shall allow a five percent (5%) price preference for the purchase of recycled paper products and attempt to purchase jointly with other agencies to reduce the cost of recycled paper products purchases.

(c) Subject to subsection 8 below, paper product procurements for Solid Waste will specify recycled paper only.

(d) The guidelines in (1), (2) and (3) above will apply in all cases except where specific printing quality requirements can not be met by recycled paper products. Joint purchases may be made with other agencies to reduce the cost of recycled paper product purchases. All recycled paper purchases shall require the manufacturer's certification and verification of recovered

material content. The initiating Department shall assure compliance with the provision of ORS 279.739.

(e) All recycled paper products purchases shall require the manufacturer's certification and verification of recovered material content.

(f) All bids for new equipment and services shall include language that will ensure the use of recycled paper and paper products.

(g) Metro shall phase in equipment and paper to facilitate the use of recycled paper products wherever practicable.

(h) In instances where recycled paper and paper products may void existing warranties, service agreements, or contracts, recycled paper and paper products shall not be specified.

(i) All contract printing shall allow a five percent (5%) price preference when using recycled paper.

(j) The use of non-recyclable goldenrod and other very bright, hard-to-bleach colored papers shall be prohibited.

2.04.080 Sale of Surplus Property: Contracts for sale of surplus property may be executed without competitive bidding only

when the Executive Officer, or Director or Assistant Director of the Zoo determines in writing that the number, value and nature of the items to be sold make it probable that the cost of conducting a sale by competitive bid will be such that a liquidation sale will result in substantially greater net revenue to the District.

2.04.090 Food Items and Food Service Contracts

(a) Selection Process:

(1) All food items and food service contracts will be awarded as public contracts, except as provided in sections 2-4 below.

(2) Competitive bids or quotes are not required when a specific food item is requested by a purchaser of the District's catering service. If the specific item is supplied by more than one source, competitive quotes shall be obtained from at least three known suppliers. The District shall keep a written record of the source and amount of the quotes received.

(3) Competitive bids or quotes are not required for food items which the Director or Assistant Director of the Zoo authorize for a market test. A market test is

used to determine whether a food item should be added to the District's menu or to develop the specifications for a particular food item. The test should clearly define the period of time for the market study, not to exceed six months, and the statistical method used to determine the value of the food item as part of the regular menu. A written report shall be made. Based on this report if the Director or Assistant Director determines the item shall be added to the regular menu, he/she shall establish specifications for the item. The item shall be selected under either public contract procedures or subsection (4), below. During the time the selection process is carried out, the test market product may continue to be sold by the District.

(4) Competitive bids or quotes are not required when the Director or Assistant Director of the Zoo finds that marketing factors are likely to significantly impact sales, subject to the following conditions:

(A) Prior to the selection of the contractor the department has made reasonable efforts to inform known companies providing the item or service of the subject matter of the contract and to solicit proposals, including public

advertising in at least one newspaper of general circulation in the area.

- (B) The contractor is selected on the basis of the most competitive offer considering cost, quality of the product, service to be rendered and marketing advantages.

A written record of the selection process shall be made.

(b) Review Process: After selection and prior to approval, the contract must be reviewed by the Director of Finance and Administration.

(c) Approval Process:

(1) \$2,500 and Under: All contract and amendments and extensions which are \$2,500 or less or which result in a total contract price of \$2,500 or less may be approved by the Director of the initiating department or by a designee of the Director approved by the Executive Officer if the following conditions are met:

- (A) A standard contract form is used;

- (B) Any deviations to the contract form are approved by the General Counsel;
- (C) The expenditure is authorized in the budget;
- (D) The contract does not further obligate the District beyond \$2,500;
- (E) The appropriate Scope of Work is attached to the contract; and
- (F) The contract is for an entire project or purchase; not a portion of a project which, when complete, will amount to a cost not greater than \$2,500.

(2) ~~[Between-\$2,501-and-\$10,000]~~ Over \$2,500: All contracts and amendments and extension which exceed \$2,500 ~~[or-which-result-in-a-total-contract-price-of more-than-\$2,500-but-less-than-\$10,000]~~ may be approved by either the Executive Officer or Deputy Executive Officer. When designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the Director of Finance and Administration may sign contracts and amendments and extensions.

~~[(3)-Between-\$10,001-and-\$50,000:--Except-as-provided in-subsection-(5)-of-this-section,-all-contracts-and amendments-and-extensions-which-exceed-\$10,000-or-which result-in-a-total-contract-price-of-more-than-\$10,000 but-less-than-\$50,000-shall-be-approved-by-the-Council Management-Committee-prior-to-execution.]~~

~~[(4)-Over-\$50,000:--Except-as-provided-in subsection-(5)-of-this-section,-all-contracts-and amendments-and-extensions-which-exceed-\$50,000-or-which result-in-a-total-contract-price-of-more-than-\$50,000 shall-be-approved-by-the-Council-prior-to-execution.]~~

~~[(5)]~~ (3) Exceptions: Emergency contract extensions and amendments may be approved by the Executive Officer or his/her designee.

(d) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

NOTE: Sections 2.04.100 et seq. pertain to DBE/WBE contracts and procedures and are not amended by this Ordinance.

DEC:gpwb

88271E.ORD

INTERNAL AFFAIRS COMMITTEE
MINORITY REPORT

Meeting Date: March 23, 1989
Agenda Item: 8

CONSIDERATION OF ORDINANCE NO. 88-271D AMENDING METRO CODE
CHAPTER 2.04 RELATING TO CONTRACTING PROCEDURES

March 20, 1989

Presented by: Councilor Collier

RECOMMENDATION: I recommend that the Council adopt this minority report which substitutes Ordinance No. 88-271E (a copy of which is attached) for Ordinance No. 88-271D recommended by the Internal Affairs Committee and that the Council consider the question of whether or not to pursue contracting legislation after the minority report or committee recommendation are decided.

DISCUSSION: Ordinance No. 88-271E proposes the following changes to Ordinance No. 88-271D:

1. In section 2.04.032 Contract Information Reports (pages 16-18) language is added in subsection (d) (highlighted in yellow) which requires the Executive Officer to submit a list of potential contracts during the annual budget process for the ensuing fiscal year. The remainder of this subsection and subsection (e) are unchanged from the Internal Affairs Committee's proposed ordinance. They continue to authorize the Council to designate certain contracts for which the RFB or RFP would be filed with the Council for review. The contracts selected would come from the list proposed initially by the Executive Officer or expanded during the budget deliberations by the Council.

A new subsection (f) is added which requires that certain contracts (public contracts \$15,000 or more and personal service contracts \$10,000 or more) proposed during the year that were not on the original list proposed by the Executive Officer will be subject to the RFB/RFP review process outlined in the section. The dollar levels are suggested because they conform to existing Code thresholds for formal bidding or request for proposal requirements.

The purpose of this change is to assure that unanticipated contracts proposed during the fiscal year are subject to the same Council review and/or approval procedures as other contracts considered during the fiscal year.

2. In section 2.04.045 Public Contract Extensions and Amendments (pages 33-34) language is added to require that a public contract extension greater than \$10,000 not be approved unless the Council exempts the contract extension from public bidding procedure. An exception to this requirement is provided for extensions to public improvement contracts (construction contracts) which: 1) do not on a cumulative basis exceed 5 percent of the initial face value of the contract and 2) do not materially change the original scope of work of the contract.

Internal Affairs Committee under prior Code provisions. The language is consistent with General Counsel's legal opinion (December 18, 1987) and his subsequent advice given on October 20, 1988. The exception language for public improvement contracts is consistent with the provisions of Ordinance No. 88-271 (Finance Committee) which was developed in consultation with the District's Construction Project Manager. The language in this section is a substitute for the proposed public contract extension language on page 35 of Ordinance 88-271D (see highlighted note on page 33 of the "E" draft).

The reason for this change is to clarify and simplify the provisions for contract extensions. The proposed extension language in Ordinance No. 88-271D (page 35) is ambiguous and will lead to inconsistent treatment of contract extensions. The operative language for extensions in the "D" draft is as follows:

[the extension] ". . . shall be subject to Council approval if the . . . extension commits the District to any increase in the District's obligation in a future fiscal year . . ."

Such language will lead to the following results:

- A contract not approved by the Council (either by exemption or because it is to be completed within a fiscal year) may be extended without Council approval.
- A contract approved by the Council (multi-year) may be extended in the first year without Council approval as long as the money for the extension is spent during that year. This could require additional accounting requirements to track the expenditure of the extension money to assure that it is spent in the fiscal year.
- A contract approved by the Council (multi-year) may be extended in the second or any succeeding year as long as the money is spent in the succeeding year.
- A contract which because of the timing of the award and the timing of the fiscal year would require Council approval of the extension if the money were to be spent in the succeeding fiscal year.

I submit that using a point in time as the reason for requiring Council approval of a contract extension is just as arbitrary, if not more confusing, than using a level of expenditure as a reason for requiring Council approval of a contract extension.

The language proposed in Ordinance No. 88-271E clearly requires that regardless when the contract is awarded or when the new fiscal year occurs the Council must review and approve the need for additional work and money through an exemption to the competitive bidding procedures.

3. In section 2.04.053 Personal Service Contracts of \$10,000 or More (pages 42-44) changes are proposed to correct a drafting error in Ordinance No. 88-271D. The Internal Affairs Committee draft incorrectly shows what is actual Code language particularly in section (a)(1) on page 42. The language in Ordinance No. 88-271E contains the correct Code language for the section. The proposed added language (section (a)(2) on page 43) setting certain information requirements for a RFP is the same as in Ordinance No. 88-271D.

In Ordinance No. 88-271E, the words "notice of" are added in subsection (1) on page 42 to reflect the actual practice of the District to publish notice of the RFP in the paper rather than the RFP document. Other than this change, there are no policy differences between the two drafts.

4. In section 2.04.054 Personal Service Contract Extensions and Amendments (pages 45-46) language is added to require that a personal service contract extension greater than \$10,000 not be approved unless the Council exempts the contract extension from the competitive procurement procedures of the Code.

The reasons for and the effect of this language is the same as discussed in point number 2 above relating to public contract extensions.

5. In section 2.04.075 Purchase of Recycled Paper Products and Equipment that Uses Paper (pages 48-50) the entire section is added to reflect a Code change approved by Ordinance No. 89-280 on February 9, 1989 which has not yet been codified.

Ordinance No. 88-271E is an improvement on the Internal Affairs Committee "D" draft because it corrects several technical errors, "plugs a hole" regarding potential unanticipated contracts which will arise during a fiscal year and strengthens and clarifies the Council role in contract extensions at the same time taking care of the unique needs for construction contract change orders.

I want to discuss the issue of the proposed legislation. First, let me remind you why it is important for the Council to play an active role in the contracting process of this organization. In this year's budget approximately 68 percent of the proposed expenditures of the

District will be made through various contracts. All expenditures in the Materials & Services and Capital Outlay categories are made through the use of a contract. In the aggregate this amounts to \$68.2 million out of a total \$107 million available for expenditure (excludes unappropriated balances totaling \$55 million). The Council has a responsibility to 1) assure that these expenditures are made for the purposes and programs approved in the annual budget and at other times; and 2) assure that they are made in a fair and impartial manner. The primary vehicle for the Council to carry out this responsibility is the Contract Code.

It is clear to me that as this issue has evolved from Dan Cooper's original opinion; to Ordinance No. 88-249; to the Finance Committee; to the Special Task Force; and finally, to the Internal Affairs Committee, the Council has substantial authority to review and approve contracts. We started from the point that the Council has no authority to approve contracts (except certain long-term solid waste contracts) to the point that the Council can approve multi-year contracts and contract extensions through the granting of exemptions to the bidding process. I am convinced, however, that the process we have created as a result of all this effort is more complex, inefficient and less direct than the process previously used for the past seven years by this District or as proposed by the Finance Committee in Ordinance No. 88-271.

For those of you who don't know (because that ordinance was never before the Council for discussion), Ordinance No. 88-271 proposed revising our old procedures not for more control, but rather to expedite the process of contract review and approval. In light of General Counsel's opinion, for that ordinance to be implemented legislation was required giving the Council authority to approve contracts. The Finance Committee in its deliberations rejected the notion that the Council should use its budgetary powers and appropriate money at the level of individual contracts because such action would increase the time required to process contract matters before the Council (must use an ordinance which requires two readings rather than use of a resolution) and it would increase the number of contract items before the Council (based on 1987-88 data, an estimated increase from 55 actual actions to an estimated 192).

There is an ideological dispute in this organization regarding contracting authority. The separation of powers advocates resist the idea of the more direct and simplified contract procedures as embodied in Ordinance No. 88-271. The resistance stems largely from the fact that implementation requires legislation giving the Council direct contract approval authority. Such action is an anathema to the "separatists" because it violates principles of government promulgated over 200 years ago by our forefathers. It's sad, but true, that simplicity and efficiency have been sacrificed in an ideological

Internal Affairs Committee Minority Report
March 17, 1989
Page 5

dispute. The irony of all this is that Ordinance No. 88-271E gives the Council substantial contract "approval" authority (albeit in a less direct way) that we are not supposed to have according to separation of power principles.

I am willing to live with Ordinance No. 88-271E. But, I also believe that the Council should seek legislation to give it direct authority to approve contracts. The reason is simple. If this new process fails or bogs down, we need the ability to fix it in a direct and simple manner.

TC:gpwb
88271E.MR
3/20/89

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING) **ORDINANCE NO. 88-271E**
METRO CODE CHAPTER 2.04 RELATING)
TO CONTRACTING PROCEDURES) Introduced by the Council
) Finance Committee and
) Revised by the Internal
) Affairs Committee

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

SECTION 1. Metro Code Chapter 2.04 is amended to read as follows:

2.04.010 Definitions:

[~~(d)~~] (a) COMPETITIVE BIDS OR BIDS -- A competitive offer in which price and conformance to specification will be the award criteria.

[~~(a)~~] (b) CONTRACT REVIEW BOARD or BOARD -- The Council is the Contract Review Board for the Metropolitan Service District with the powers described in ORS Chapter 279 and Section 2.04.020 of this Chapter.

(c) EMERGENCY -- An emergency for the purpose of this Chapter means the occurrence of a specific event or events that could not have been reasonably foreseen and prevented and which require the taking of prompt action to remedy the condition and

thereby avoid further physical damage or harm to individuals or the occurrence of avoidable costs.

[~~(i)~~] (d) EMERGENCY CONTRACTS -- A contract may be exempt from the competitive bidding process if an emergency requires prompt execution of a contract, but only if the contract is limited to remedying the emergency situation.

(e) EXEMPTIONS FROM COMPETITIVE BIDDING -- Exemptions include any exemption or exception from the regular competitive bidding process for Public Contracts as defined in ORS 279.011 to 279.061, this chapter, and any exemption made by the Board pursuant to Section 2.04.041 of the Code.

(f) NOTICE OF AWARD -- Means written communication to a responsive, responsible bidder or proposer stating that their bid or proposal has been conditionally determined to be the lowest, responsive, responsible bid or most responsive proposal and that the District intends to enter into a contract upon completion by the bidder/proposer of all required conditions.

[~~(e)~~] (g) PERSONAL SERVICES CONTRACT.

(1) The following are Personal Services Contracts:

- (A) Contracts for services performed as an independent contractor in a professional capacity, including but not limited to the services of an accountant; attorney; architectural or land use planning consultant; physician or dentist; registered professional engineer; appraiser or surveyor; passenger aircraft pilot; aerial photographer; timber cruiser; data processing consultant or broadcaster.
- (B) Contracts for services as an artist in the performing or fine arts, including but not limited to persons identified as photographer, filmmaker, painter, weaver, or sculptor.
- (C) Contracts for services of a specialized, creative and research-oriented, noncommercial nature.
- (D) Contracts for services as consultant.
- (E) Contracts for educational and human custodial care services.

(2) The following are not Personal Services Contracts:

- (A) Contracts, even though in a professional capacity, if predominantly for a product, e.g., a contract with a landscape architect to design a garden is for personal services, but a contract to design a garden and supply all the shrubs and trees is predominantly for a tangible product.
- (B) A service contract to supply labor which is of a type that can generally be done by any competent worker, e.g., janitorial, security guard, crop spraying, laundry and landscape maintenance service contracts.
- (C) Contracts for trade-related activities considered to be Labor and Materials Contracts.
- (D) Contracts for services of a trade-related activity, even though a specific license is required to engage in the activity. Examples are repair and/or maintenance of all types of equipment or structures.

~~(g)~~ (h) PUBLIC AGENCY -- Any agency of the federal government, state of Oregon, or any political subdivision thereof, authorized by law to enter into Public Contracts and any public body created by intergovernmental agreement.

~~(b)~~ (i) PUBLIC CONTRACT -- Any purchase, lease or sale by Metro of personal property, public improvement or services, including those transacted by Purchase Order, other than agreements which are for personal services. Public Contracts may be obtained by Purchase Order as determined by the Executive Officer.

~~(h)~~ (j) PUBLIC IMPROVEMENT -- Projects for construction, reconstruction or major renovation on real property by or for a public agency. "Public improvement" does not include emergency work, minor alteration, ordinary repair or maintenance in order to preserve a public improvement.

~~(f)~~ (k) PURCHASE ORDER -- A Public Contract for purchase of goods in any amount, or for goods and services \$500 or less, or for services \$500 or less.

~~(k)~~ (l) REQUESTS FOR PROPOSALS OR RFPs -- A Request for Proposal is the process described in Section 2.04.050, "Personal Services Contracts." This process may be used for Public Contracts only when the Board has granted an exemption for that

type of contract or for a particular contract as set out in Section 2.04.041, "Requirement of Competitive Bidding, Exemptions." The Board may adopt a particular RFP process for a particular contract by setting forth the amendments in the exemption approval.

[~~(j)~~] (m) SOLE SOURCE CONTRACTS -- Contracts for which it can be documented there is only one qualified provider of the required service or material.

2.04.020 Public Contract Review Board:

(a) Creation of the Public Contract Review Board: Pursuant to ORS 279.055 the Council is designated and created as the Metropolitan Service District Contract Review Board.

(b) Powers of Board: The Contract Review Board shall have all the powers in the award of District contracts allowed under ORS 279.011 to 279.061.

(c) Contract Review Board Meetings:

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

(2) The rules of procedure adopted by the Council for its proceedings shall also govern proceedings of the Contract Review Board unless they conflict with rules adopted by the Board.

(d) Rules: The Contract Review Board may adopt rules relating to the award of District contracts. Such rules of the Contract Review Board shall be adopted by ordinance.

(e) Regulations: The Executive Officer may establish such other contract regulations, not inconsistent with this chapter as may be necessary and expedient.

2.04.030 Rules and Procedures Governing All Personal Services and Public Contracts:

(a) Applicability: All Personal Services Contracts and Public Contracts are subject to the applicable selection, review and approval procedures of this Chapter.

(b) Initiating a Contract: When a department initiates a contract not in the form of a Purchase Order, it must first notify the Department of Finance & Administration of its intention and request the issuance of a contract number which shall appear on all copies of the contract. The department must

complete a Contract Summary form indicating the specifics of the contract. This form must be forwarded to the Department of Finance & Administration either with a fully executed contract (one copy) if the amount is estimated to be \$2,500 or under, or with an unexecuted contract (three copies) for review, approval and signature if the amount is over \$2,500.

(c) Documentation Required for Contract Files: The Department of Finance & Administration will maintain central files for all contracts. An original copy should be given to each contractor. All correspondence relating to a contract which alters conditions or amounts must be included in the central files as should all papers which document the process of obtaining competitive bids, quotes, or proposals. In any case where a low bid, quote, or proposal is not accepted, a detailed justification must be included with the contract file. Other documentation, if applicable, that should be included in the file includes:

- Mailing Lists
- Affidavits of Publication
- Insurance Endorsements and Certificates
- Amendments
- Extensions
- Related Correspondence
- Quotes, Proposals, and Bids

- Bonds
- DBE/WBE Information
- Contract Closure Form
- Personal Services Evaluation Form

(d) Contract Review: Prior to approval by the appropriate person or body, contracts shall be reviewed as follows:

(1) Any contract which deviates from a standard contract form, exceeds \$10,000 for a Personal Services Contract or \$15,000 for a Public Contract, or is with another public agency must be reviewed by the General Counsel.

(2) Contracts involving federal or state grant funds must be reviewed by the Deputy Executive Officer.

(e) Disadvantaged Business Program: All contracting and purchasing is subject to the Metro Disadvantaged Business Enterprise Program. Metro will take affirmative action to do business with Disadvantaged Business Enterprises. The Director of Finance and Administration will maintain a directory of disadvantaged businesses which shall be consulted and used in all contracting and purchasing of goods and services. If a disadvantaged business is included in the directory that appears capable of providing needed goods or services, that business

should be contacted and given an opportunity to compete for Metro business.

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

(g) Code of Conduct:

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

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

(h) Federal/State Agency Approval: When required by federal or state law or regulations, review and approval of Metro contracts shall include prior concurrence or approval by appropriate federal or state agencies.

(i) No contract or contract amendment may be approved or executed for any amount in excess of the amount authorized in the budget.

~~[(j)-Prior-to-entering-into-(1)-any-public-contract-or personal-services-agreement-pursuant-to-the-authority-granted-in Section-2-04-060-authorizing-Sole-Source-Contract,-or-(2)-any public-contract-or-personnel-services-agreement-in-an-amount exceeding-\$15,000-for-which-only-one-bid-or-response-to-a-Request for-Proposal-has-been-received,-the-Executive-Officer-shall-file a-written-report-with-the-Council-detailing-the-reasons-why-a sole-source-contract-was-entered-into-or-giving-an-explanation-of why-only-one-bid-or-response-was-received.]~~

2.04.031 Notice of Award and Appeals:

(a) At least five (5) days prior to the execution of any Public Contract over \$15,000 or a Personal Services Contract over \$10,000 the District shall provide a Notice of Award to the contractor selected and to all contractors who submitted unsuccessful bids or proposals. This requirement may be waived by the Executive Officer for any emergency contract entered into pursuant to this Code.

(b) Bid/Request for Proposals Appeal Procedures: The following procedure applies to aggrieved bidders and proposers who wish to appeal an award of a Public Contract above \$15,000 and a Personal Services Contract above \$10,000. The appeal process for bids is the same as for Requests for Proposals. In the case of Requests for Proposals, disagreement with the judgment exercised in scoring by evaluators is not a basis for appeal.

(1) All appeals shall be made in writing and shall be delivered to the Contracts Administrator at Metro's main office within five (5) working days of the postmarked date on the Notice of Award. The written appeal must describe the specific citation of law, rule, regulation, or procedure upon which the appeal is based.

(2) The Contracts Administrator shall forthwith notify the appropriate department head and the Executive Officer of the appeal. Within ten (10) working days of the receipt of notice of appeal, the Executive Officer shall send a notice of rejection of the appeal or a notice of acceptance of the appeal as applicable to the appellant. The appellant may appeal the Executive Officer's decision to reject the appeal in writing to the Contract Review Board within five (5) working days from the postmarked date on the Notice of Rejection.

(3) The Contract Review Board will review the grounds for appeal, all pertinent information, and the Executive Officer's recommendation, and make a decision. The decision of the Contract Review Board is final.

(4) No contract which is the subject of a pending appeal may be executed unless the Contract Review Board shall have given its approval at the request of the Executive Officer. The Executive Officer may request the Contract Review Board to determine a matter without waiting for the expiration of the time periods provided for herein.

2.04.032 Contract Information Reports:

(a) The Executive Officer shall provide a monthly report to the Council showing the status of all contracts in effect at Metro as of the date of the report. The report shall be divided into four sections: (a) Contracts Awarded; (b) Contracts Amended; (c) Open Contracts; and (d) Contracts Closed.

(1) Contracts Awarded. This section shall report all new contracts awarded since the date of the previous report to the Council of all new contracts. Information contained in this report will be the cost center of the department responsible for the contract, contract number, starting and ending dates of the contract, type of contract, amount of the contract, vendor name, and a brief description of the purpose of the contract.

(2) Contracts Amended. This section shall report all contracts amended by Change Order since the date of the previous report to the Council of contract amendments. Information contained in this report will be the contract number, vendor name, amendment number, type of amendment, the original amount of the contract, the amount of the contract amendment, the new total contract amount, the

percent of the amount of increase in excess of the original amount of the contract, and a brief description of the purpose of the contract.

(3) Contracts Open. This section shall report all contracts in effect on the last day of the month for which the report is prepared. Information contained in this report will be the cost center of the department responsible for the contract, contract number, starting and ending dates of the contract, type of contract, amount of the contract, the amount expended to date, vendor name, and a brief description of the purpose of the contract.

(4) Contracts Closed. This section shall report all contracts closed by the last day of the month for which the report is prepared. Information contained in this report will be contract number, vendor name, type of contract, date contract closed, amount of the contract, final amount expended, and a brief description of the purpose of the contract.

(b) Contract Type. Each contract will be identified by a type code to describe the class of contract entered into by Metro. There shall be six types of contracts at Metro:

- (1) Personal Services;
- (2) Pass-Through Agreements;
- (3) Labor and Materials;
- (4) Intergovernmental Agreements;
- (5) Procurement; and
- (6) Construction.

(c) Prior to entering into (1) any public contract or personal services agreement pursuant to the authority granted in Section 2.04.060 authorizing Sole Source Contract, or (2) any public contract or personnel services agreement in an amount exceeding \$15,000 for which only one bid or response to a Request for Proposal has been received, the Executive Officer shall file a written report with the Council detailing the reasons why a sole source contract was entered into or giving an explanation of why only one bid or response was received.

(d) The Executive Officer shall provide to the Council during the annual budget process a list of proposed contracts for the ensuing fiscal year. For contracts designated by the Council as being subject to this requirement by duly adopted ordinance, which may be the annual budget ordinance, copies of bid or

proposal documents shall be filed with the Clerk of the Council and referred to the appropriate Council committee for review and comment. Documents must be filed with the Clerk of the Council at least thirty-five (35) days prior to the date of release for response by potential bidders. If the Council or a committee has not within fourteen (14) days of the date of filing scheduled the matter for a hearing the documents may be released to prospective bidders at any time after the 14th day. In any event, bid documents may be released to prospective bidders on the 35th day after filing with the Council.

(e) Except as provided in subsection (f), all other contracts not so designated by the Council shall be subject to the requirement that copies of bid documents shall be filed with the Clerk of the Council at the time they are released for response by potential bidders. The Executive Officer shall furnish the Council with information at the time bid documents are released stating the purpose and nature of the proposed contract, the appropriation to be charged with the contract, and a statement of the contract's impact on the District in future fiscal years.

(f) Any public contract \$15,000 or more or Personal Service Contract \$10,000 or more not on the list of proposed contracts submitted by the Executive Officer as required by subsection (d) shall be subject to the filing and Council or committee review

requirements in subsection (d) or if appropriate, the provisions of section 2.04.033.

2.04.033 Council Approval of Contracts:

(a) Notwithstanding any other provisions of Chapter 2.04 the following contracts shall be approved by the Council prior to execution:

(1) any contract which commits the District to the expenditure of revenues or appropriations not otherwise provided for in the current fiscal year budget at the time the contract is executed except those contracts or classes of contracts that the Council shall have by ordinance exempted from this requirement;

(2) any intergovernmental agreement by which the District acquires or transfers any interest in real property, assumes any function or duty of another governmental body, or transfers any function or duty of Metro to another governmental unit; or

(3) any contract for the sale, lease or transfer of real property owned by the District.

(b) All contracts which require Council approval pursuant to subsection (a)(1) above and which are subject to competitive bidding or Request for Proposals procedures shall require Council approval of the Request for Bids or Request for Proposals prior to release of bidding or proposal documents to vendors.

2.04.035 Metropolitan Exposition-Recreation Commission:

The Metropolitan Exposition-Recreation Commission shall have authority to enter into contracts pursuant to Metro Code Section 6.01.04(j); provided, however, that prior to the adoption of the contracting rules by the Commission such purchases shall be made pursuant to the procedures and policies set forth in this chapter; and provided further that the Metropolitan Service District Contract Review Board created pursuant to Section 2.04.020 of this code shall be the local Contract Review Board for the Commission for the purpose of granting exemptions from competitive bidding or other requirements of public contract law. The Metropolitan Exposition-Recreation Commission may without the prior approval of the Executive Officer enter into contracts in any amount. No contract or contract amendment may be approved or executed for any amount in excess of the amount authorized in the budget. The Metropolitan Exposition-Recreation Commission shall file copies of all contracts and amendments thereto with the Department of Finance & Administration.

2.04.040 Public Contracts, General Provisions:

(a) Competitive Bidding: Unless exempt from competitive bidding, all public contracts shall be awarded to the lowest responsive, responsible bidder.

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

(c) Rejection of Bids: The Executive Officer or the Deputy Executive Officer may reject any bid not in compliance with all prescribed public bidding procedures and requirements and may, for good cause, reject any or all bids upon a finding that it is in the public interest to do so, for example, when all bids exceed the budget or estimate for that project.

(d) Bonds: Unless the Board shall otherwise provide, bonds and bid security requirements are as follows:

- (1) Bid security not exceeding 10 percent of the amount bid for the contract is required unless the contract is for \$15,000 or less.

(2) Labor and Materials bond in an amount equal to 100 percent of the contract price is required for contracts over \$15,000.

(3) Performance bond in an amount equal to 100 percent of the contract price is required for contracts over \$10,000. If the contract is under \$50,000, the performance bond and labor and material bond may be one bond; if the contract is \$50,000 or more, there shall be two bonds.

(4) Bid security, labor and material bond and performance bond may be required even though the contract is of a class not identified above, if the Executive Officer determines it is in the public interest.

(5) Bid security and bonds may be provided in the form of a surety bond, cash, cashier's check or certified check.

2.04.041 Requirement of Competitive Bidding, Exemptions:

(a) State Law: The following contracts are exempt from the competitive bidding selection process pursuant to State Statute:

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

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

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

(4) Contracts for supplies estimated to be less than \$500.

(b) Board Rule: The following classes of public contracts are exempt from the competitive bidding process based on the findings by the Contract Review Board that the exemption will not encourage favoritism or substantially diminishing competition for public contracts and that such exemptions will result in substantial cost savings:

(1) Purchase and sale of Zoo animals.

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

(3) All contracts estimated to be less than \$15,000 provided that the selection process described in the appropriate Code sections is followed.

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

(5) Emergency contracts when the Executive Officer makes written findings that an emergency exists and that the emergency consists of circumstances that could not have been reasonably foreseen and requires prompt execution of a contract to remedy that condition. An emergency contract must be awarded within sixty (60) days of the declaration of the emergency unless the Board grants an extension.

(6) Purchase of food items pursuant to Section 2.04.090.

(7) Contracts for warranties in which the supplier of the goods or services covered by the warranty has designated a sole provider for the warranty service.

(8) Contracts for computer hardware and software. Selection procedures for these contracts, however, must follow the RFP process outlined in Section 2.04.050, "Personal Services Contracts."

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

(10) Contracts for the lease or use of the Oregon Convention Center or other facilities operated by the Metropolitan Exposition-Recreation Commission.

(11) For the purchases by the Metropolitan Exposition-Recreation Commission, all contracts estimated to be less than \$31,000 provided that any rules adopted by the Commission which provide for substitute selection procedures are followed.

(12) For purchases by the Metropolitan Exposition-Recreation Commission, emergency contracts when the General Manager makes written findings that:

- 1) immediate procurement is essential to prevent a delay in work or extra expense to the Commission in circumstances which could not have been foreseen and avoided;
- 2) there is a threat of immediate damage to

Commission property; or 3) there is an immediate danger to citizens or employees. The General Manager shall report to the Commission at its next regularly scheduled meeting of any contracts entered into pursuant to this section.

(13) For purchases by the Metropolitan Exposition-Recreation Commission, contracts for equipment repair or overhaul but only when the service and/or parts required are unknown before the work begins and the cost cannot be determined without extensive preliminary dismantling or testing.

(c) Board Resolution: Specific contracts, not within the classes exempted in subsection (b) above, may be exempted by the Board by resolution subject to the requirements of ORS 279.015(2) and ORS 279.015(5). The Board shall, where appropriate, direct the use of alternate contracting and purchasing practices that take account of market realities and modern innovative contracting and purchasing methods, which are consistent with the public policy of encouraging competition.

(d) Limitation: The exemptions in subsections (a)-(c), above, are exemptions to the competitive bid process only; all other procedures, including review and approval, apply to these contracts.

2.04.042 Public Contracts Under \$2,500:

(a) Selection Process:

(1) Under \$500: Unless completely exempt from competitive bidding under Section 2.04.041, competitive bids are not required for public contracts less than \$500. The District should, where feasible, obtain competitive quotes.

(2) Between \$500 and \$2,500: Unless completely exempt from competitive bidding under Section 2.04.041, when the amount of the contract is \$500 or more, but less than \$2,500, the District must obtain a minimum of three (3) competitive quotes. The District shall keep a written record of the source and amount of the quotes received. If three (3) quotes are not available, a lesser number will suffice provided that a written record is made of the effort to obtain the quotes.

(b) Approval Process: For public contracts of an amount of less than \$2,500, the Director of the initiating department, or a designee of the Director approved by the Executive Officer, may sign contracts if the following conditions are met:

- (1) A standard contract form is used;
- (2) Any deviations to the contract form are approved by the General Counsel;
- (3) The expenditure is authorized in the budget;
- (4) The contract does not further obligate the District for \$2,500 or more;
- (5) The appropriate Scope of Work is attached to the contract;
- (6) The contract is for an entire project or purchase; not a portion of a project or purchase which, when complete, will amount to a cost of \$2,500 or more;
- (7) No contract may be approved or executed for any amount in excess of the amount authorized in the budget.

(c) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

(d) Prior to the award of a contract to any bidder other than the apparent low bidder the Executive officer shall obtain the prior approval of the Contract Review Board.

2.04.043 Public Contracts Between \$2,501 and \$15,000:

(a) Selection Process: Unless completely exempt from competitive bidding under Section 2.04.041, when the amount of the contract is \$2,500 or more, but less than \$15,000, the District must obtain a minimum of three (3) competitive quotes. The District shall keep a written record of the source and amount of the quotes received. If three (3) quotes are not available, a lesser number will suffice provided that a written record is made of the effort to obtain the quotes.

(b) Review Process: After selection and prior to approval, the contract must be reviewed by the Department of Finance and Administration.

(c) Approval Process: (1) For contracts of \$2,500 or more, either the Executive Officer or Deputy Executive Officer must sign; however, the Director or Assistant Director of the Zoo may sign purchase orders of \$10,000 or less. When designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the Director of Finance and Administration may sign contracts. No contract may be approved

or executed for any amount in excess of the amount authorized in the budget.

(d) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

2.04.044 Public Contracts of \$15,000 or More:

(a) Selection Process: Unless exempt from competitive bidding by Code section 2.04.041, the following competitive bidding procedures shall apply to all contracts:

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

(2) The bid document will be reviewed by the Department of Finance and Administration and by the General Counsel before bids are solicited or advertised, and shall include the contract form to be used.

(3) A request for bids will be advertised in the manner required by law and in a local minority newspaper, and in any appropriate trade magazine.

Additional advertisement may be appropriate depending upon the nature of the contract.

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

(5) The opened bids will be reviewed by the requesting department and a recommendation and contract will be submitted to the Department of Finance and Administration.

(6) After selection and prior to approval, the contract must be reviewed by the Department of Finance and Administration.

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

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

(b) Approval Process: All initial contracts with a contract price of \$15,000 or more shall be approved and executed by the Executive Officer or Deputy Executive Officer. When

designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the Director of Finance & Administration may approve and execute contracts of \$15,000 or more. No contract may be approved or executed for any amount in excess of the amount authorized in the budget.

(c) Within thirty (30) days of award of a construction contract, the Department of Finance and Administration shall provide the notice required by ORS 279.363.

(d) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

(e) Prior to the award of a contract to any bidder other than the apparent low bidder the Executive Officer shall obtain the prior approval of the Contract Review Board.

2.04.045 Public Contract Extensions and Amendments (including Change Orders, Extra Work and Contract Renewals):

(a) Selection Process: Any contract amendment for additional work including contract renewals, change orders, extra work, field orders and other changes in the original specifications which increase the original contract price may be

made with the contractor without competitive bidding subject to the extent any of the following conditions are met:

(1) The original contract was let by competitive bidding, unit prices or bid alternates were provided that established the cost for additional work and a binding obligation exists on the parties covering the terms and conditions of the additional work. However, in the event that the increase in price results solely from extension of the termination date of the contract, the extension shall not be greater than three months; or

(2) The amount of the aggregate cost increase resulting from all amendments does not exceed 20 percent of the initial contract if the face amount is less than or equal to \$1,000,000 or 10 percent if the face amount is greater than \$1,000,000; amendments made under subsection (1) are not included in computing the aggregate amount under this section; or

(3) The increase in price is due to unexpected conditions which arise during performance of a construction, maintenance or repair contract and the Executive Officer determines that extension of the scope of work on the current contract is the most

economical method of dealing with the unexpected conditions; or

(4) The total cost of the contract, including amendments, does not exceed \$5,000 but if the amendment is for more than \$500, three (3) competitive quotes shall be obtained as described in Sections 2.04.042(a)(2) and 2.04.043(a).

(5) In addition to the requirements of this subsection, any contract amendment or extension exceeding \$10,000 shall not be approved unless the Contract Review Board shall have specifically exempted the contract amendment or extension from the public bidding procedure except as provided in subsection (6) below.

(6) In addition to the requirements of this subsection, individual change orders for a public improvement contract may be approved by the Executive Officer if they:

(A) do not exceed on a cumulative basis more than five (5) percent of the initial face value of the contract; and

(B) do not materially add to or delete from the original scope of work included in the original contract.

Change orders exceeding \$10,000 which materially add to or delete from the original scope of work shall not be approved unless the Contract Review Board has specifically exempted the change order from the public bidding procedure. Change orders exempted by the Contract Review board shall not be considered part of the five (5) percent limit of this subsection.

(b) Review Process: After selection and prior to approval, the contract must be reviewed by the Department of Finance and Administration.

(c) Approval Process:

(1) In applying the following rules for approval of contract amendments, when an amendment falls under two different rules, the amendment shall be approved under the rule for the higher dollar amount; e.g., an amendment of under \$2,500 (rule 2) which results in a contract price of \$2,500 or more (rule 3) shall be approved under the rule for contract prices of \$2,500 or more.

(2) Under \$2,500: All contract amendments and extensions which are less than \$2,500 if the contract was originally for \$2,500 or more or which result in a total contract price of less than \$2,500 may be approved by the Director of the initiating department or by a designee of the Director approved by the Executive Officer if the following conditions are met:

- (A) A standard contract form is used;
- (B) Any deviations to the contract form are approved by the General Counsel;
- (C) The expenditure is authorized in the budget;
- (D) The contract does not further obligate the District beyond \$2,500;
- (E) The appropriate Scope of Work is attached to the contract;
- (F) No contract amendment or extension may be approved in an amount in excess of the amount authorized in the budget.

(3) \$2,500 or More: All contract amendments and extensions which are for \$2,500 or more or which result in a total contract price of more than \$2,500 if the original contract was for less than \$2,500 may be approved by either the Executive Officer or Deputy Executive Officer. When designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the Director of Finance and Administration may sign contract amendments and extensions. No contract amendment or extension may be approved in an amount in excess of the amount authorized in the budget.

★ DELETE PROPOSED SUBSECTION (4) OF ORD. NO. 88-271 D (page 35)

(d) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

2.04.050 Personal Services Contracts, General Provisions:

(a) Distinguishing Between Employees and Independent Contractors: Employees shall not be hired under the guise of a Personal Services Contract. To determine whether a particular worker is to be an employee or an independent contractor, the most important factor to consider is the employer's right to control. If the employer is to retain the right to control the manner and means of accomplishing a desired result, the worker is

generally considered an employee; if, however, the employer has the right to control only the results of the work, the worker is considered an independent contractor. This test of control does not require actual exercise of control, but rather the employer's right to control. The following factors shall be considered in determining a worker's status:

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

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

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

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

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

(b) An emergency contract for personal services may be let without obtaining quotes in writing when the Executive Officer makes written findings that an emergency exists because of circumstances which could not have been reasonably foreseen and requires the prompt execution of a contract to remedy that condition. The Executive Officer shall inform the Council of all such contracts declared to be an emergency at the Council meeting immediately following the adoption of findings declaring an emergency.

2.04.051 Personal Services Contracts Under \$2,500:

(a) Selection Process: For Personal Services contracts of less than \$2,500, the Department Director shall state in writing the need for the contract. This statement shall include a description of the contractor's capabilities in performing the work. Multiple proposals need not be obtained. This statement will be kept in the Department of Finance and Administration contract file.

(b) Approval Process: For Personal Services contracts of less than \$2,500, the Director of the initiating department, or a

designee of the Director approved by the Executive Officer, may sign contracts if the following conditions are met:

- (1) A standard contract form is used;
- (2) Any deviations to the contract form are approved by the General Counsel;
- (3) The expenditure is authorized in the budget;
- (4) The contract does not further obligate Metro beyond \$2,500;
- (5) The appropriate Scope of Work is attached to the contract;
- (6) The Contract is for an entire project or purchase; not a portion of a project or purchase which, when complete, will amount to a cost of \$2,500 or more.
- (7) No contract may be approved or executed for any amount in excess of the amount authorized in the budget.

(c) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

2.04.052 Personal Services Contracts Between \$2,500 and \$10,000:

(a) Selection Process: For Personal Services contracts \$2,500 or more but less than \$10,000, the Department Director shall use the following process:

(1) Proposals shall be solicited from at least three potential contractors who, in the judgment of the Department Director, are capable and qualified to perform the requested work.

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

(3) Evaluation, as determined by the Department Director, may require oral presentations and shall include use of a contractor evaluation form. The objective is the highest quality of work for the most

reasonable price. The quality of the proposal may be more important than cost.

(4) Personal Services Evaluation Form: The Personal Services evaluation form shall document the reasons for the selection. Proposals shall be evaluated according to predetermined criteria. The evaluation process may include the evaluators assigning a quantifiable score on how each aspect of a proposal meets the predetermined criteria. The contract may be awarded to the firm receiving the highest average score.

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

(b) Review Process: After selection and prior to approval, the contract must be reviewed by the Department of Finance and Administration.

(c) Approval Process: For contracts of \$2,500 or more, either the Executive Officer or Deputy Executive Officer must sign. When designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the Director of Finance and Administration may sign contracts. No contract may

be approved or executed for any amount in excess of the amount authorized in the budget.

(d) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

2.04.053 Personal Services Contracts of \$10,000 or More:

* REVISED ENTIRE
SECTION TO
CONFORM TO
EXISTING CODE

(a) Selection Process: For Personal Services contracts of \$10,000 or more an evaluation of proposals from potential contractors shall be performed as follows:

- (1) A request for proposals shall be prepared by the initiating department and shall be reviewed by the General Counsel and the Department of Finance and Administration. Where appropriate, notice of the request shall be published in a newspaper of general circulation or in trade magazines. In addition, Metro shall notify in writing at least three
- (3) potential contractors, who, in the judgment of the Department Director are capable and qualified to perform the requested work. The initiating department will be responsible for maintaining the file and making the appropriate notification.

(2) All requests for proposals shall at a minimum contain a description of the project and a brief summary of the project history, contain a detailed proposed scope of work or other specifications setting forth expected performance by the contractor, include a description of the criteria that will be utilized to evaluate proposals and the estimated budget for the project.

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

[(3)] (4) Personal Services Evaluation Form: The Personal Services evaluation form shall document the reasons for the selection. Proposals shall be evaluated according to predetermined criteria. The evaluation process may include the evaluators assigning a quantifiable score on how each aspect of a proposal meets the predetermined criteria. The contract may be awarded to the firm receiving the highest average score.

[(4)] (5) After evaluation is complete, the Department Director will recommend final selection through the Department of Finance and Administration.

[(5)] (6) Notifications of selection and rejection shall be made in writing by the initiating department.

[(6)] (7) Personal Services contracts with the Scope of Work must be approved by the department head and then forwarded to the Department of Finance and Administration for internal review and execution. General Counsel review is required.

(b) Approval Process: All initial contracts with a contract price of greater than \$10,000 be approved and executed by the Executive officer or Deputy Executive Officer. When designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the Director of Finance & Administration may approve and execute contracts of \$15,000 or more. No contract may be approved or executed for any amount in excess of the amount authorized in the budget.

(c) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing personal Services and Public Contracts."

2.04.054 Personal Services Contract Extensions and Amendments:

(a) Selection Process:

(1) A Personal Services contract may be renewed without receiving competitive proposals if the contractor is performing a continuing activity for the agency. This applies, but is not limited to contracts for construction observation, public relations consulting, outside legal counsel and annual auditing. Except as provided in subsection (2) below, competitive proposals must be solicited for these services at least once every three (3) years and annually if the contractor proposes a price or rate increase of more than 10 percent over the previous year.

(2) Personal Services contracts may be renewed, extended or renegotiated without soliciting competitive proposals if, at the time of renewal, extension or renegotiation, there are fewer than three (3) potential contractors qualified to provide the quality and type of services required and the initiating department makes detailed findings that the quality and type of services required make it unnecessary or impractical to solicit proposals.

(3) In addition to the requirements of this subsection, any contract amendment or extension exceeding \$10,000 shall not be approved unless the Contract Review Board shall have specifically exempted

the contract amendment or extension from the competitive procurement procedures of section 2.04.053.

(b) Approval Process:

(1) Less than \$2,500: All contract amendments and extensions which are less than \$2,500 if the contract was originally for \$2,500 or more or which result in a total contract price of less than \$2,500 may be approved by the Director of the initiating department or by a designee of the Director approved by the Executive Officer if the following conditions are met:

- (A) A standard contract form is used;
- (B) Any deviations to the contract form are approved by the General Counsel;
- (C) The expenditure is authorized in the budget;
- (D) The contract does not further obligate Metro beyond \$2,500;
- (E) The appropriate Scope of Work is attached to the contract;

(F) No contract amendment or extension may be approved in an amount in excess of the amount authorized in the budget.

(2) \$2,500 and Over:

(A) All contract amendments and extension which are for \$2,500 or more or which result in a total contract price of more than \$2,500 shall be approved by either the Executive Officer or Deputy Executive Officer. When designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the Director of Finance and Administration may sign contract amendments and extensions. No contract amendment or extension may be approved for an amount in excess of the amount provided for in the budget.

(c) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

2.04.060 Sole Source Contracts:

(a) Selection Process: If there is only one qualified provider of the service required, the initiating department need not solicit and document proposals. The initiating department must document that there is only one qualified provider of the service required [~~and the Council shall be given notice of the execution and the justification for the contract~~]. Sole Source Contracts may not exceed \$2,500 unless the Contract Review Board shall have specifically exempted the contract from the public bidding or applicable alternative procurement procedure.

(b) Approval Process: The approval process for Sole Source Contracts is the same as described for regular Personal Services or Public Contracts, depending on the nature of the work.

(c) All contracts are subject to the rules and procedures of Code Section 2.04.050, "Rules and Procedures Governing Personal Services and Public Contracts."

2.04.070 Sale of Metro Goods and Services: Approval of agreements for the sale of Metro Goods and Services shall follow the procedures for purchase of goods and services.

2.04.075 Purchase of Recycled Paper Products and Equipment that

Uses Paper:

★ INSERT ENTIRE SECTION WHICH WAS APPROVED BY ORD. NO. 89-280 BUT NOT YET CODIFIED.

The following criteria and standards shall apply to the purchase of paper products and equipment that uses paper:

(a) In all contracts and subcontracts the District shall prefer the purchase of recycled paper products with a 50 percent (50%) recycled content or the highest percentage of recovered material practicable, when practicable includes 1) performance in accordance with applicable specifications; 2) availability at a reasonable price; 3) availability within a reasonable period of time; and 4) maintenance of a satisfactory level of competition.

(b) The District shall allow a five percent (5%) price preference for the purchase of recycled paper products and attempt to purchase jointly with other agencies to reduce the cost of recycled paper products purchases.

(c) Subject to subsection 8 below, paper product procurements for Solid Waste will specify recycled paper only.

(d) The guidelines in (1), (2) and (3) above will apply in all cases except where specific printing quality requirements can not be met by recycled paper products. Joint purchases may be made with other agencies to reduce the cost of recycled paper product purchases. All recycled paper purchases shall require the manufacturer's certification and verification of recovered

material content. The initiating Department shall assure compliance with the provision of ORS 279.739.

(e) All recycled paper products purchases shall require the manufacturer's certification and verification of recovered material content.

(f) All bids for new equipment and services shall include language that will ensure the use of recycled paper and paper products.

(g) Metro shall phase in equipment and paper to facilitate the use of recycled paper products wherever practicable.

(h) In instances where recycled paper and paper products may void existing warranties, service agreements, or contracts, recycled paper and paper products shall not be specified.

(i) All contract printing shall allow a five percent (5%) price preference when using recycled paper.

(j) The use of non-recyclable goldenrod and other very bright, hard-to-bleach colored papers shall be prohibited.

2.04.080 Sale of Surplus Property: Contracts for sale of surplus property may be executed without competitive bidding only

when the Executive Officer, or Director or Assistant Director of the Zoo determines in writing that the number, value and nature of the items to be sold make it probable that the cost of conducting a sale by competitive bid will be such that a liquidation sale will result in substantially greater net revenue to the District.

2.04.090 Food Items and Food Service Contracts

(a) Selection Process:

(1) All food items and food service contracts will be awarded as public contracts, except as provided in sections 2-4 below.

(2) Competitive bids or quotes are not required when a specific food item is requested by a purchaser of the District's catering service. If the specific item is supplied by more than one source, competitive quotes shall be obtained from at least three known suppliers. The District shall keep a written record of the source and amount of the quotes received.

(3) Competitive bids or quotes are not required for food items which the Director or Assistant Director of the Zoo authorize for a market test. A market test is

used to determine whether a food item should be added to the District's menu or to develop the specifications for a particular food item. The test should clearly define the period of time for the market study, not to exceed six months, and the statistical method used to determine the value of the food item as part of the regular menu. A written report shall be made. Based on this report if the Director or Assistant Director determines the item shall be added to the regular menu, he/she shall establish specifications for the item. The item shall be selected under either public contract procedures or subsection (4), below. During the time the selection process is carried out, the test market product may continue to be sold by the District.

(4) Competitive bids or quotes are not required when the Director or Assistant Director of the Zoo finds that marketing factors are likely to significantly impact sales, subject to the following conditions:

(A) Prior to the selection of the contractor the department has made reasonable efforts to inform known companies providing the item or service of the subject matter of the contract and to solicit proposals, including public

advertising in at least one newspaper of general circulation in the area.

(B) The contractor is selected on the basis of the most competitive offer considering cost, quality of the product, service to be rendered and marketing advantages.

A written record of the selection process shall be made.

(b) Review Process: After selection and prior to approval, the contract must be reviewed by the Director of Finance and Administration.

(c) Approval Process:

(1) \$2,500 and Under: All contract and amendments and extensions which are \$2,500 or less or which result in a total contract price of \$2,500 or less may be approved by the Director of the initiating department or by a designee of the Director approved by the Executive Officer if the following conditions are met:

(A) A standard contract form is used;

- (B) Any deviations to the contract form are approved by the General Counsel;
- (C) The expenditure is authorized in the budget;
- (D) The contract does not further obligate the District beyond \$2,500;
- (E) The appropriate Scope of Work is attached to the contract; and
- (F) The contract is for an entire project or purchase; not a portion of a project which, when complete, will amount to a cost not greater than \$2,500.

(2) ~~[Between-\$2,501-and-\$10,000]~~ Over \$2,500: All contracts and amendments and extension which exceed \$2,500 ~~[or-which-result-in-a-total-contract-price-of more-than-\$2,500-but-less-than-\$10,000]~~ may be approved by either the Executive Officer or Deputy Executive Officer. When designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the Director of Finance and Administration may sign contracts and amendments and extensions.

~~[(3) Between \$10,001 and \$50,000:-- Except as provided in subsection (5) of this section, all contracts and amendments and extensions which exceed \$10,000 or which result in a total contract price of more than \$10,000 but less than \$50,000 shall be approved by the Council Management Committee prior to execution.]~~

~~[(4) Over \$50,000:-- Except as provided in subsection (5) of this section, all contracts and amendments and extensions which exceed \$50,000 or which result in a total contract price of more than \$50,000 shall be approved by the Council prior to execution.]~~

~~[(5)]~~ (3) Exceptions: Emergency contract extensions and amendments may be approved by the Executive Officer or his/her designee.

(d) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

NOTE: Sections 2.04.100 et seq. pertain to DBE/WBE contracts and procedures and are not amended by this Ordinance.

DEC:gpwb

88271E.ORD

CONSIDERATION OF ORDINANCE NO. 89-294 ADOPTING
THE ANNUAL BUDGET FOR FISCAL YEAR 1989-90,
MAKING APPROPRIATIONS AND LEVYING AD VALOREM
TAXES.

Date: March 14, 1989

Presented by: Rena Cusma,
Executive Officer

FACTUAL BACKGROUND AND ANALYSIS

I am forwarding to the Council for consideration and approval my proposed budget for Fiscal Year 1989-90.

Council action, through Ordinance No. 89-294, is the first step in the process for the adoption of the District's operating financial plan for the forthcoming fiscal year. Final action by the Council to adopt this plan is scheduled for June 23, 1989.

Oregon Revised Statutes 294.635, Oregon Budget Law, requires that Metro prepare and submit the District's approved budget to the Tax Supervising and Conservation Commission by May 15, 1989. The Commission will conduct a hearing during June 1989 for the purpose of receiving information from the public regarding the Council's approved budget. Following the hearing, the Commission will certify the budget to the Council for adoption and may provide recommendations to the Council regarding any aspect of the budget.

Once the budget plan for Fiscal Year 1989-90 is adopted by the Council, the number of funds and their total dollar amount and the maximum tax levy cannot be amended without review and certification of the amendment by the Tax Supervising and Conservation Commission. Adjustments, if any, by the Council to increase the level of expenditures in a fund are limited to no more than 10 percent of the total value of that fund in the period between approval, scheduled for May 4, 1989, and adoption.

Exhibits B, C and D of the Ordinance will be available at the public hearing on March 23, 1989.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends that the Council conduct a public hearing on Ordinance No. 89-294. The Executive Officer recommends that the Council schedule consideration of the proposed budget and necessary actions to meet the key dates as set out in Oregon Budget Law described above.

JS/jm
JM2\js\budg\9193c
03/14/89

FIVE MILLION FIVE HUNDRED THOUSAND (\$5,500,000) DOLLARS shall be for the Zoo Operations and Capital Funds, said amount authorized in a three-year serial levy outside the 6 percent conditional limit, said levy approved by the voters of the Metropolitan Service District at a special election held March 31, 1987.

SIX MILLION EIGHT THOUSAND AND FIVE HUNDRED TWENTY ONE (\$6,008,521) DOLLARS shall be for the Convention Center Project Debt Service Fund said levy needed to repay a portion of the proceeds of General Obligation bonds as approved by the voters of the Metropolitan Service District at a General election held November 4, 1986.

3. In accordance with Section 2.02.125 of the Metropolitan Service District Code, the Council of the Metropolitan Service District hereby authorizes personnel positions and expenditures in accordance with the Annual Budget adopted by Section 1 of this Ordinance, and hereby appropriates funds for the fiscal year beginning July 1, 1989, from the funds and for the purposes listed in the Schedule of Appropriations, Exhibit "C."

4. The Executive Officer shall make the following filings as provided by ORS 294.555 and ORS 310.060:

1. Multnomah County Assessor

- 1.1 An original and one copy of the Notice of Levy marked Exhibit "D," attached hereto and made a part of this Ordinance.
- 1.2 Two copies of the budget document adopted by Section 2 of this Ordinance.
- 1.3 A copy of the Notice of Publication required by ORS 294.421.
- 1.4 Two copies of this Ordinance.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ADOPTING THE)	ORDINANCE NO. 89-294
ANNUAL BUDGET FOR FISCAL YEAR)	
1989-90, MAKING APPROPRIATIONS AND)	Introduced by Rena Cusma,
LEVYING AD VALOREM TAXES)	Executive Officer

WHEREAS, The Multnomah County Tax Supervising and Conservation Commission held its public hearing on the annual budget of the Metropolitan Service District for the fiscal year beginning July 1, 1989, and ending June 30, 1990; and

WHEREAS, Recommendations from the Multnomah County Tax Supervising and Conservation Commission have been received by the Metropolitan Service District (attached as Exhibit A and made a part of this Ordinance) and considered; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

1. The "Fiscal Year 1989-90 Budget of the Metropolitan Service District," as attached hereto as Exhibit "B," and the Schedule of Appropriations, attached hereto as Exhibit "C," are hereby adopted.
2. The Council of the Metropolitan Service District does hereby levy ad valorem taxes, as provided in the budget adopted by Section 1 of this Ordinance, for a total amount of ELEVEN MILLION FIVE HUNDRED EIGHT THOUSAND AND FIVE HUNDRED TWENTY ONE (\$11,508,521) DOLLARS to be levied upon taxable properties within the Metropolitan Service District as of 1:00 a.m., January 1, 1989.

2. Clackamas and Washington County Assessor and Clerk

- 2.1 A copy of the Notice of Levy marked Exhibit "D."
- 2.2 A copy of the budget document adopted by Section 2 of this Ordinance.
- 2.3 A copy of this Ordinance.
- 2.4 A copy of the Notice of Publication required by ORS 294.421.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1989.

Mike Ragsdale, Presiding Officer

Attest:

Clerk of the Council

JS/jm
jm2\js\budg\9780C
03/14/89

EXHIBIT C

SCHEDULE OF APPROPRIATIONS FY 1989-90

	Adopted Appropriations FY 1989-90
<u>GENERAL FUND</u>	
Council	
Personal Services	\$ 285,502
Materials & Services	126,460
Capital Outlay	<u>4,700</u>
Subtotal	\$ 416,662
Executive Management	
Personal Services	\$ 331,202
Materials & Services	32,925
Capital Outlay	<u>2,974</u>
Subtotal	\$ 367,101
Office of General Counsel	
Personal Services	\$ 236,458
Materials & Services	23,039
Capital Outlay	<u>2,412</u>
Subtotal	\$ 261,909
Finance & Administration	
Personal Services	\$1,168,600
Materials & Services	855,177
Capital Outlay	<u>65,275</u>
Subtotal	\$2,089,052
Public Affairs	
Personal Services	\$ 398,050
Materials & Services	88,167
Capital Outlay	<u>650</u>
Subtotal	\$ 486,867
General Expenses	
Contingency	\$ 429,025
Transfers	<u>282,105</u>
Subtotal	\$ 711,130
Unappropriated Balance	\$ 75,000
Total General Fund Requirements	\$4,407,722

Adopted
Appropriations
FY 1989-90

PLANNING FUND

Transportation	
Personal Services	\$ 986,511
Materials & Services	772,830
Capital Outlay	<u>57,200</u>
Subtotal	\$ 1,816,541

Planning & Development	
Personal Services	\$ 562,242
Materials & Services	406,260
Capital Outlay	<u>7,330</u>
Subtotal	\$ 975,832

General Expenses	
Contingency	\$ 243,144
Transfers	<u>853,182</u>
Subtotal	\$ 1,096,326

Unappropriated Balance	\$ 66,531
------------------------	-----------

Total Planning Fund Requirements	\$ 3,955,230
----------------------------------	--------------

BUILDING MANAGEMENT FUND

Personal Services	\$ 65,276
Materials & Services	463,434
Capital Outlay	26,300
Contingency	<u>50,000</u>

Total Building Management Fund Requirements	\$ 605,010
---	------------

ZOO OPERATING FUND

Administration	
Personal Services	\$ 364,584
Materials & Services	178,124
Capital Outlay	<u>3,737</u>
Subtotal	\$ 546,445

Animal Management	
Personal Services	\$ 1,453,895
Materials & Services	313,651
Capital Outlay	<u>25,075</u>
Subtotal	\$ 1,792,621

Adopted
Appropriations
FY 1989-90

Facilities Management	
Personal Services	\$ 1,249,122
Materials & Services	1,222,869
Capital Outlay	<u>425,828</u>
Subtotal	\$ 2,897,819
 Educational Services	
Personal Services	\$ 490,168
Materials & Services	221,403
Capital Outlay	<u>13,904</u>
Subtotal	\$ 725,475
 Marketing	
Personal Services	\$ 129,636
Materials & Services	205,967
Capital Outlay	<u>3,615</u>
Subtotal	\$ 339,218
 Visitor Services	
Personal Services	\$ 1,047,405
Materials & Services	947,581
Capital Outlay	<u>50,995</u>
Subtotal	\$ 2,045,981
 General Expenses	
Contingency	\$ 587,153
Transfers	<u>2,706,073</u>
Subtotal	\$ 3,293,226
 Unappropriated Balance	\$ 957,268
 Total Zoo Operating Fund Requirements	\$12,598,051
 <u>ZOO CAPITAL FUND</u>	
Personal Services	\$ 62,406
Materials & Services	1,485
Capital Projects	4,231,550
Contingency	150,000
Unappropriated Balance	<u>2,367,598</u>
 Total Zoo Capital Fund Requirements	\$ 6,813,039

Adopted
Appropriations
FY 1989-90

SOLID WASTE OPERATING FUND

Administration	
Personal Services	\$ 283,008
Materials & Services	93,145
Capital Outlay	<u>0</u>
Subtotal	\$ 376,153
 Budget and Finance	
Personal Services	\$ 260,324
Materials & Services	98,435
Capital Outlay	<u>45,338</u>
Subtotal	\$ 404,097
 Operations	
Personal Services	\$ 404,001
Materials & Services	13,088,207
Capital Outlay	<u>2,868,400</u>
Subtotal	\$16,360,608
 System Planning & Engineering	
Personal Services	\$ 345,275
Materials & Services	646,380
Capital Outlay	<u>0</u>
Subtotal	\$ 991,655
 Waste Reduction	
Personal Services	\$ 488,514
Materials & Services	1,427,176
Capital Outlay	<u>0</u>
Subtotal	\$ 1,915,690
 General Expense	
Contingency	\$ 1,216,145
Transfers	<u>18,902,657</u>
Subtotal	\$20,118,802
 Unappropriated Balance	\$ 1,266,731
 Total Solid Waste Operating Fund Requirements	\$41,433,737

SOLID WASTE CAPITAL FUND

Materials & Services	\$ 621,000
Capital Projects	2,647,000
Transfers	3,688,232
Unappropriated Balance	<u>13,697,826</u>
 Total Solid Waste Capital Fund Requirements	\$20,654,058

Adopted
Appropriations
FY 1989-90

SOLID WASTE DEBT SERVICE FUND

Debt Service	\$ 2,505,193
Unappropriated Balance	<u>1,976,331</u>

Total Solid Waste Debt Service Fund Requirements \$ 4,481,524

ST. JOHNS RESERVE FUND

Unappropriated Balance	<u>\$26,382,683</u>
------------------------	---------------------

Total St. Johns Reserve Fund Requirements \$26,382,683

INSURANCE FUND

Materials & Services	\$ 276,500
Contingency	408,847
Unappropriated Balance	<u>2,511,404</u>

Total Insurance Fund Requirements \$ 3,196,751

REHABILITATION & ENHANCEMENT FUND

Materials & Services	\$ 441,605
Transfers	4,820
Contingency	20,000
Unappropriated Balance	<u>1,403,435</u>

Total Rehabilitation & Enhancement Fund \$ 1,869,860

CONVENTION CENTER PROJECT MANAGEMENT FUND

Personal Services	\$ 59,850
Capital Outlay	650
Materials & Services	323,736
Transfers	138,440
Contingency	<u>43,481</u>

Total Convention Center Project
Management Fund Requirements \$ 566,157

Adopted
Appropriations
FY 1989-90

CONVENTION CENTER PROJECT DEBT SERVICE FUND

Debt Service	\$ 5,719,253
Total Convention Center Project Debt Service Fund Requirements	\$ 5,719,253

CONVENTION CENTER PROJECT CAPITAL FUND

Personal Services	\$ 211,389
Materials & Services	69,800
Capital Outlay	45,082,921
Transfers	463,475
Contingency	<u>2,115,544</u>
Total Convention Center Project Capital Fund Requirements	\$ 47,943,129

METROPOLITAN EXPOSITION-RECREATION COMMISSION FUND

Personal Services	\$ 489,978
Materials & Services	1,641,463
Capital Outlay	150,663
Transfers	118,397
Contingency	431,244
Unappropriated Balance	<u>1,500,000</u>
Total Metropolitan Exposition-Recreation Commission Fund Requirements	\$ 4,331,745
GRAND TOTAL	\$184,957,949

budget(srs)\buddoc\approp

EXHIBIT D

FORM
LB-50

NOTICE OF PROPERTY TAX LEVY

1989-90

To assessor of _____ County

- File no later than JULY 15.
- Be sure to read instructions in the 1989-90 Property Tax Levy Certification and Publication Forms and Instructions booklet.

On _____, 19____, the _____ Council
Governing Body
 of Metropolitan Service District Clackamas County, Oregon, levied a tax as follows:
Municipal Corporation Multnomah
Washington
 _____ Executive Officer 221-1646
Contact Person Rena Cusma Title Daytime Telephone Date

Is an additional 1989-90 levy request being submitted for voter approval? NO YES (Type of Levy) _____
 If "YES," you must certify and submit your bonded debt levy and budget to the assessor by July 15.

PART I: TOTAL PROPERTY TAX LEVY

1. Levy within the tax base (cannot exceed box 13, Part II)	1.	- 0 -
2. Safety net portion (line 3c, Part I, Form LB-51 less box 1, Part I, Form LB-50)	2.	- 0 -
3. Levy amount in excess of (line 3, Part II, Form LB-51) (Itemize in Part V on back of form)	3.	- 0 -
4. One-year levies (Itemize these levies in Part V on back of form)	4.	- 0 -
5. Continuing levies (millage and fixed) (Itemize in Part V on back of form)	5.	- 0 -
6. Serial levies (Itemize in Part V on back of form)	6.	\$ 5,500,000
7. Amount levied for payment of bonded indebtedness	7.	6,008,521
8. TOTAL AMOUNT to be raised by taxation. (Add boxes 1 through 7)	8.	\$11,508,521

PART II: TAX BASE WORKSHEET (If an annexation occurred in the preceding fiscal year, complete Part IV first)

9. VOTED TAX BASE, if any. _____
Date of Voter Approval Amount Voter Approved

10. CONSTITUTIONAL LIMITATION - Tax base portion of preceding three levies actually levied.

10a. <table border="1" style="width: 100%;"><tr><th>Actual Amount Levied</th><th>Fiscal Year</th></tr><tr><td> </td><td> </td></tr></table>	Actual Amount Levied	Fiscal Year			10b. <table border="1" style="width: 100%;"><tr><th>Actual Amount Levied</th><th>Fiscal Year</th></tr><tr><td> </td><td> </td></tr></table>	Actual Amount Levied	Fiscal Year			10c. <table border="1" style="width: 100%;"><tr><th>Actual Amount Levied</th><th>Fiscal Year</th></tr><tr><td> </td><td> </td></tr></table>	Actual Amount Levied	Fiscal Year		
Actual Amount Levied	Fiscal Year													
Actual Amount Levied	Fiscal Year													
Actual Amount Levied	Fiscal Year													

11. Largest of 10a, 10b or 10c 11a. multiplied by 1.06 = 11b.

ADJUSTMENT FOR ANNEXATION INCREASES DURING PRECEDING FISCAL YEAR

12. Annexation increase (from Part IV, box 7, on back of form) 12.

13. Adjusted tax base (largest of box 11b plus box 12; or box 9 plus box 12 if box 9 has never been levied in full) 13.

PART III: LIMITATIONS PER OREGON REVISED STATUTES (See the ORS Chapter under which the municipal corporation was formed. Does NOT apply to Bond Limitations. Does NOT apply to ALL municipal corporations.)

14. True cash value of municipal corporation from most recent tax roll	14.	
15. Statutory limitation of municipal corporation per ORS Formation Chapter	15.	of TCV
16. Total dollar amount authorized by statutory limit (box 14 multiplied by box 15)	16.	
17. Total amount of box 8 levied within statutory limitation	17.	

PART IV: ANNEXATION WORKSHEET

1.	Area	Effective Date of Annexation	1988 Assessed Value of Area Annexed
	A		
	B		
	C		
	D		

If more than four annexations, attach sheet showing the above information for each annexation.

2. Total for 1988 assessed value of annexed areas (sum of A thru D) . . . 2.
3. Tax base levied by annexing entity for fiscal year 1988-89 3.
4. Assessed value of annexing entity on January 1, 1988 4.
5. Tax base rate of annexing entity. (Divide box 3 by box 4) 5.
6. Annexation increase. (Multiply box 2 by box 5) 6.
7. **TOTAL ANNEXATION INCREASE.** (Multiply box 6 by 1.06.)
Enter this amount in box 12, Part II, on front of form 7.

PART V: SCHEDULE OF ALL SPECIAL LEVIES - Enter all special levies on this schedule. If there are more than four levies, attach a sheet showing the information for each.

Type of levy (safety net, one-year, serial or continuing)	Purpose (operating, capital con- struction, or mixed)	Date voters approved ballot measure authorizing tax levy	First year levied	Final year to be levied	Total tax levy authorized per year by voters	Amount of tax levied this year as a result of voter approval
3 year serial	mixed	3/31/87	1987- 88	1989- 90	\$5,500,000	\$5,500,000
TOTAL OF ALL SPECIAL LEVIES - The total of this schedule should equal the total of boxes 4, 5 and 6, Part 1						\$5,500,000
Enter value used to compute millage levies or tax rate serial levies						

File with your assessor no later than July 15.

INTERNAL AFFAIRS COMMITTEE
MINORITY REPORT

Meeting Date: March 23, 1989
Agenda Item: 8

CONSIDERATION OF ORDINANCE NO. 88-271D AMENDING METRO CODE
CHAPTER 2.04 RELATING TO CONTRACTING PROCEDURES

March 20, 1989

Presented by: Councilor Collier

RECOMMENDATION: I recommend that the Council adopt this minority report which substitutes Ordinance No. 88-271E (a copy of which is attached) for Ordinance No. 88-271D recommended by the Internal Affairs Committee and that the Council consider the question of whether or not to pursue contracting legislation after the minority report or committee recommendation are decided.

DISCUSSION: Ordinance No. 88-271E proposes the following changes to Ordinance No. 88-271D:

1. In section 2.04.032 Contract Information Reports (pages 16-18) language is added in subsection (d) (highlighted in yellow) which requires the Executive Officer to submit a list of potential contracts during the annual budget process for the ensuing fiscal year. The remainder of this subsection and subsection (e) are unchanged from the Internal Affairs Committee's proposed ordinance. They continue to authorize the Council to designate certain contracts for which the RFB or RFP would be filed with the Council for review. The contracts selected would come from the list proposed initially by the Executive Officer or expanded during the budget deliberations by the Council.

A new subsection (f) is added which requires that certain contracts (public contracts \$15,000 or more and personal service contracts \$10,000 or more) proposed during the year that were not on the original list proposed by the Executive Officer will be subject to the RFB/RFP review process outlined in the section. The dollar levels are suggested because they conform to existing Code thresholds for formal bidding or request for proposal requirements.

The purpose of this change is to assure that unanticipated contracts proposed during the fiscal year are subject to the same Council review and/or approval procedures as other contracts considered during the fiscal year.

2. In section 2.04.045 Public Contract Extensions and Amendments (pages 33-34) language is added to require that a public contract extension greater than \$10,000 not be approved unless the Council exempts the contract extension from public bidding procedure. An exception to this requirement is provided for extensions to public improvement contracts (construction contracts) which: 1) do not on a cumulative basis exceed 5 percent of the initial face value of the contract and 2) do not materially change the original scope of work of the contract.

Internal Affairs Committee under prior Code provisions. The language is consistent with General Counsel's legal opinion (December 18, 1987) and his subsequent advice given on October 20, 1988. The exception language for public improvement contracts is consistent with the provisions of Ordinance No. 88-271 (Finance Committee) which was developed in consultation with the District's Construction Project Manager. The language in this section is a substitute for the proposed public contract extension language on page 35 of Ordinance 88-271D (see highlighted note on page 33 of the "E" draft).

The reason for this change is to clarify and simplify the provisions for contract extensions. The proposed extension language in Ordinance No. 88-271D (page 35) is ambiguous and will lead to inconsistent treatment of contract extensions. The operative language for extensions in the "D" draft is as follows:

[the extension] ". . . shall be subject to Council approval if the . . . extension commits the District to any increase in the District's obligation in a future fiscal year . . ."

Such language will lead to the following results:

- . A contract not approved by the Council (either by exemption or because it is to be completed within a fiscal year) may be extended without Council approval.
- . A contract approved by the Council (multi-year) may be extended in the first year without Council approval as long as the money for the extension is spent during that year. This could require additional accounting requirements to track the expenditure of the extension money to assure that it is spent in the fiscal year.
- . A contract approved by the Council (multi-year) may be extended in the second or any succeeding year as long as the money is spent in the succeeding year.
- . A contract which because of the timing of the award and the timing of the fiscal year would require Council approval of the extension if the money were to be spent in the succeeding fiscal year.

I submit that using a point in time as the reason for requiring Council approval of a contract extension is just as arbitrary, if not more confusing, than using a level of expenditure as a reason for requiring Council approval of a contract extension.

The language proposed in Ordinance No. 88-271E clearly requires that regardless when the contract is awarded or when the new fiscal year occurs the Council must review and approve the need for additional work and money through an exemption to the competitive bidding procedures.

3. In section 2.04.053 Personal Service Contracts of \$10,000 or More (pages 42-44) changes are proposed to correct a drafting error in Ordinance No. 88-271D. The Internal Affairs Committee draft incorrectly shows what is actual Code language particularly in section (a)(1) on page 42. The language in Ordinance No. 88-271E contains the correct Code language for the section. The proposed added language (section (a)(2) on page 43) setting certain information requirements for a RFP is the same as in Ordinance No. 88-271D.

In Ordinance No. 88-271E, the words "notice of" are added in subsection (1) on page 42 to reflect the actual practice of the District to publish notice of the RFP in the paper rather than the RFP document. Other than this change, there are no policy differences between the two drafts.

4. In section 2.04.054 Personal Service Contract Extensions and Amendments (pages 45-46) language is added to require that a personal service contract extension greater than \$10,000 not be approved unless the Council exempts the contract extension from the competitive procurement procedures of the Code.

The reasons for and the effect of this language is the same as discussed in point number 2 above relating to public contract extensions.

5. In section 2.04.075 Purchase of Recycled Paper Products and Equipment that Uses Paper (pages 48-50) the entire section is added to reflect a Code change approved by Ordinance No. 89-280 on February 9, 1989 which has not yet been codified.

Ordinance No. 88-271E is an improvement on the Internal Affairs Committee "D" draft because it corrects several technical errors, "plugs a hole" regarding potential unanticipated contracts which will arise during a fiscal year and strengthens and clarifies the Council role in contract extensions at the same time taking care of the unique needs for construction contract change orders.

I want to discuss the issue of the proposed legislation. First, let me remind you why it is important for the Council to play an active role in the contracting process of this organization. In this year's budget approximately 68 percent of the proposed expenditures of the

District will be made through various contracts. All expenditures in the Materials & Services and Capital Outlay categories are made through the use of a contract. In the aggregate this amounts to \$68.2 million out of a total \$107 million available for expenditure (excludes unappropriated balances totaling \$55 million). The Council has a responsibility to 1) assure that these expenditures are made for the purposes and programs approved in the annual budget and at other times; and 2) assure that they are made in a fair and impartial manner. The primary vehicle for the Council to carry out this responsibility is the Contract Code.

It is clear to me that as this issue has evolved from Dan Cooper's original opinion; to Ordinance No. 88-249; to the Finance Committee; to the Special Task Force; and finally, to the Internal Affairs Committee, the Council has substantial authority to review and approve contracts. We started from the point that the Council has no authority to approve contracts (except certain long-term solid waste contracts) to the point that the Council can approve multi-year contracts and contract extensions through the granting of exemptions to the bidding process. I am convinced, however, that the process we have created as a result of all this effort is more complex, inefficient and less direct than the process previously used for the past seven years by this District or as proposed by the Finance Committee in Ordinance No. 88-271.

For those of you who don't know (because that ordinance was never before the Council for discussion), Ordinance No. 88-271 proposed revising our old procedures not for more control, but rather to expedite the process of contract review and approval. In light of General Counsel's opinion, for that ordinance to be implemented legislation was required giving the Council authority to approve contracts. The Finance Committee in its deliberations rejected the notion that the Council should use its budgetary powers and appropriate money at the level of individual contracts because such action would increase the time required to process contract matters before the Council (must use an ordinance which requires two readings rather than use of a resolution) and it would increase the number of contract items before the Council (based on 1987-88 data, an estimated increase from 55 actual actions to an estimated 192).

There is an ideological dispute in this organization regarding contracting authority. The separation of powers advocates resist the idea of the more direct and simplified contract procedures as embodied in Ordinance No. 88-271. The resistance stems largely from the fact that implementation requires legislation giving the Council direct contract approval authority. Such action is an anathema to the "separatists" because it violates principles of government promulgated over 200 years ago by our forefathers. It's sad, but true, that simplicity and efficiency have been sacrificed in an ideological

Internal Affairs Committee Minority Report
March 17, 1989
Page 5

dispute. The irony of all this is that Ordinance No. 88-271E gives the Council substantial contract "approval" authority (albeit in a less direct way) that we are not supposed to have according to separation of power principles.

I am willing to live with Ordinance No. 88-271E. But, I also believe that the Council should seek legislation to give it direct authority to approve contracts. The reason is simple. If this new process fails or bogs down, we need the ability to fix it in a direct and simple manner.

TC:gpwb
88271E.MR
3/20/89

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING)
METRO CODE CHAPTER 2.04 RELATING)
TO CONTRACTING PROCEDURES))
))
))
))
))

ORDINANCE NO. 88-271E
Introduced by the Council
Finance Committee and
Revised by the Internal
Affairs Committee

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

SECTION 1. Metro Code Chapter 2.04 is amended to read as follows:

2.04.010 Definitions:

~~(d)~~ (a) COMPETITIVE BIDS OR BIDS -- A competitive offer in which price and conformance to specification will be the award criteria.

~~(a)~~ (b) CONTRACT REVIEW BOARD or BOARD -- The Council is the Contract Review Board for the Metropolitan Service District with the powers described in ORS Chapter 279 and Section 2.04.020 of this Chapter.

(c) EMERGENCY -- An emergency for the purpose of this Chapter means the occurrence of a specific event or events that could not have been reasonably foreseen and prevented and which require the taking of prompt action to remedy the condition and

thereby avoid further physical damage or harm to individuals or the occurrence of avoidable costs.

[~~(i)~~] (d) EMERGENCY CONTRACTS -- A contract may be exempt from the competitive bidding process if an emergency requires prompt execution of a contract, but only if the contract is limited to remedying the emergency situation.

(e) EXEMPTIONS FROM COMPETITIVE BIDDING -- Exemptions include any exemption or exception from the regular competitive bidding process for Public Contracts as defined in ORS 279.011 to 279.061, this chapter, and any exemption made by the Board pursuant to Section 2.04.041 of the Code.

(f) NOTICE OF AWARD -- Means written communication to a responsive, responsible bidder or proposer stating that their bid or proposal has been conditionally determined to be the lowest, responsive, responsible bid or most responsive proposal and that the District intends to enter into a contract upon completion by the bidder/proposer of all required conditions.

[~~(e)~~] (g) PERSONAL SERVICES CONTRACT.

(1) The following are Personal Services Contracts:

- (A) Contracts for services performed as an independent contractor in a professional capacity, including but not limited to the services of an accountant; attorney; architectural or land use planning consultant; physician or dentist; registered professional engineer; appraiser or surveyor; passenger aircraft pilot; aerial photographer; timber cruiser; data processing consultant or broadcaster.

- (B) Contracts for services as an artist in the performing or fine arts, including but not limited to persons identified as photographer, filmmaker, painter, weaver, or sculptor.

- (C) Contracts for services of a specialized, creative and research-oriented, noncommercial nature.

- (D) Contracts for services as consultant.

- (E) Contracts for educational and human custodial care services.

(2) The following are not Personal Services Contracts:

- (A) Contracts, even though in a professional capacity, if predominantly for a product, e.g., a contract with a landscape architect to design a garden is for personal services, but a contract to design a garden and supply all the shrubs and trees is predominantly for a tangible product.
- (B) A service contract to supply labor which is of a type that can generally be done by any competent worker, e.g., janitorial, security guard, crop spraying, laundry and landscape maintenance service contracts.
- (C) Contracts for trade-related activities considered to be Labor and Materials Contracts.
- (D) Contracts for services of a trade-related activity, even though a specific license is required to engage in the activity. Examples are repair and/or maintenance of all types of equipment or structures.

~~(g)~~ (h) PUBLIC AGENCY -- Any agency of the federal government, state of Oregon, or any political subdivision thereof, authorized by law to enter into Public Contracts and any public body created by intergovernmental agreement.

~~(b)~~ (i) PUBLIC CONTRACT -- Any purchase, lease or sale by Metro of personal property, public improvement or services, including those transacted by Purchase Order, other than agreements which are for personal services. Public Contracts may be obtained by Purchase Order as determined by the Executive Officer.

~~(h)~~ (j) PUBLIC IMPROVEMENT -- Projects for construction, reconstruction or major renovation on real property by or for a public agency. "Public improvement" does not include emergency work, minor alteration, ordinary repair or maintenance in order to preserve a public improvement.

~~(f)~~ (k) PURCHASE ORDER -- A Public Contract for purchase of goods in any amount, or for goods and services \$500 or less, or for services \$500 or less.

~~(k)~~ (l) REQUESTS FOR PROPOSALS OR RFPs -- A Request for Proposal is the process described in Section 2.04.050, "Personal Services Contracts." This process may be used for Public Contracts only when the Board has granted an exemption for that

type of contract or for a particular contract as set out in Section 2.04.041, "Requirement of Competitive Bidding, Exemptions." The Board may adopt a particular RFP process for a particular contract by setting forth the amendments in the exemption approval.

[~~(j)~~] (m) SOLE SOURCE CONTRACTS -- Contracts for which it can be documented there is only one qualified provider of the required service or material.

2.04.020 Public Contract Review Board:

(a) Creation of the Public Contract Review Board: Pursuant to ORS 279.055 the Council is designated and created as the Metropolitan Service District Contract Review Board.

(b) Powers of Board: The Contract Review Board shall have all the powers in the award of District contracts allowed under ORS 279.011 to 279.061.

(c) Contract Review Board Meetings:

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

(2) The rules of procedure adopted by the Council for its proceedings shall also govern proceedings of the Contract Review Board unless they conflict with rules adopted by the Board.

(d) Rules: The Contract Review Board may adopt rules relating to the award of District contracts. Such rules of the Contract Review Board shall be adopted by ordinance.

(e) Regulations: The Executive Officer may establish such other contract regulations, not inconsistent with this chapter as may be necessary and expedient.

2.04.030 Rules and Procedures Governing All Personal Services and Public Contracts:

(a) Applicability: All Personal Services Contracts and Public Contracts are subject to the applicable selection, review and approval procedures of this Chapter.

(b) Initiating a Contract: When a department initiates a contract not in the form of a Purchase Order, it must first notify the Department of Finance & Administration of its intention and request the issuance of a contract number which shall appear on all copies of the contract. The department must

complete a Contract Summary form indicating the specifics of the contract. This form must be forwarded to the Department of Finance & Administration either with a fully executed contract (one copy) if the amount is estimated to be \$2,500 or under, or with an unexecuted contract (three copies) for review, approval and signature if the amount is over \$2,500.

(c) Documentation Required for Contract Files: The Department of Finance & Administration will maintain central files for all contracts. An original copy should be given to each contractor. All correspondence relating to a contract which alters conditions or amounts must be included in the central files as should all papers which document the process of obtaining competitive bids, quotes, or proposals. In any case where a low bid, quote, or proposal is not accepted, a detailed justification must be included with the contract file. Other documentation, if applicable, that should be included in the file includes:

- Mailing Lists
- Affidavits of Publication
- Insurance Endorsements and Certificates
- Amendments
- Extensions
- Related Correspondence
- Quotes, Proposals, and Bids

- Bonds
- DBE/WBE Information
- Contract Closure Form
- Personal Services Evaluation Form

(d) Contract Review: Prior to approval by the appropriate person or body, contracts shall be reviewed as follows:

(1) Any contract which deviates from a standard contract form, exceeds \$10,000 for a Personal Services Contract or \$15,000 for a Public Contract, or is with another public agency must be reviewed by the General Counsel.

(2) Contracts involving federal or state grant funds must be reviewed by the Deputy Executive Officer.

(e) Disadvantaged Business Program: All contracting and purchasing is subject to the Metro Disadvantaged Business Enterprise Program. Metro will take affirmative action to do business with Disadvantaged Business Enterprises. The Director of Finance and Administration will maintain a directory of disadvantaged businesses which shall be consulted and used in all contracting and purchasing of goods and services. If a disadvantaged business is included in the directory that appears capable of providing needed goods or services, that business

should be contacted and given an opportunity to compete for Metro business.

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

(g) Code of Conduct:

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

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

(h) Federal/State Agency Approval: When required by federal or state law or regulations, review and approval of Metro contracts shall include prior concurrence or approval by appropriate federal or state agencies.

(i) No contract or contract amendment may be approved or executed for any amount in excess of the amount authorized in the budget.

~~[(j)-Prior-to-entering-into-(1)-any-public-contract-or personal-services-agreement-pursuant-to-the-authority-granted-in Section-2.04.060-authorizing-Sole-Source-Contract,-or-(2)-any public-contract-or-personnel-services-agreement-in-an-amount exceeding-\$15,000-for-which-only-one-bid-or-response-to-a-Request for-Proposal-has-been-received,-the-Executive-Officer-shall-file a-written-report-with-the-Council-detailing-the-reasons-why-a sole-source-contract-was-entered-into-or-giving-an-explanation-of why-only-one-bid-or-response-was-received-]~~

2.04.031 Notice of Award and Appeals:

(a) At least five (5) days prior to the execution of any Public Contract over \$15,000 or a Personal Services Contract over \$10,000 the District shall provide a Notice of Award to the contractor selected and to all contractors who submitted unsuccessful bids or proposals. This requirement may be waived by the Executive Officer for any emergency contract entered into pursuant to this Code.

(b) Bid/Request for Proposals Appeal Procedures: The following procedure applies to aggrieved bidders and proposers who wish to appeal an award of a Public Contract above \$15,000 and a Personal Services Contract above \$10,000. The appeal process for bids is the same as for Requests for Proposals. In the case of Requests for Proposals, disagreement with the judgment exercised in scoring by evaluators is not a basis for appeal.

(1) All appeals shall be made in writing and shall be delivered to the Contracts Administrator at Metro's main office within five (5) working days of the postmarked date on the Notice of Award. The written appeal must describe the specific citation of law, rule, regulation, or procedure upon which the appeal is based.

(2) The Contracts Administrator shall forthwith notify the appropriate department head and the Executive Officer of the appeal. Within ten (10) working days of the receipt of notice of appeal, the Executive Officer shall send a notice of rejection of the appeal or a notice of acceptance of the appeal as applicable to the appellant. The appellant may appeal the Executive Officer's decision to reject the appeal in writing to the Contract Review Board within five (5) working days from the postmarked date on the Notice of Rejection.

(3) The Contract Review Board will review the grounds for appeal, all pertinent information, and the Executive Officer's recommendation; and make a decision. The decision of the Contract Review Board is final.

(4) No contract which is the subject of a pending appeal may be executed unless the Contract Review Board shall have given its approval at the request of the Executive Officer. The Executive Officer may request the Contract Review Board to determine a matter without waiting for the expiration of the time periods provided for herein.

2.04.032 Contract Information Reports:

(a) The Executive Officer shall provide a monthly report to the Council showing the status of all contracts in effect at Metro as of the date of the report. The report shall be divided into four sections: (a) Contracts Awarded; (b) Contracts Amended; (c) Open Contracts; and (d) Contracts Closed.

(1) Contracts Awarded. This section shall report all new contracts awarded since the date of the previous report to the Council of all new contracts. Information contained in this report will be the cost center of the department responsible for the contract, contract number, starting and ending dates of the contract, type of contract, amount of the contract, vendor name, and a brief description of the purpose of the contract.

(2) Contracts Amended. This section shall report all contracts amended by Change Order since the date of the previous report to the Council of contract amendments. Information contained in this report will be the contract number, vendor name, amendment number, type of amendment, the original amount of the contract, the amount of the contract amendment, the new total contract amount, the

percent of the amount of increase in excess of the original amount of the contract, and a brief description of the purpose of the contract.

(3) Contracts Open. This section shall report all contracts in effect on the last day of the month for which the report is prepared. Information contained in this report will be the cost center of the department responsible for the contract, contract number, starting and ending dates of the contract, type of contract, amount of the contract, the amount expended to date, vendor name, and a brief description of the purpose of the contract.

(4) Contracts Closed. This section shall report all contracts closed by the last day of the month for which the report is prepared. Information contained in this report will be contract number, vendor name, type of contract, date contract closed, amount of the contract, final amount expended, and a brief description of the purpose of the contract.

(b) Contract Type. Each contract will be identified by a type code to describe the class of contract entered into by Metro. There shall be six types of contracts at Metro:

- (1) Personal Services;
- (2) Pass-Through Agreements;
- (3) Labor and Materials;
- (4) Intergovernmental Agreements;
- (5) Procurement; and
- (6) Construction.

(c) Prior to entering into (1) any public contract or personal services agreement pursuant to the authority granted in Section 2.04.060 authorizing Sole Source Contract, or (2) any public contract or personnel services agreement in an amount exceeding \$15,000 for which only one bid or response to a Request for Proposal has been received, the Executive Officer shall file a written report with the Council detailing the reasons why a sole source contract was entered into or giving an explanation of why only one bid or response was received.

(d) The Executive Officer shall provide to the Council during the annual budget process a list of proposed contracts for the ensuing fiscal year. For contracts designated by the Council as being subject to this requirement by duly adopted ordinance, which may be the annual budget ordinance, copies of bid or

proposal documents shall be filed with the Clerk of the Council and referred to the appropriate Council committee for review and comment. Documents must be filed with the Clerk of the Council at least thirty-five (35) days prior to the date of release for response by potential bidders. If the Council or a committee has not within fourteen (14) days of the date of filing scheduled the matter for a hearing the documents may be released to prospective bidders at any time after the 14th day. In any event, bid documents may be released to prospective bidders on the 35th day after filing with the Council.

(e) Except as provided in subsection (f), all other contracts not so designated by the Council shall be subject to the requirement that copies of bid documents shall be filed with the Clerk of the Council at the time they are released for response by potential bidders. The Executive Officer shall furnish the Council with information at the time bid documents are released stating the purpose and nature of the proposed contract, the appropriation to be charged with the contract, and a statement of the contract's impact on the District in future fiscal years.

(f) Any public contract \$15,000 or more or Personal Service Contract \$10,000 or more not on the list of proposed contracts submitted by the Executive Officer as required by subsection (d) shall be subject to the filing and Council or committee review

requirements in subsection (d) or if appropriate, the provisions of section 2.04.033.

2.04.033 Council Approval of Contracts:

(a) Notwithstanding any other provisions of Chapter 2.04 the following contracts shall be approved by the Council prior to execution:

(1) any contract which commits the District to the expenditure of revenues or appropriations not otherwise provided for in the current fiscal year budget at the time the contract is executed except those contracts or classes of contracts that the Council shall have by ordinance exempted from this requirement;

(2) any intergovernmental agreement by which the District acquires or transfers any interest in real property, assumes any function or duty of another governmental body, or transfers any function or duty of Metro to another governmental unit; or

(3) any contract for the sale, lease or transfer of real property owned by the District.

(b) All contracts which require Council approval pursuant to subsection (a)(1) above and which are subject to competitive bidding or Request for Proposals procedures shall require Council approval of the Request for Bids or Request for Proposals prior to release of bidding or proposal documents to vendors.

2.04.035 Metropolitan Exposition-Recreation Commission:

The Metropolitan Exposition-Recreation Commission shall have authority to enter into contracts pursuant to Metro Code Section 6.01.04(j); provided, however, that prior to the adoption of the contracting rules by the Commission such purchases shall be made pursuant to the procedures and policies set forth in this chapter; and provided further that the Metropolitan Service District Contract Review Board created pursuant to Section 2.04.020 of this code shall be the local Contract Review Board for the Commission for the purpose of granting exemptions from competitive bidding or other requirements of public contract law. The Metropolitan Exposition-Recreation Commission may without the prior approval of the Executive Officer enter into contracts in any amount. No contract or contract amendment may be approved or executed for any amount in excess of the amount authorized in the budget. The Metropolitan Exposition-Recreation Commission shall file copies of all contracts and amendments thereto with the Department of Finance & Administration.

2.04.040 Public Contracts, General Provisions:

(a) Competitive Bidding: Unless exempt from competitive bidding, all public contracts shall be awarded to the lowest responsive, responsible bidder.

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

(c) Rejection of Bids: The Executive Officer or the Deputy Executive Officer may reject any bid not in compliance with all prescribed public bidding procedures and requirements and may, for good cause, reject any or all bids upon a finding that it is in the public interest to do so, for example, when all bids exceed the budget or estimate for that project.

(d) Bonds: Unless the Board shall otherwise provide, bonds and bid security requirements are as follows:

- (1) Bid security not exceeding 10 percent of the amount bid for the contract is required unless the contract is for \$15,000 or less.

(2) Labor and Materials bond in an amount equal to 100 percent of the contract price is required for contracts over \$15,000.

(3) Performance bond in an amount equal to 100 percent of the contract price is required for contracts over \$10,000. If the contract is under \$50,000; the performance bond and labor and material bond may be one bond; if the contract is \$50,000 or more, there shall be two bonds.

(4) Bid security, labor and material bond and performance bond may be required even though the contract is of a class not identified above, if the Executive Officer determines it is in the public interest.

(5) Bid security and bonds may be provided in the form of a surety bond, cash, cashier's check or certified check.

2.04.041 Requirement of Competitive Bidding, Exemptions:

(a) State Law: The following contracts are exempt from the competitive bidding selection process pursuant to State Statute:

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

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

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

(4) Contracts for supplies estimated to be less than \$500.

(b) Board Rule: The following classes of public contracts are exempt from the competitive bidding process based on the findings by the Contract Review Board that the exemption will not encourage favoritism or substantially diminishing competition for public contracts and that such exemptions will result in substantial cost savings:

(1) Purchase and sale of Zoo animals.

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

(3) All contracts estimated to be less than \$15,000 provided that the selection process described in the appropriate Code sections is followed.

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

(5) Emergency contracts when the Executive Officer makes written findings that an emergency exists and that the emergency consists of circumstances that could not have been reasonably foreseen and requires prompt execution of a contract to remedy that condition. An emergency contract must be awarded within sixty (60) days of the declaration of the emergency unless the Board grants an extension.

(6) Purchase of food items pursuant to Section 2.04.090.

(7) Contracts for warranties in which the supplier of the goods or services covered by the warranty has designated a sole provider for the warranty service.

(8) Contracts for computer hardware and software.

Selection procedures for these contracts, however, must follow the RFP process outlined in Section 2.04.050, "Personal Services Contracts."

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

(10) Contracts for the lease or use of the Oregon Convention Center or other facilities operated by the Metropolitan Exposition-Recreation Commission.

(11) For the purchases by the Metropolitan Exposition-Recreation Commission, all contracts estimated to be less than \$31,000 provided that any rules adopted by the Commission which provide for substitute selection procedures are followed.

(12) For purchases by the Metropolitan Exposition-Recreation Commission, emergency contracts when the General Manager makes written findings that:

- 1) immediate procurement is essential to prevent a delay in work or extra expense to the Commission in circumstances which could not have been foreseen and avoided;
- 2) there is a threat of immediate damage to

Commission property; or 3) there is an immediate danger to citizens or employees. The General Manager shall report to the Commission at its next regularly scheduled meeting of any contracts entered into pursuant to this section.

(13) For purchases by the Metropolitan Exposition-Recreation Commission, contracts for equipment repair or overhaul but only when the service and/or parts required are unknown before the work begins and the cost cannot be determined without extensive preliminary dismantling or testing.

(c) Board Resolution: Specific contracts, not within the classes exempted in subsection (b) above, may be exempted by the Board by resolution subject to the requirements of ORS 279.015(2) and ORS 279.015(5). The Board shall, where appropriate, direct the use of alternate contracting and purchasing practices that take account of market realities and modern innovative contracting and purchasing methods, which are consistent with the public policy of encouraging competition.

(d) Limitation: The exemptions in subsections (a)-(c), above, are exemptions to the competitive bid process only; all other procedures, including review and approval, apply to these contracts.

2.04.042 Public Contracts Under \$2,500:

(a) Selection Process:

(1) Under \$500: Unless completely exempt from competitive bidding under Section 2.04.041, competitive bids are not required for public contracts less than \$500. The District should, where feasible, obtain competitive quotes.

(2) Between \$500 and \$2,500: Unless completely exempt from competitive bidding under Section 2.04.041, when the amount of the contract is \$500 or more, but less than \$2,500, the District must obtain a minimum of three (3) competitive quotes. The District shall keep a written record of the source and amount of the quotes received. If three (3) quotes are not available, a lesser number will suffice provided that a written record is made of the effort to obtain the quotes.

(b) Approval Process: For public contracts of an amount of less than \$2,500, the Director of the initiating department, or a designee of the Director approved by the Executive Officer, may sign contracts if the following conditions are met:

- (1) A standard contract form is used;
- (2) Any deviations to the contract form are approved by the General Counsel;
- (3) The expenditure is authorized in the budget;
- (4) The contract does not further obligate the District for \$2,500 or more;
- (5) The appropriate Scope of Work is attached to the contract;
- (6) The contract is for an entire project or purchase; not a portion of a project or purchase which, when complete, will amount to a cost of \$2,500 or more;
- (7) No contract may be approved or executed for any amount in excess of the amount authorized in the budget.

(c) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

(d) Prior to the award of a contract to any bidder other than the apparent low bidder the Executive officer shall obtain the prior approval of the Contract Review Board.

2.04.043 Public Contracts Between \$2,501 and \$15,000:

(a) Selection Process: Unless completely exempt from competitive bidding under Section 2.04.041, when the amount of the contract is \$2,500 or more, but less than \$15,000, the District must obtain a minimum of three (3) competitive quotes. The District shall keep a written record of the source and amount of the quotes received. If three (3) quotes are not available, a lesser number will suffice provided that a written record is made of the effort to obtain the quotes.

(b) Review Process: After selection and prior to approval, the contract must be reviewed by the Department of Finance and Administration.

(c) Approval Process: (1) For contracts of \$2,500 or more, either the Executive Officer or Deputy Executive Officer must sign; however, the Director or Assistant Director of the Zoo may sign purchase orders of \$10,000 or less. When designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the Director of Finance and Administration may sign contracts. No contract may be approved

or executed for any amount in excess of the amount authorized in the budget.

(d) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

2.04.044 Public Contracts of \$15,000 or More:

(a) Selection Process: Unless exempt from competitive bidding by Code section 2.04.041, the following competitive bidding procedures shall apply to all contracts:

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

(2) The bid document will be reviewed by the Department of Finance and Administration and by the General Counsel before bids are solicited or advertised, and shall include the contract form to be used.

(3) A request for bids will be advertised in the manner required by law and in a local minority newspaper, and in any appropriate trade magazine.

Additional advertisement may be appropriate depending upon the nature of the contract.

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

(5) The opened bids will be reviewed by the requesting department and a recommendation and contract will be submitted to the Department of Finance and Administration.

(6) After selection and prior to approval, the contract must be reviewed by the Department of Finance and Administration.

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

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

(b) Approval Process: All initial contracts with a contract price of \$15,000 or more shall be approved and executed by the Executive Officer or Deputy Executive Officer. When

designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the Director of Finance & Administration may approve and execute contracts of \$15,000 or more. No contract may be approved or executed for any amount in excess of the amount authorized in the budget.

(c) Within thirty (30) days of award of a construction contract, the Department of Finance and Administration shall provide the notice required by ORS 279.363.

(d) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

(e) Prior to the award of a contract to any bidder other than the apparent low bidder the Executive Officer shall obtain the prior approval of the Contract Review Board.

2.04.045 Public Contract Extensions and Amendments (including Change Orders, Extra Work and Contract Renewals):

(a) Selection Process: Any contract amendment for additional work including contract renewals, change orders, extra work, field orders and other changes in the original specifications which increase the original contract price may be

made with the contractor without competitive bidding subject to the extent any of the following conditions are met:

(1) The original contract was let by competitive bidding, unit prices or bid alternates were provided that established the cost for additional work and a binding obligation exists on the parties covering the terms and conditions of the additional work. However, in the event that the increase in price results solely from extension of the termination date of the contract, the extension shall not be greater than three months; or

(2) The amount of the aggregate cost increase resulting from all amendments does not exceed 20 percent of the initial contract if the face amount is less than or equal to \$1,000,000 or 10 percent if the face amount is greater than \$1,000,000; amendments made under subsection (1) are not included in computing the aggregate amount under this section; or

(3) The increase in price is due to unexpected conditions which arise during performance of a construction, maintenance or repair contract and the Executive Officer determines that extension of the scope of work on the current contract is the most

economical method of dealing with the unexpected conditions; or

(4) The total cost of the contract, including amendments, does not exceed \$5,000 but if the amendment is for more than \$500, three (3) competitive quotes shall be obtained as described in Sections 2.04.042(a)(2) and 2.04.043(a).

(5) In addition to the requirements of this subsection, any contract amendment or extension exceeding \$10,000 shall not be approved unless the Contract Review Board shall have specifically exempted the contract amendment or extension from the public bidding procedure except as provided in subsection (6) below.

(6) In addition to the requirements of this subsection, individual change orders for a public improvement contract may be approved by the Executive Officer if they:

(A) do not exceed on a cumulative basis more than five (5) percent of the initial face value of the contract; and

(B) do not materially add to or delete from the original scope of work included in the original contract.

Change orders exceeding \$10,000 which materially add to or delete from the original scope of work shall not be approved unless the Contract Review Board has specifically exempted the change order from the public bidding procedure. Change orders exempted by the Contract Review board shall not be considered part of the five (5) percent limit of this subsection.

(b) Review Process: After selection and prior to approval, the contract must be reviewed by the Department of Finance and Administration.

(c) Approval Process:

(1) In applying the following rules for approval of contract amendments, when an amendment falls under two different rules, the amendment shall be approved under the rule for the higher dollar amount; e.g., an amendment of under \$2,500 (rule 2) which results in a contract price of \$2,500 or more (rule 3) shall be approved under the rule for contract prices of \$2,500 or more.

(2) Under \$2,500: All contract amendments and extensions which are less than \$2,500 if the contract was originally for \$2,500 or more or which result in a total contract price of less than \$2,500 may be approved by the Director of the initiating department or by a designee of the Director approved by the Executive Officer if the following conditions are met:

- (A) A standard contract form is used;
- (B) Any deviations to the contract form are approved by the General Counsel;
- (C) The expenditure is authorized in the budget;
- (D) The contract does not further obligate the District beyond \$2,500;
- (E) The appropriate Scope of Work is attached to the contract;
- (F) No contract amendment or extension may be approved in an amount in excess of the amount authorized in the budget.

(3) \$2,500 or More: All contract amendments and extensions which are for \$2,500 or more or which result in a total contract price of more than \$2,500 if the original contract was for less than \$2,500 may be approved by either the Executive Officer or Deputy Executive Officer. When designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the Director of Finance and Administration may sign contract amendments and extensions. No contract amendment or extension may be approved in an amount in excess of the amount authorized in the budget.

* DELETE PROPOSED SUBSECTION (4) OF ORD. NO. 88-271 D (page 35)

(d) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

2.04.050 Personal Services Contracts, General Provisions:

(a) Distinguishing Between Employees and Independent Contractors: Employees shall not be hired under the guise of a Personal Services Contract. To determine whether a particular worker is to be an employee or an independent contractor, the most important factor to consider is the employer's right to control. If the employer is to retain the right to control the manner and means of accomplishing a desired result, the worker is

generally considered an employee; if, however, the employer has the right to control only the results of the work, the worker is considered an independent contractor. This test of control does not require actual exercise of control, but rather the employer's right to control. The following factors shall be considered in determining a worker's status:

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

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

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

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

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

(b) An emergency contract for personal services may be let without obtaining quotes in writing when the Executive Officer makes written findings that an emergency exists because of circumstances which could not have been reasonably foreseen and requires the prompt execution of a contract to remedy that condition. The Executive Officer shall inform the Council of all such contracts declared to be an emergency at the Council meeting immediately following the adoption of findings declaring an emergency.

2.04.051 Personal Services Contracts Under \$2,500:

(a) Selection Process: For Personal Services contracts of less than \$2,500, the Department Director shall state in writing the need for the contract. This statement shall include a description of the contractor's capabilities in performing the work. Multiple proposals need not be obtained. This statement will be kept in the Department of Finance and Administration contract file.

(b) Approval Process: For Personal Services contracts of less than \$2,500, the Director of the initiating department, or a

designee of the Director approved by the Executive Officer, may sign contracts if the following conditions are met:

- (1) A standard contract form is used;
- (2) Any deviations to the contract form are approved by the General Counsel;
- (3) The expenditure is authorized in the budget;
- (4) The contract does not further obligate Metro beyond \$2,500;
- (5) The appropriate Scope of Work is attached to the contract;
- (6) The Contract is for an entire project or purchase; not a portion of a project or purchase which, when complete, will amount to a cost of \$2,500 or more.
- (7) No contract may be approved or executed for any amount in excess of the amount authorized in the budget.

(c) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

2.04.052 Personal Services Contracts Between \$2,500 and \$10,000:

(a) Selection Process: For Personal Services contracts \$2,500 or more but less than \$10,000, the Department Director shall use the following process:

(1) Proposals shall be solicited from at least three potential contractors who, in the judgment of the Department Director, are capable and qualified to perform the requested work.

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

(3) Evaluation, as determined by the Department Director, may require oral presentations and shall include use of a contractor evaluation form. The objective is the highest quality of work for the most

reasonable price. The quality of the proposal may be more important than cost.

(4) **Personal Services Evaluation Form:** The Personal Services evaluation form shall document the reasons for the selection. Proposals shall be evaluated according to predetermined criteria. The evaluation process may include the evaluators assigning a quantifiable score on how each aspect of a proposal meets the predetermined criteria. The contract may be awarded to the firm receiving the highest average score.

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

(b) **Review Process:** After selection and prior to approval, the contract must be reviewed by the Department of Finance and Administration.

(c) **Approval Process:** For contracts of \$2,500 or more, either the Executive Officer or Deputy Executive Officer must sign. When designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the Director of Finance and Administration may sign contracts. No contract may

be approved or executed for any amount in excess of the amount authorized in the budget.

(d) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

2.04.053 Personal Services Contracts of \$10,000 or More:

* REVISED ENTIRE SECTION TO CONFORM TO EXISTING CODE

(a) Selection Process: For Personal Services contracts of \$10,000 or more an evaluation of proposals from potential contractors shall be performed as follows:

- (1) A request for proposals shall be prepared by the initiating department and shall be reviewed by the General Counsel and the Department of Finance and Administration. Where appropriate, notice of the request shall be published in a newspaper of general circulation or in trade magazines. In addition, Metro shall notify in writing at least three (3) potential contractors, who, in the judgment of the Department Director are capable and qualified to perform the requested work. The initiating department will be responsible for maintaining the file and making the appropriate notification.

(2) All requests for proposals shall at a minimum contain a description of the project and a brief summary of the project history, contain a detailed proposed scope of work or other specifications setting forth expected performance by the contractor, include a description of the criteria that will be utilized to evaluate proposals and the estimated budget for the project.

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

[(3)] (4) Personal Services Evaluation Form: The Personal Services evaluation form shall document the reasons for the selection. Proposals shall be evaluated according to predetermined criteria. The evaluation process may include the evaluators assigning a quantifiable score on how each aspect of a proposal meets the predetermined criteria. The contract may be awarded to the firm receiving the highest average score.

[(4)] (5) After evaluation is complete, the Department Director will recommend final selection through the Department of Finance and Administration.

[(5)] (6) Notifications of selection and rejection shall be made in writing by the initiating department.

[(6)] (7) Personal Services contracts with the Scope of Work must be approved by the department head and then forwarded to the Department of Finance and Administration for internal review and execution. General Counsel review is required.

(b) Approval Process: All initial contracts with a contract price of greater than \$10,000 be approved and executed by the Executive officer or Deputy Executive Officer. When designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the Director of Finance & Administration may approve and execute contracts of \$15,000 or more. No contract may be approved or executed for any amount in excess of the amount authorized in the budget.

(c) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing personal Services and Public Contracts."

2.04.054 Personal Services Contract Extensions and Amendments:

(a) Selection Process:

(1) A Personal Services contract may be renewed without receiving competitive proposals if the contractor is performing a continuing activity for the agency. This applies, but is not limited to contracts for construction observation, public relations consulting, outside legal counsel and annual auditing. Except as provided in subsection (2) below, competitive proposals must be solicited for these services at least once every three (3) years and annually if the contractor proposes a price or rate increase of more than 10 percent over the previous year.

(2) Personal Services contracts may be renewed, extended or renegotiated without soliciting competitive proposals if, at the time of renewal, extension or renegotiation, there are fewer than three (3) potential contractors qualified to provide the quality and type of services required and the initiating department makes detailed findings that the quality and type of services required make it unnecessary or impractical to solicit proposals.

(3) In addition to the requirements of this subsection, any contract amendment or extension exceeding \$10,000 shall not be approved unless the Contract Review Board shall have specifically exempted

the contract amendment or extension from the competitive procurement procedures of section 2.04.053.

(b) Approval Process:

(1) Less than \$2,500: All contract amendments and extensions which are less than \$2,500 if the contract was originally for \$2,500 or more or which result in a total contract price of less than \$2,500 may be approved by the Director of the initiating department or by a designee of the Director approved by the Executive Officer if the following conditions are met:

- (A) A standard contract form is used;
- (B) Any deviations to the contract form are approved by the General Counsel;
- (C) The expenditure is authorized in the budget;
- (D) The contract does not further obligate Metro beyond \$2,500;
- (E) The appropriate Scope of Work is attached to the contract;

(F) No contract amendment or extension may be approved in an amount in excess of the amount authorized in the budget.

(2) \$2,500 and Over:

(A) All contract amendments and extension which are for \$2,500 or more or which result in a total contract price of more than \$2,500 shall be approved by either the Executive Officer or Deputy Executive Officer. When designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the Director of Finance and Administration may sign contract amendments and extensions. No contract amendment or extension may be approved for an amount in excess of the amount provided for in the budget.

(c) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

2.04.060 Sole Source Contracts:

(a) Selection Process: If there is only one qualified provider of the service required, the initiating department need not solicit and document proposals. The initiating department must document that there is only one qualified provider of the service required [~~and-the-Council-shall-be-given-notice-of-the-execution-and-the-justification-for-the-contract~~]. Sole Source Contracts may not exceed \$2,500 unless the Contract Review Board shall have specifically exempted the contract from the public bidding or applicable alternative procurement procedure.

(b) Approval Process: The approval process for Sole Source Contracts is the same as described for regular Personal Services or Public Contracts, depending on the nature of the work.

(c) All contracts are subject to the rules and procedures of Code Section 2.04.050, "Rules and Procedures Governing Personal Services and Public Contracts."

2.04.070 Sale of Metro Goods and Services: Approval of agreements for the sale of Metro Goods and Services shall follow the procedures for purchase of goods and services.

2.04.075 Purchase of Recycled Paper Products and Equipment that

Uses Paper:

★ INSERT ENTIRE SECTION WHICH WAS APPROVED BY ORD. NO. 89-280 BUT NOT YET CODIFIED.

The following criteria and standards shall apply to the purchase of paper products and equipment that uses paper:

(a) In all contracts and subcontracts the District shall prefer the purchase of recycled paper products with a 50 percent (50%) recycled content or the highest percentage of recovered material practicable, when practicable includes 1) performance in accordance with applicable specifications; 2) availability at a reasonable price; 3) availability within a reasonable period of time; and 4) maintenance of a satisfactory level of competition.

(b) The District shall allow a five percent (5%) price preference for the purchase of recycled paper products and attempt to purchase jointly with other agencies to reduce the cost of recycled paper products purchases.

(c) Subject to subsection 8 below, paper product procurements for Solid Waste will specify recycled paper only.

(d) The guidelines in (1), (2) and (3) above will apply in all cases except where specific printing quality requirements can not be met by recycled paper products. Joint purchases may be made with other agencies to reduce the cost of recycled paper product purchases. All recycled paper purchases shall require the manufacturer's certification and verification of recovered

material content. The initiating Department shall assure compliance with the provision of ORS 279.739.

(e) All recycled paper products purchases shall require the manufacturer's certification and verification of recovered material content.

(f) All bids for new equipment and services shall include language that will ensure the use of recycled paper and paper products.

(g) Metro shall phase in equipment and paper to facilitate the use of recycled paper products wherever practicable.

(h) In instances where recycled paper and paper products may void existing warranties, service agreements, or contracts, recycled paper and paper products shall not be specified.

(i) All contract printing shall allow a five percent (5%) price preference when using recycled paper.

(j) The use of non-recyclable goldenrod and other very bright, hard-to-bleach colored papers shall be prohibited.

2.04.080 Sale of Surplus Property: Contracts for sale of surplus property may be executed without competitive bidding only

when the Executive Officer, or Director or Assistant Director of the Zoo determines in writing that the number, value and nature of the items to be sold make it probable that the cost of conducting a sale by competitive bid will be such that a liquidation sale will result in substantially greater net revenue to the District.

2.04.090 Food Items and Food Service Contracts

(a) Selection Process:

(1) All food items and food service contracts will be awarded as public contracts, except as provided in sections 2-4 below.

(2) Competitive bids or quotes are not required when a specific food item is requested by a purchaser of the District's catering service. If the specific item is supplied by more than one source, competitive quotes shall be obtained from at least three known suppliers. The District shall keep a written record of the source and amount of the quotes received.

(3) Competitive bids or quotes are not required for food items which the Director or Assistant Director of the Zoo authorize for a market test. A market test is

used to determine whether a food item should be added to the District's menu or to develop the specifications for a particular food item. The test should clearly define the period of time for the market study, not to exceed six months, and the statistical method used to determine the value of the food item as part of the regular menu. A written report shall be made. Based on this report if the Director or Assistant Director determines the item shall be added to the regular menu, he/she shall establish specifications for the item. The item shall be selected under either public contract procedures or subsection (4), below. During the time the selection process is carried out, the test market product may continue to be sold by the District.

(4) Competitive bids or quotes are not required when the Director or Assistant Director of the Zoo finds that marketing factors are likely to significantly impact sales, subject to the following conditions:

(A) Prior to the selection of the contractor the department has made reasonable efforts to inform known companies providing the item or service of the subject matter of the contract and to solicit proposals, including public

advertising in at least one newspaper of general circulation in the area.

- (B) The contractor is selected on the basis of the most competitive offer considering cost, quality of the product, service to be rendered and marketing advantages.

A written record of the selection process shall be made.

(b) Review Process: After selection and prior to approval, the contract must be reviewed by the Director of Finance and Administration.

(c) Approval Process:

(1) \$2,500 and Under: All contract and amendments and extensions which are \$2,500 or less or which result in a total contract price of \$2,500 or less may be approved by the Director of the initiating department or by a designee of the Director approved by the Executive Officer if the following conditions are met:

- (A) A standard contract form is used;

- (B) Any deviations to the contract form are approved by the General Counsel;
- (C) The expenditure is authorized in the budget;
- (D) The contract does not further obligate the District beyond \$2,500;
- (E) The appropriate Scope of Work is attached to the contract; and
- (F) The contract is for an entire project or purchase; not a portion of a project which, when complete, will amount to a cost not greater than \$2,500.

(2) ~~[Between-\$2,501-and-\$10,000]~~ Over \$2,500: All contracts and amendments and extension which exceed \$2,500 ~~[or-which-result-in-a-total-contract-price-of more-than-\$2,500-but-less-than-\$10,000]~~ may be approved by either the Executive Officer or Deputy Executive Officer. When designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the Director of Finance and Administration may sign contracts and amendments and extensions.

~~[(3) Between \$10,001 and \$50,000:-- Except as provided in subsection (5) of this section, all contracts and amendments and extensions which exceed \$10,000 or which result in a total contract price of more than \$10,000 but less than \$50,000 shall be approved by the Council Management Committee prior to execution.]~~

~~[(4) Over \$50,000:-- Except as provided in subsection (5) of this section, all contracts and amendments and extensions which exceed \$50,000 or which result in a total contract price of more than \$50,000 shall be approved by the Council prior to execution.]~~

~~[(5)]~~ (3) Exceptions: Emergency contract extensions and amendments may be approved by the Executive Officer or his/her designee.

(d) All contracts are subject to the rules and procedures of Code Section 2.04.030, "Rules and Procedures Governing Personal Services and Public Contracts."

NOTE: Sections 2.04.100 et seq. pertain to DBE/WBE contracts and procedures and are not amended by this Ordinance.

DEC:gpwb

88271E.ORD