

6222E
AFB/pp
01/29/85

Resolution No. 85-557

FOR THE PURPOSE OF AUTHORIZING CERTAIN
AUTOMOBILE LEASES WITH McCULLAGH LEASING, INC.

CERTIFIED COPY OF RESOLUTIONS
OF
BOARD OF DIRECTORS
OF
Metropolitan Service District

RESOLVED, that Metropolitan Service District ("Company"), from time to time, lease either equipment, furniture, fixtures, other items of personal property, and replacements, additions, and supplements thereto, from McCULLAGH LEASING, INC. (sometimes hereinafter referred to as "McCullagh"), and to this end,*the president or any vice president be and hereby is authorized and directed to execute, in the name and on behalf of the Company, an Vehicle Lease between the Company and McCullagh Leasing, Inc. pursuant to which such items may be leased, and such other schedules, orders, amendments, agreements, addendums and writings as the officer executing the same may, from time to time, deem desirable or necessary in connection with such Vehicle Lease, and be it

FURTHER RESOLVED, that all actions of said officer with respect thereto, which have heretofore been taken, are ratified, confirmed and approved in all respects, and the Vehicle Lease, and such other writings executed in the name and on behalf of the Company shall be presumed conclusively to be the instruments, the execution of which is authorized hereby, and be it

subject to Code Section 2.04.030

FURTHER RESOLVED, that/said officer of the Company and such employees as he may designate in writing, be and hereby are severally authorized and directed to execute, in the name and on behalf of the Company, amendments, orders, schedules, addendums and other writings as may be necessary, from time to time, to carry into effect the leasing arrangements between the Company and McCullagh, such designation to be communicated to McCullagh and to continue in full force and effect until notice of revocation thereof is communicated to McCullagh at least Ten (10) days prior to the effective date of such termination of the authority, and be it

Clerk of the Council

FURTHER RESOLVED, that the ~~Secretary and Assistant Secretaries~~ of the Company be and they severally hereby are authorized and directed to attest the execution of the Company of papers signed pursuant to these Resolutions, to affix the seal of the Company thereto, and to certify to McCullagh the adoption of these Resolutions.

* Subject to Code Section 2.04.

Undersigned A. Marie Nelson, hereby certifies to McCullagh Leasing, Inc. that he is the duly elected, qualified and acting Clerk of the Council ~~Secretary of~~ Company; that as such officer, he has custody of the records of the Company, including the minutes of the Meetings of its Board of Directors; that on the 28th day of March, 19 85, at a Regular Council Meeting of said Board of Directors, duly called and regularly held, at which a quorum was present and acting throughout, the foregoing Resolutions were duly adopted, and said Resolutions have not been amended or rescinded and presently are in effect.

WITNESS my hand and seal of said Clerk of the Council
this 4th day of April, 19 85.

(Seal)


Secretary



METROPOLITAN SERVICE DISTRICT
Providing Zoo, Solid Waste and Local Government Services

March 29, 1985

527 S.W. Hall St.
Portland, Oregon
97201-5287
(503) 221-1646

Rick Gustafson
Executive Officer

Metro Council

Ernie Bonner
Presiding Officer
District 8

Richard Waker
Deputy Presiding
Officer
District 2

Bob Oleson
District 1

Jim Gardner
District 3

Corky Kirkpatrick
District 4

Tom DeJardin
District 5

George Van Bergen
District 6

Sharon Kelley
District 7

Hardy Myers
District 9

Larry Cooper
District 10

Marge Kafoury
District 11

Gary Hansen
District 12

McCullagh Leasing, Inc.
2885 N. E. Sandy Blvd.
Portland, OR 97232

Gentlemen:

Reference is made to Vehicle Lease between McCullagh Leasing, Inc. (McCullagh") dated March 29, 1985, pursuant to which McCullagh has leased to METRO certain items of personal property consisting of motor vehicles. I am General Counsel for METRO, and I have examined the Constitution and laws of the State of Oregon, METRO's Laws and regulations, the Minute book of METRO, and all of the rules and regulations deemed appropriate to consider in connection with the leasing of the vehicles. I have further examined copies of the Vehicle Lease and such records and documents as are deemed relevant and necessary in my judgment to render this opinion.

Based upon the foregoing, I am of the opinion that:

1. METRO is a public agency of the State of Oregon duly constituted and authorized by law to operate a public service district in Portland, Oregon. Specifically, Section 268.300 of the Oregon Statutes states that METRO is a "Public Agency" and Section 268.300 states that it is a "Public Corporation". The powers of METRO is qualified in Section 268.030, 268.310 et ses. The METRO law provides that contracts of METRO shall be executed on behalf of METRO by the Council, it's Committee, the Executive Officer and the Deputy Executive Officer.

2. METRO has the legal power and authority to engage in the leasing of the vehicles from McCullagh and has full power and authority and the legal right to execute and deliver the Vehicle Lease to McCullagh and to comply with all of the provisions thereof.

The Vehicle Lease constitutes the valid and legally binding obligation of METRO enforceable against it in accordance with it's respective terms and conditions.

3. METRO has full power to execute the Vehicle Lease on

behalf of METRO and all METRO's contract procedures have been fully complied with in the execution and delivery of the Vehicle Lease.

4. To my knowledge, there is no action, suit, or proceeding pending against METRO in any court, administrative agencies, or other governmental authority which would adversely affect METRO's ability to perform it's obligations under the Vehicle Lease.

5. Neither the execution nor delivery by METRO of the Vehicle Lease conflicts with or results in a breach of any of the terms and provisions of the laws, regulations or other instruments, known to me, to which METRO is a party.

6. No consent, approval, or other authorization of any court, administrative agencies, or other governmental authority is required in connection with the execution or delivery of the Vehicle Lease.

Eleanore A. Bayardelle
Attorney At Law

and decrease the chances of favoritism. Contract administration is largely the responsibility of each Department Head or Project Manager. Utmost care should be taken in writing contract specifications and scopes of work, and in monitoring work done under contract. If care is taken, and these procedures are followed, those involved may feel secure that the law is being obeyed and that Metro is getting quality goods and services at the lowest possible price. (Ordinance No. 82-130, Sec. 2(a))

2.04.030 Rules and Procedures Governing All Contracts:

(a) **Initiating a Contract:** When a department initiates a contract it must first notify the Department of Management Services of its intention and request the issuance of a contract number which shall appear on all copies of the contract. Additionally, the department must complete a Contract Summary form indicating the specifics of the contract. This form must be forwarded to the Department of Management Services either with a fully executed contract (three copies), if the amount is under \$2,500, or with an unexecuted contract (three copies) for review, approval and signature.

(b) **Persons Authorized to Sign Contracts:**

(1) For contracts of an amount under \$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:

(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; and

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

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

or Deputy Executive Officer, the Director of Management Services may sign contracts.

(c) Approval of Contracts of \$10,000 or More:

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

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

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

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

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

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

(C) Contracts with another government agency.

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

(E) Grant award contracts.

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

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

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

accepted, a detailed justification must be included with the contract file. Other documentation, if applicable, that should be included in the file includes:

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

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

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

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

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

- Rare Animals
- Price Regulated Items
- Emergency Contracts
- Advertising Contracts
- Recycled Materials
- Products of the Handicapped
- Contracts between Government Agencies
- Affirmative Action Contracts
- Data Processing Contracts
- Insurance Contracts

- Contract Amendments and Extensions
- Personal Services Contracts
- Purchases Under Requirement Contracts

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

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

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

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

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

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

(j) Code of Conduct:

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

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

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

STAFF REPORT

Agenda Item No. *

Meeting Date March 28, 1985

CONSIDERATION OF RESOLUTION NO. 85-557 FOR THE
PURPOSE OF AUTHORIZING CERTAIN AUTOMOBILE LEASES
WITH MC CULLAGH LEASING INC.

Date: March 26, 1985

Presented by: Ed Stuhr

FACTUAL BACKGROUND AND ANALYSIS

Metro solicited public bids for leasing two cars -- one for a three-year period and one for a two-year period. In each case the low bid was McCullagh Leasing, Inc., a Michigan corporation. Under Code section 2.04.030(b) each contract could be approved by the Executive Officer because each is under \$10,000, and they are separate contracts. However, McCullagh is requesting a standard form resolution authorizing the execution of these leases. This resolution is attached. It has been amended so that it does not expand the authority given to the Executive Officer or the Council Management Committee for future leases.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of the attached Resolution No. 85-557.

ESB/gl
3164C/411-2
03/26/85

* This item will be considered on March 28 but was not included in the agenda previously mailed.

Metro Council
March 28, 1985
Page 7

In response to the Presiding Officer's request to postpone action until the status of studies was known, Councilor Kirkpatrick said the Council needed to take a position before the April 2 House Intergovernmental Affairs Committee public hearing.

Vote: A vote on the motion resulted in:

Ayes: Councilors DeJardin, Gardner, Kirkpatrick, Kafoury, Kelley, Myers, Van Bergen, Waker and Bonner

Absent: Councilors Cooper, Hansen and Oleson

The motion carried and the Resolution was adopted.

8.4 Consideration of Resolution No. 85-557, for the Purpose of Authorizing Certain Automobile Leases with McCullagh Leasing, Inc.

Motion: Councilor Van Bergen moved the Resolution be adopted. Councilor Hansen seconded the motion.

There was no discussion about the Resolution.

Vote: A vote on the motion resulted in:

Ayes: Councilors DeJardin, Gardner, Hansen, Kirkpatrick, Kafoury, Kelley, Myers, Van Bergen, Waker and Bonner

Absent: Councilors Cooper and Oleson

The motion carried and the Resolution was adopted.

9. OTHER BUSINESS

9.1 Consideration of a Contract with the Friends of the Washington Park Zoo

Gene Leo reviewed changes from the previous contract with the Friends: the contract would be automatically reviewed every three years; \$5.00 per membership would be applied to a specific Zoo project to provide more incentive for membership growth; and the contract provided for a strategic planning and priorities process with participation from key Zoo staff and designated Metro Councilors and Friends' Board members to assure common Zoo/Friends development goals.

Motion: Councilor Kafoury moved to approve the contract and Councilor DeJardin seconded the motion.