

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ESTABLISHING) RESOLUTION NO. 86-670
A SELF-INSURANCE PROGRAM)
) Introduced by the
) Executive Officer

WHEREAS, The Metropolitan Service District seeks to maintain a fiscally sound approach to the insuring of risks; and

WHEREAS, A study of all liability losses over the past nine years has been conducted and has established a sufficient data base to make reasonable predictions of future liability losses; and

WHEREAS, Certain costs of insurance have escalated to levels far in excess of expected losses and costs of administration; and

WHEREAS, The District has the capacity, both financially and professionally, to adopt programs which are designed to minimize and stabilize the cost of risks through risk management, loss control and a degree of self-insurance; now, therefore,

BE IT RESOLVED,

Section 1. The Metropolitan Service District's policy with respect to all risks of accidental loss shall have as its purpose:

A. To minimize the long-term cost to the District of all activities related to the control of accidental losses;

B. To self-insure risks which can be safely borne by the District at a cost which is less than that commercially available for equivalent coverage; and

C. To enact practices which seek to reduce and prevent accidental losses.

Section 2. The Executive Officer is hereby directed to prepare, administer and maintain a self-insurance and risk management program and implementing procedures.

Section 3. Insurance Fund Resources and Requirements shall be managed as follows:

A. Agency Operating Funds shall make annual transfers to the Insurance Fund based on a cost allocation plan.

B. Expenditures from the Insurance Fund may include insurance premiums, liability claims, insurance deductibles, property damage payments, administration, adjustment and other related costs.

C. Reserves shall be accumulated to sufficiently fund projected losses.

Section 4. Responsibility and authority for the settlement of claims shall be as follows:

A. The Executive Officer may resolve claims not exceeding \$10,000 per cause of action.

B. The Council Management Committee may resolve claims between \$10,000 and \$50,000 per cause of action.

C. All claims exceeding \$50,000 per cause of action shall be referred, with the recommendation of the Executive Officer, to the Council for approval prior to settlement.

ADOPTED by the Council of the Metropolitan Service District this 24th day of July, 1986.



Jim Gardner,
Deputy Presiding Officer

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

Date: July 7, 1986

To: Metro Council

From: Jennifer Sims, *J* Director of Management Services

Regarding: FY 1986-87 Insurance Program

The purpose is to report a significant change in the general liability coverage, inform you of the status of other coverages and brief you on a recommended action for the July 24, 1986, Council meeting. A summary of current coverages by areas of risk and a description of the changes which have taken place is in Attachment "A."

General Liability Insurance -- As indicated in Attachment "A," Metro has insurance for most areas of risk. Limits and deductibles have been carefully reviewed to maximize value for our insurance dollar. While costs for most coverages have increased, in this insurance "crisis," the most shocking cost increases have been for general liability.

Three steps were taken in reviewing and analyzing options regarding liability coverage. First, LMC & Associates were hired under contract to study Metro's insurance program. The study concluded that Metro should consider self-insurance. Second, contacts were made with other jurisdictions to share experience and information. This reinforced the LMC study conclusions. Finally, a committee of key staff listed in Attachment "B" was formed to consider our broker's marketing report on liability and assess the options. The committee's recommendations have been implemented and are now in effect as shown in Attachment A. In summary, Metro is self-insured for general liability except for a layer covering claims between \$100,000 and \$300,000. Liquor liability has first dollar coverage up to \$300,000.

A fundamental risk management concept states that insurance should only be purchased to cover exposures which the agency can't afford to cover. It appears that Metro is capable of dealing with the liability exposures the agency faces now and in the foreseeable future. The compelling reasons why Metro should self-insure the bulk of its liability exposure are as follows:

- Claims activity and actual losses have been very low.
- We have an effective safety and emergency response program.
- We have statutory ability to generate revenue to meet requirements.
- We have adequate resources currently (fund balances) to meet short-term needs.
- Statutory limits on tort liability for public agencies in Oregon provide some protection against extreme awards.

While the current insurance "crisis" was clearly the catalyst that started our investigation of self-insurance, this is not merely a response to an immediate problem. It is proposed as a positive business decision, and as a prudent use of public resources.

Budget Impact

When the Insurance Fund was established through a supplement budget in FY 1985-86, a five-year plan and cost projection were prepared. The intent, at that time, was to build a reserve to fund the \$100,000 liability deductible. The FY 1986-87 adopted budget reflects a continuation of last year's program and coverages. An administrative amendment is proposed to implement the self-insurance program as follows:

	<u>Current</u> <u>86-87</u>	<u>Proposed</u> <u>86-87</u>
Insurance	\$314,204	\$188,607
Claims	0	125,597
Contractual Services	3,000	3,000
Contingency (Reserves)	<u>60,000</u>	<u>60,000</u>
Total Fund	\$377,204	\$377,204

This change simply reallocates premium savings to claims (to be paid). This provides a total of \$185,597 (contingency plus claims) available to pay claims in FY 1986-87 with no increase in the total fund budget. If the good loss record continues and similar premium savings can be realized in future years, a self-insurance pool of \$450,000 will be available for FY 89-90. This amount appears adequate at this time considering Metro's loss record. Further, a larger claim would take years to process and give time to budget possible payment. The impact of the convention and trade show center project has not been determined yet. LMC has recommended that we insure that risk until a claims history is established.

Self-Insurance and Risk Management Program Administration

Over the last year, staff has worked with LMC & Associates, and our broker, Fred S. James & Co., to set up a risk management program. We are continuing to refine all aspects of the program including safety, accident report procedures, adjuster needs, claims processing, recordkeeping and budget management. The Management Services Division is responsible for the program with Ed Stuhr taking the lead. His work is fully coordinated with all departments and General Counsel.

Recommended Council Action

A resolution will be presented at the July 24, 1986, Council meeting for your consideration which would accomplish the following:

1. Clarify the intent of the budget vis a vis the change in liability coverage.
2. Direct the Executive Officer to prepare and administer a risk management program and procedures.
3. Establish the role of the Council in awarding claims settlements. Contract procedures are proposed as the model with claims up to \$10,000 approved by the Executive Officer; \$10,000 to \$50,000 approved by the Council Management Committee; and over \$50,000 approved by the Council.

Insurance and tort reform are expected to be major topics of the 1987 legislative session. The Council should be prepared to take a position on this matter as it has potentially far-reaching budget and policy impacts on Metro.

ATTACHMENT "A"

COMPREHENSIVE GENERAL LIABILITY INSURANCE

SUBJECT OF COVERAGE: District premises and activities.

TERM: July 1, 1986, to January 1, 1987

LIMITS: \$300,000 Combined Single Limit Bodily Injury and Property Damage.

DEDUCTIBLE: \$100,000 per occurrence self-insured retention.

ANNUAL PREMIUM: \$70,000

COVERAGE DESCRIPTION: Insures the District's legal liability arising out of their premises and operations for the perils of bodily injury, property damage, and personal injury.

EXCLUSIONS: Environmental impairment and pollution damage.

KEY CHANGES: Formerly \$10,000,000 limit, excess liability not provided. Total premium savings compared to last year for liability is \$129,272.

LIQUOR LIABILITY INSURANCE

SUBJECT OF COVERAGE:

Serving of alcoholic beverages on District premises.

TERM:

July 1, 1986, to January 1, 1987

LIMITS:

\$100,000
General liability layer covers \$100,000 to \$300,000.

DEDUCTIBLE:

None

ANNUAL PREMIUM:

\$3,693.00

KEY CHANGES:

This is a new separate policy providing first dollar coverage. Coverage was previously included in general liability.

PUBLIC OFFICIALS LIABILITY INSURANCE

SUBJECT OF COVERAGE: District and employees of the District.

TERM: July 1, 1986, to July 1, 1987

LIMITS: \$1,000,000

DEDUCTIBLE: \$25,000

ANNUAL PREMIUM: \$33,000

COVERAGE DESCRIPTION: It insures the District, its Directors, and employees against liability arising out of a wrongful act subject to various exclusions.

EXCLUSIONS: Willful violation of Metro ordinances.
Willful violation of any local, state or federal law.
Action taken for personal profit or advantage.
Failure to maintain insurance.
Defense only is provided for employment-related issues including discrimination, failure to promote and wrongful action.

KEY CHANGES: Limit increased from \$500,000 and deductible increased from \$10,000.
Premium increased from \$10,554.

CRIME INSURANCE

SUBJECT OF COVERAGE: Loss of money and securities.

TERM: July 1, 1986, to July 1, 1987

LIMITS: \$125,000

DEDUCTIBLE: None

ANNUAL PREMIUM: \$6,275

COVERAGE DESCRIPTION: Covers the loss of money and securities both on and away from premises from the perils of destruction, disappearance or wrongful abstraction.

KEY CHANGES: None

FIDELITY BOND

SUBJECT OF COVERAGE:

All employees except those who are required by law to furnish a faithful performance bond.

TERM:

July 1, 1986, to July 1, 1987

LIMITS:

\$500,000

DEDUCTIBLE:

None

ANNUAL PREMIUM:

\$2,331

COVERAGE DESCRIPTION:

Protects the District against loss arising out of the failure of employees to faithfully perform their duties in the handling of funds and property for the District. The limit of liability applies per loss.

EXCLUSIONS:

Any present or prior dishonesty will not void coverage as respects any employee under the bond unless known by the insurance manager or delegated assistant or member of the management staff.

KEY CHANGES:

None

COMPREHENSIVE AUTOMOBILE LIABILITY INSURANCE

SUBJECT OF COVERAGE: District vehicles.

TERM: July 1, 1986, to July 1, 1987

LIMITS: \$500,000 Combined Single Limit Bodily
Injury and Property Damage. ACV
Comprehensive and Collision.

DEDUCTIBLE: \$ 100 - Comprehensive
1,000 - Collision
Per schedule

ANNUAL PREMIUM: \$21,472

COVERAGE DESCRIPTION: Insures the District's legal liability
arising out of the ownership,
maintenance, or use of automobiles. Also
provides physical damage insurance on
those vehicles as outlined above.

KEY CHANGES: Premium increased from \$18,647.

PROPERTY INSURANCE

SUBJECT OF COVERAGE: All buildings, equipment, furniture, and fixtures within the District in the state of Oregon.

TERM: July 1, 1986, to July 1, 1987

LIMITS: \$27,817,214 total value
\$12,000,000 per occurrence

DEDUCTIBLE: \$1,000 per loss

ANNUAL PREMIUM: \$40,037 estimate

COVERAGE DESCRIPTION: The limit of liability applies to blanket buildings and equipment throughout the District. Coverage is on a replacement basis for the perils of fire, extended coverage, and "all risk" subject to various exclusions.

EXCLUSIONS: Earthquake and flood

KEY CHANGES: Property values has been reassessed and increased.

SPECIAL PROPERTY INSURANCE

SUBJECT OF COVERAGE:

- A. Damage to scheduled railroad equipment, tools, and other mobile equipment.
- B. Loss of income arising out of damage to railroad equipment.
- C. Damage to paintings and other fine arts in the District's care, custody and control.
- D. Direct damage to Fred the Mastodon.
- E. Damage to printings and fine arts owned by the District.

TERM:

July 1, 1986, to July 1, 1987

LIMITS:

- A. \$1,343,008
- B. 117,000
- C. 30,950
- D. 25,000
- E. 84,343

DEDUCTIBLE:

- A. \$2,500/\$5,000
- B. 24 Hours
- C. \$250
- D. \$500

ANNUAL PREMIUM:

Estimated \$10,075

COVERAGE DESCRIPTION:

"All risk" of direct physical loss to the above classes and items of property of the District or others subject to the various exclusions and limitations of the form.

KEY CHANGES:

Property under Schedules A and E have been reassessed resulting in premium reduction estimated at \$4,386.

BOILER AND MACHINERY INSURANCE

SUBJECT OF COVERAGE:

All hot water heating boilers, unfired pressure vessels, steam boilers, refrigerating air conditioning, mechanical and electrical apparatus, and one locomotive boiler located throughout the District.

TERM:

July 1, 1986, to July 1, 1987

LIMITS:

\$500,000 - Direct Damage
\$125,000 - Loss of Income
Locomotive Boiler

DEDUCTIBLE:

12 hours

ANNUAL PREMIUM:

\$1,724

COVERAGE DESCRIPTION:

Loss of covered items arising out of a sudden and accidental breakdown of an object or a part thereof which manifests itself at the time of the occurrence by physical damage to the object and necessitates repair or replacement of the object or part thereof.

KEY CHANGES:

Premium increased \$345.

ATTACHMENT "B"

Metro ad hoc staff committee on insurance:

Eleanore Baxendale, General Counsel
Don Carlson, Deputy Executive Officer
Kay Rich, Assistant Zoo Director
Jennifer Sims, Director of Management Services
Ed Stuhr, Analyst & Risk Manager
Norm Wietting, Solid Waste Operations Manager

**METROPOLITAN SERVICE DISTRICT
SUMMARY OF LIABILITY CLAIMS
July 1, 1976 to July 31, 1985**

<u>ENTITY</u>	<u># CLAIMS</u>	<u>%</u>	<u>PAID</u>	<u>RESERVES</u>
Zoo	43	79	44,647	115,353
Land Fill	1	9	18,964	-0-
Automobile	10	12	25,086	-0-
	<u>54</u>	<u>100</u>	<u>\$88,697.</u>	<u>\$115,353</u>

Total Incurred:	\$204,050
Total Excluding Auto:	\$178,964
Average Annual exclud. Auto:	\$ 22,149
Average Paid losses excl. Auto:	\$ 7,006

CONSIDERATION OF RESOLUTION NO. 86-670
ESTABLISHING A SELF-INSURANCE PROGRAM

Date: July 14, 1986

Presented by: Jennifer Sims

FACTUAL BACKGROUND AND ANALYSIS

As reported in the attached memo (Exhibit 1) to the Council dated July 7, 1986, Metro is now partially self-insured for general liability. Resolution No. 86-670 is proposed for the purpose of setting direction for a self-insurance and risk management program and establishing claims settlement authority.

The four sections of the Resolution and their purpose are as follows:

Section 1 - This establishes a self-insurance and risk management policy.

Section 2 - This requires the Executive Officer to prepare a program and procedures for self-insurance and risk management. The program will include detailed administrative direction and procedures regarding placement of insurance, staff responsibilities, loss prevention and reduction measures, claims administration, Insurance Fund management and reporting requirements.

Section 3 - As Metro's level of self-insurance increases so does the complexity of administering the budget. The Executive Officer's program will build on Insurance Fund policy set out in this Resolution and establish more specific fund management requirements. These will comply with Oregon Budget Law and Generally Accepted Accounting Principles (GAAP). Claims and loss history (Exhibit 2) will be considered in determining budget and reserve amounts.

Section 4 - This sets out levels of authority for setting claims and establishes the role of the Council. The dollar amounts correspond directly to those used for approval of contracts.

The implementation of this program will require more staff time than a fully-insured program, the move to self-insurance is a positive step in controlling the agency's risks and in managing our resources.

Finally, for your information, the three year designation of Agent of Record (insurance broker) expires on January 1, 1987. Proposals will be solicited in advance and a thorough selection process will be conducted.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 86-670.

JS/gl
5940C/462-2
07/14/86

7. CONSENT AGENDA

Presiding Officer Waker announced item 7.4 (Resolution No. 86-666, Amending the Concept Plan, Authorizing New Interstate Transfer Projects and Amending the Transportation Improvement Program) was being removed from the Consent Agenda due to changes in the project schedule. The item would be brought back to the Council at a later date.

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

Vote: A vote on the motion resulted in:

Ayes: Councilors Collier, Cooper, DeJardin, Frewing, Gardner, Hansen, Kafoury, Kelley, Kirkpatrick, Oleson, Van Bergen and Waker

The motion carried and the following minutes and contracts were approved and resolutions adopted:

- 7.1 Minutes of May 29 and June 12, 1986;
- 7.2 Resolution No. 86-662, Amending the Transportation Improvement Program to Include Phase II Funding for Extending the Service Life of the Hawthorne Bridge;
- 7.3 Resolution No. 86-663, Amending the FY 87 Unified Work Program;
- 7.5 Resolution No. 86-667, Amending the Functional Classification System and the Federal-Aid Urban System;
- 7.6 Contracts for Workers' Compensation and Employee Health Benefits; and
- 7.7 Contract with Government Finance Associates, Inc. for Financial Advisory Services.

8. RESOLUTIONS

- 8.1 Consideration of Resolution No. 86-670, for the Purpose of Establishing a Self-Insurance Program

Jennifer Sims, Management Services Director, reviewed the four sections of the self-insurance Resolution: Section 1 established policy; Section 2 required the Executive Officer to prepare a program and procedures; Section 3 established budget administration procedures; and Section 4 set out levels of authority and the Council's role for settling claims.

Ms. Sims explained the current policy did not provide coverage for prior acts. She would pay to continue the current proper acts coverage unless the Council instructed otherwise. The Resolution did not have to be amended to include that coverage, she said.

In response to Councilor Cooper's question, Ms. Sims said no additional staff would be added to manage the self-insurance program. The Grants/Contracts Specialist would assume that responsibility.

Presiding Officer Waker asked about the nature of previously settled claims and how they were reported. Ms. Sims said most claims had been settled by the Executive officer, the highest claim paid being around \$25,000. Most claims were under \$10,000, she said. The Presiding Officer requested staff report settlements to the Council.

Councilor Frewing noted a probable error in Exhibit 2. Ms. Sims said she would check those figures for accuracy.

Councilor Van Bergen thought the key to a successful self-insurance program was to designate someone to review claims and to take an aggressive stance in defending the agency. Ms. Sims said that type of program had already been established, especially since deductibles had substantially increased.

Deputy Executive Officer Donald Carlson assured the Council a status report of insurance claims would be provided the Council quarterly.

Councilor Oleson requested staff check with the State of Oregon and other jurisdictions to see how those jurisdictions were administering their insurance programs. Ms. Sims said she had checked with other governments when designing the self-insurance program and would continue to rely on those agencies for information and support.

Motion: Councilor Kafoury moved to adopt Resolution No. 86-670 and Councilor Kelley seconded the motion.

Ayes: Councilors Collier, Cooper, DeJardin, Frewing, Gardner, Hansen, Kafoury, Kelley, Kirkpatrick and Oleson

Absent: Councilors Van Bergen and Waker

The motion carried and the Resolution was adopted.

Due to other obligations, Presiding Officer Waker turned the chair over to Deputy Presiding Officer Gardner. He then left the meeting.