

Metro | Agenda

Meeting: Metro Council
Date: Thursday, Feb. 16, 2012
Time: 2 p.m.
Place: Metro, Council Chamber

CALL TO ORDER AND ROLL CALL

1. **INTRODUCTIONS**
2. **CITIZEN COMMUNICATIONS**
3. **CONSIDERATION OF THE MINUTES FOR JAN. 26, 2012**
4. **CONTRACT REVIEW BOARD**
 - 4.1 **Resolution No. 12-4328**, For the Purpose of Approving a Contract Amendment for the St. Johns Landfill Remedial Investigation and Feasibility Study. **Burkholder**
 - 4.2 **Resolution No. 12-4329**, For the Purpose of Approving a Contract Amendment for the Central Transfer Station Stormwater Assessment and Source Control Evaluation. **Burkholder**
5. **RESOLUTIONS**
 - 5.1 **Resolution No. 12-4330**, For the Purpose of Endorsing a Regional Position on the Authorization of a Surface Transportation Act in the US Congress. **Collette**
 - 5.2 **Resolution No. 12-4331**, For the Purpose of Confirming the Appointment of Alison Kean Campbell as Metro Attorney. **Hughes**
6. **CHIEF OPERATING OFFICER COMMUNICATION**
7. **COUNCILOR COMMUNICATION**

ADJOURN

Television schedule for Feb. 16, 2012 Metro Council meeting

<p>Clackamas, Multnomah and Washington counties, and Vancouver, WA Channel 30 – Community Access Network <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 <i>Date:</i> Thursday, Feb. 16</p>	<p>Portland Channel 30 – Portland Community Media <i>Web site:</i> www.pcmtv.org <i>Ph:</i> 503-288-1515 <i>Date:</i> Sunday, Feb. 19, 7:30 p.m. <i>Date:</i> Monday, Feb. 20, 9 a.m.</p>
<p>Gresham Channel 30 - MCTV <i>Web site:</i> www.metroeast.org <i>Ph:</i> 503-491-7636 <i>Date:</i> Monday, Feb. 20, 2 p.m.</p>	<p>Washington County Channel 30– TVC TV <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 <i>Date:</i> Saturday, Feb. 18, 11 p.m. <i>Date:</i> Sunday, Feb. 19, 11 p.m. <i>Date:</i> Tuesday, Feb. 21, 6 a.m. <i>Date:</i> Wednesday, Feb. 22, 4 p.m.</p>
<p>Oregon City, Gladstone Channel 28 – Willamette Falls Television <i>Web site:</i> http://www.wftvmedia.org/ <i>Ph:</i> 503-650-0275 Call or visit web site for program times.</p>	<p>West Linn Channel 30 – Willamette Falls Television <i>Web site:</i> http://www.wftvmedia.org/ <i>Ph:</i> 503-650-0275 Call or visit web site for program times.</p>

PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times.

Agenda items may not be considered in the exact order. For questions about the agenda, call the Metro Council Office at 503-797-1540. Public hearings are held on all ordinances second read. Documents for the record must be submitted to the Regional Engagement Coordinator to be included in the decision record. Documents can be submitted by e-mail, fax or mail or in person to the Regional Engagement Coordinator. For additional information about testifying before the Metro Council please go to the Metro web site www.oregonmetro.gov and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 503-797-1804 or 503-797-1540 (Council Office).

Agenda Item No. 3.0

Consideration of the Minutes for Jan. 26, 2012

Metro Council Meeting
Thursday, Feb. 16, 2012
Metro, Council Chamber



METRO COUNCIL MEETING

Meeting Summary
Jan. 26, 2012
Metro, Council Chamber

Councilors Present: Council President Tom Hughes and Councilors Rex Burkholder, Carl Hosticka, Barbara Roberts, Kathryn Harrington, Shirley Craddick, and Carlotta Collette

Councilors Excused: None

Council President Tom Hughes convened the regular Council meeting at 2:03 p.m.

1. INTRODUCTIONS

There were none.

2. CITIZEN COMMUNICATIONS

There were none.

3. CONSIDERATION OF THE MINUTES FOR JAN. 19, 2012

Motion:	Councilor Shirley Craddick moved to adopt the council minutes for Jan. 19, 2012.
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Vote:	Council President Hughes, and Councilors Burkholder, Hosticka, Roberts, Collette, Craddick and Harrington voted in support of the motion. The vote was 7 ayes, the motion <u>passed</u> .
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4. ORDINANCES – SECOND READING

4.1 **Ordinance No. 12-1269**, For the Purpose of Amending the FY 2011-12 Budget and Appropriations Schedule for Increased Operations for a New Cirque du Soleil Event at the Expo Center, and Funding for Implementing the Expo Center’s Marketing and Communication Plan.

Motion:	Councilor Rex Burkholder moved to adopt Ordinance No. 12-1269.
Second:	Councilor Carlotta Collette seconded the motion.

Councilor Burkholder introduced Ordinance No. 12-1269. The Expo Center will host a new Cirque du Soleil presentation in May 2012. Initial estimates support a revenue potential of approximately \$545,000 through site rental, concessions buyouts, alcohol sales and parking. In order to support this new revenue opportunity, the Metropolitan Exposition Recreation Commission (MERC) requests a one-time transfer of \$336,840 from the strategic business reserve in contingency in order to support the arrival and execution of this large event. Funding will be used for items such as

shuttle service, professional labor (e.g. police, security and parking attendants), and signage and lighting.

Additionally, if approved, the ordinance would grant MERC an additional \$195,000 from the strategic business reserve in contingency for support of the initiatives outlined in the Expo's Communication and Marketing Plan as well as support efforts to transition the Center's new branding. Funding will support items such as re-brand signage and transit advertising in anticipation of May's events. Councilor Burkholder noted that this initial Communication and Marketing Plan was a continuation of a PSU capstone project.

Council President Hughes opened a public hearing. Seeing no members of the public who wished to testify, the public hearing was closed.

Vote:

Council President Hughes, and Councilors Burkholder, Hosticka, Roberts, Collette, Craddick and Harrington voted in support of the motion. The vote was 7 ayes, the motion <u>passed</u> .

4.2 **Ordinance No. 12-1270**, For the Purpose of Amending the FY 2011-12 Budget and Appropriations Schedule and the FY 2011-12 through 2015-16 Capital Improvement Plan.

Motion:	Councilor Kathryn Harrington moved to adopt Ordinance No. 12-1270.
Second:	Councilor Burkholder seconded the motion.

Councilor Harrington introduced Ordinance No. 12-1270. In FY 2010-11, Metro began an evaluation of business systems in use across the agency to identify key areas for process improvements and automation. During this analysis, staff determined that Metro's budget process and reporting presented the most significant opportunities for improvement. Currently, budget information is retained in several different formats including manual spreadsheets and custom databases. The total anticipated cost of the new agency-wide budget module, including implementation, is estimated at \$240,000. The system's funding would be split between the Solid Waste Fund and General Asset Management Fund at \$120,000 each. Staff anticipates the system will be live to provide budget reporting early in FY 2012-13, with full implementation expected by the FY 2013-14 budget cycle. Councilor Harrington overviewed the goals of the project including improved transparency and efficiency with Metro's budget practices.

Due to system cost and implementation, a capital improvement plan amendment is required. That said, the ordinance, if approved, would request a change from the FY 2011-12 through FY 2015-16 Metro CIP to recognize a new project and transfer \$120,000 from the Solid Waste Fund to the General Asset Management Fund.

Council President Hughes opened a public hearing. Seeing no members of the public who wished to testify, the public hearing was closed.

Vote:

Council President Hughes, and Councilors Burkholder, Hosticka, Roberts, Collette, Craddick and Harrington voted in support of the motion. The vote was 7 ayes, the motion <u>passed</u> .

4.3 **Ordinance No. 12-1271**, For the Purpose of Amending the FY 2011-12 Budget and Appropriations Schedule Increasing a Net 0.5 FTE in the Research Center.

Council President Hughes passed the gavel to Deputy Council President Burkholder to chair the meeting while he carried the legislation.

Motion:	Council President Hughes moved to adopt Ordinance No. 12-1271.
Second:	Councilor Harrington seconded the motion.

Council President Hughes introduced Ordinance No. 12-1271 which, if adopted, would approve the addition of 0.5 FTE limited duration position through June 30, 2013 in Metro's Research Center. This position provides services to external customers and in being funded through new revenue over currently budgeted revenue. Additional external client work has warranted utilizing the remaining 0.5 FTE to support maintaining full-time capacity for geographic information system (GIS) work. President Hughes noted that the request was promoted by existing Research Center staff reducing hours from full to half-time.

Deputy Council President Burkholder opened a public hearing. Seeing no members of the public who wished to testify, the public hearing was closed.

Vote:

Council President Hughes, and Councilors Burkholder, Hosticka, Roberts, Collette, Craddick and Harrington voted in support of the motion. The vote was 7 ayes, the motion <u>passed</u> .

Deputy Council President Burkholder passed the gavel back to President Hughes.

5. **RESOLUTIONS**

5.1 **Resolution No. 12-4322**, For the Purpose of Providing Direction to Metro Concerning Bills Before the 2012 Oregon Legislature.

Motion:	Councilor Carl Hosticka moved to adopt Resolution No. 12-4322.
Second:	Councilor Harrington seconded the motion.

Councilor Hosticka introduced Resolution No. 12-4322 which, if approved, would provide direction to Metro staff on the agency's position on a variety of legislative proposals that will come before the 2012 Oregon Legislature for consideration in February. Councilor Hosticka highlighted 3 bills initiated by Metro:

- (1) Lift sunset on statutory authorization for Metro to require employees and volunteers with direct unsupervised access to children (primarily at the Oregon Zoo) to enroll in Oregon Child Care Division's Central Background Registry;
- (2) Establish process for vacating the ownership of graves when there has been no contact with owners for over 50 years and owners cannot be found; and
- (3) Pass legislative resolution honoring Steve Apotheker for his service to the region, state and nation in the field of recycling.

In addition, approval of the resolution would adopt a set of legislation principles for the Metro Council for 2012. The principles were developed to guide Metro staff reactions to other legislation that may surface during the session. The principles address local authority, land use, solid waste, transportation, parks and natural areas, and sustainability.

Council discussion included the need to be cautious of potential actions that may financially impact the region as the state tries to resolve issues related to federal subsidies in timber-dependent counties. Councilor Hosticka agreed to note this as an area of concern and stated that the council would be briefed should any legislation surface related to this issue.

Vote:

Council President Hughes, and Councilors Burkholder, Hosticka, Roberts, Collette, Craddick and Harrington voted in support of the motion. The vote was 7 ayes, the motion <u>passed</u> .

5.2 **Resolution No. 12-4324**, For the Purpose of Accepting the Phase 1 Findings and Strategy Toolbox for the Portland Metropolitan Region to Acknowledge the Work Completed to Date and Initiate Phase 2 of the Climate Smart Communities Scenarios Project.

Motion:	Councilor Collette moved to adopt Resolution No. 12-4324.
Second:	Councilor Harrington seconded the motion.

Councilor Collette introduced Resolution No. 12-4322. In 2007, the Oregon Legislature adopted statewide greenhouse gas emission reduction goals for all emission sectors including transportation. Then in 2009, the Legislature – through the Jobs and Transportation Act (House Bill 2001) – required Metro to develop a set of alternative land use and transportation scenarios by Jan. 2012 that were designed to accommodate planned population and job growth for the year 2035, and reduce GHG emissions from light vehicles. In response to the Legislature’s direction, the region began a 3-phase process: Phase 1 – Understanding choices, Phase 2 – Shaping the direction, and Phase 3 – Building a strategy.

Out of the 144 regional scenarios tested during Phase 1, approximately 92 met the GHG emission reduction targets. Councilor Collette indicated that the region would need to ramp-up its current efforts to meet the reduction targets. The resolution, if adopted, would:

- (1) Accept the Climate Smart Communities Scenarios project Phase 1 findings outlined in the *Understanding Our Land Use and Transportation Choices* (Exhibit A), and *Strategy Toolbox for Portland metropolitan region* (Exhibit B) reports;
- (2) Direct Metro staff to submit the findings to the Oregon Department of Transportation (ODOT) and Dept. of Land Conservation and Development (DLCD) to include in their joint report to the Legislature in February; and
- (3) Direct staff to initiate Phase 2, Shaping the direction, and finalize the work plan and engagement strategy.

Both the Metro Policy Advisory Committee (MPAC) and the Joint Policy Advisory Committee on Transportation (JPACT) have reviewed the Phase 1 findings and recommend the Metro Council accept the findings.

Vote:

Council President Hughes, and Councilors Burkholder, Hosticka, Roberts, Collette, Craddick and Harrington voted in support of the motion. The vote was 7 ayes, the motion <u>passed</u> .

5.3 **Resolution No. 12-4327A**, For the Purpose of Designating the Oregon Convention Center Enhanced Marketing Initiative Project as a Council Project; Assigning a Lead Council and Council Liaison and Directing Staff to Complete Phase I Scope of Work.

Council President Hughes passed the gavel to Deputy Council President Burkholder to chair the meeting while he carried the legislation.

Motion:	Council President Hughes moved to adopt Resolution No. 12-4327A.
Second:	Councilor Harrington seconded the motion.

Council President Hughes introduced Resolution No. 12-4327A. If approved, the resolution would designate the Oregon Convention Center Enhanced Marketing Initiative as a Metro Council project, and designate President Hughes as the lead councilor and Councilor Burkholder as the council liaison to the project. The Metro Council and MERC received a presentation on the OCC Marketing Initiative at their joint work session on Jan. 24.

President Hughes reminded the council that Phase 1 of the project authorizes staff discussions with jurisdictional partners – the City of Portland and Multnomah County – to inform and educate, and gauge the interest and commitment to collaboration in support of improving the region’s hotel package serving national conventions. Despite the region’s wide appeal as a top-tier designation for business and leisure travel, the region continues to lose national convention business to comparably-sized cities and centers due to the lack of dedicated large room blocks in the Portland area. According to Travel Portland, in 2011, 30 national conventions selected competitor locations over the convention center due to this reason. Phase 1 findings and recommendations will be presented to the Council in the spring 2012.

Council discussion included MERC and Travel Portland’s support for resolution, the region-wide economic benefits to national conferences at the convention center, and the possibility of public private partnerships.

Deputy Council President Burkholder passed the gavel back to President Hughes.

Vote:

Council President Hughes, and Councilors Burkholder, Hosticka, Roberts, Collette, Craddick and Harrington voted in support of the motion. The vote was 7 ayes, the motion <u>passed</u> .

6. CHIEF OPERATING OFFICER COMMUNICATION

Ms. Martha Bennett stated that per Metro Code, she is required to report annually on any minor adjustments made to the urban growth boundary. She stated that there were no minor changes this year.

Additional updates included Jan. 29 volunteer appreciation dinner at the Oregon Zoo, and upcoming tour of Oxbow Park to assess recent damages. Council requested an update on the Zoo Veterinary Medical Hospital at the council next work session.

7. COUNCILOR COMMUNICATION

Councilors provided updates on recent meetings including MPAC, district quarterly exchanges, and Washington and Clackamas counties' cities "State of the Cities" reports. Additional updates included recent tours of the Marine Drive and Cazadero trails and the upcoming annual Forest Grove Town Hall meeting. Council President Hughes and Councilor Collette noted that they will be out of town during the week of Jan. 27.

8. ADJOURN

There being no further business, Council President Hughes adjourned the regular meeting at 2:50 p.m. The Council will reconvene the next regular council meeting on Thursday, Feb. 9 at 2 p.m. at the Metro Council Chamber.



Kelsey Newell, Regional Engagement Coordinator

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF JAN. 26, 2012

Item	Topic	Doc. Date	Document Description	Doc. Number
3.	Minutes	1/19/12	Council minutes for 1/19/12	12612c-01
4.1	Legislation	N/A	Ordinance No. 12-1269, Exhibit A, Exhibit B, and Staff Report (Revised title)	12612c-02
5.3	Legislation	N/A	Resolution No. 12-4327A, Exhibit A, and Staff Report (Redline)	12612c-03

Agenda Item No. 4.1

Resolution No. 12-4328, For the Purpose of Approving a
Contract Amendment for the St. Johns Landfill Remedial
Investigation and Feasibility Study.

Contract Review Board

Metro Council Meeting
Thursday, Feb. 16, 2012
Metro, Council Chamber

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF APPROVING A) RESOLUTION NO. 12-4328
CONTRACT AMENDMENT FOR THE)
ST. JOHNS LANDFILL REMEDIAL) Introduced by Metro Chief Operating Officer
INVESTIGATION AND FEASIBILITY STUDY) Martha Bennett, with the concurrence of
) Council President Tom Hughes.

WHEREAS, pursuant to ORS 279A.060 and Metro Code 2.04.010, the Metro Council is designated as the Public Contract Review Board for the regional government; and

WHEREAS, Metro Code 2.04.046 requires Council approval for personal services contract amendments that exceed twice the amount of the original contract; and

WHEREAS, the Oregon Department of Environmental Quality (“DEQ”) has issued Order on Consent LQSW-NWR-02-14 requiring that Metro contract a qualified consultant to perform a Remedial Investigation (“RI”) and Feasibility Study (“FS”) to identify and address any remaining risks to human health and the environment associated with the St. Johns Landfill; and

WHEREAS, the RI-FS must provide a sufficient basis for DEQ to issue a Record of Decision establishing a final remedy for the site; and

WHEREAS, through an open and competitive Request-for-Proposals procurement process, a selection committee determined that CH2M HILL for that purpose was the highest ranked proposer for performing the RI-FS, and accordingly CH2M HILL was awarded a contract; and

WHEREAS, through the efforts of CH2M HILL consistent with the original contract, Metro has submitted a draft RI Report to DEQ; and additional work is required to complete the RI-FS consistent with the process and objectives established by the Order on Consent, culminating in a Record of Decision; and

WHEREAS, the original amount of the contract was \$650,000; and now previous amendments increased the total amount to \$1,300,000; and a contract amendment of \$325,000 is proposed to perform additional work necessary to complete the RI-FS; and

WHEREAS, the Metro Procurement Officer recommends amending the existing contract with CH2M HILL because such action is in the best interests of Metro; now therefore

BE IT RESOLVED that the Metro Council, acting as the Metro Contract Review Board authorizes the Chief Operating Officer to execute a contract amendment with CH2M HILL for the purpose of completing the RI-FS, in a form substantially similar to Attachment 1.

ADOPTED by the Metro Contract Review Board this ___ day of February, 2012.

Tom Hughes, Council President

Approved as to Form:

Alison Kean Campbell, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 12-4328, FOR THE PURPOSE OF APPROVING A CONTRACT AMENDMENT TO COMPLETE A REMEDIAL INVESTIGATION AND FEASIBILITY STUDY FOR THE ST. JOHNS LANDFILL

Date: February 6, 2012

Prepared by: Darin Matthews
Paul Vandenberg

BACKGROUND

In 2003 Metro entered into an agreement with the Oregon Department of Environmental Quality (Order on Consent DEQ LQSW-NWR-02-14) whereby Metro must perform an environmental investigation (Remedial Investigation, or RI) to identify any remaining risks to human health and the environment associated with the closed St. Johns Landfill. Unacceptable risks must be addressed through evaluation of feasible alternatives to control or eliminate such risk (Feasibility Study, or FS). Based on the FS and other considerations DEQ will issue a Record of Decision (ROD) prescribing a final remedy for the site. DEQ included the executed consent order in a renewed solid waste disposal site closure permit.

RI-FS Phase 1 involved submission of an RI Proposal to DEQ in 2004, followed by an RI Work Plan in 2005. Metro Council passed Resolution 05-3543 authorizing release of a Request for Proposals (RFP) for the purpose of implementing the DEQ-approved RI Work Plan (RI-FS Phase 2), and executing a contract with the most responsive proposer. Proposals received in response to the RFP were evaluated by a selection committee that included staff and representatives from two other agencies. Interviews were conducted with three finalists and CH2M HILL was selected as the preferred consultant. A contract with CH2M HILL was negotiated and executed in 2005, in the amount of \$650,000, with a scope of work understanding that task detail would evolve with regulatory developments and investigative findings.

RI-FS Phase 2 commenced in the summer of 2005. Since then, nearly \$1.3 million has been expended on 5 years of active field investigation, 16 meetings with DEQ, and submission of 42 distinct work products, including a milestone report – the draft RI Report – submitted to DEQ in 2010. Progress is being made, and Metro and DEQ have recently negotiated a clear path forward to complete the RI-FS. To follow this path, consulting services will be needed to complete a final RI Report, prepare and implement an FS work plan, and provide regulatory and technical support for achieving a DEQ Record of Decision.

During the RI-FS to date, CH2M HILL has developed in-depth knowledge and understanding of complex site conditions and dynamics, which it has applied effectively in conveying technical progress to stakeholders and in progressing through the regulatory process. The cost and time that would be required for a new contractor to develop a comparable level of expertise would be substantial, and as such it would be inefficient to conduct a competitive procurement process for the additional cost needed to complete the project. On this basis, staff recommends that \$325,000.00 be authorized through amendment of the existing agreement with CH2M HILL, rather than through an additional competitive procurement process, and that the contract expiration date be extended to March 28, 2014.

The St. Johns Landfill Closure Account is the funding source for the RI-FS project and any remedial actions stemming from it. Upon completion of the \$36 million landfill cover project in 1996, the account balance was \$7.4 million. Since then, interest earnings and revenue from the sale of methane gas have nearly offset expenditures; the current balance is around \$7.0 million.

A summary of the scope of services to be performed and related costs is included as Attachment 1.

ANALYSIS / INFORMATION

1. **Known Opposition** None
2. **Legal Antecedents** Metro Code 2.04.046 | ORS Chapter 465 | Order on Consent DEQ LQSW-NWR-02-14
3. **Anticipated Effects** Expert consulting services will continue, ensuring efficient forward progress toward a DEQ Record of Decision.
4. **Budget Impacts** The FY 2011-2012 budget adopted by Council includes \$153,000 for the RI-FS project (Landfill Closure Account – Contracted Professional Services). Staff recommends authorization of the \$325,000 contract amendment to complete the project by March 2014. The landfill closure account contains sufficient appropriations to absorb the costs that will occur this fiscal year. The balance of the costs will be included in the FY 2012-2013 and FY 2013-14 budgets.

RECOMMENDED ACTION

Metro Council, acting as the Metro Public Contract Review Board, approves the contract amendment with CH2M HILL.

ATTACHMENT 1

PROJECT TASK SUMMARY

Proposed Amendment to Contract 926565 St. Johns Landfill Remedial Investigation (RI) – Feasibility Study (FS)

Project Task (a)	Cost (est.)
RI Completion (b)	\$25,000
FS Work Plan	\$70,000
FS Work Plan Implementation (c)	\$230,000
FS Report	\$20,000
Final Settlement Support (d)	\$20,000
DEQ Record of Decision Support	\$15,000
Total	\$380,000
Contract Balance (e)	\$55,000
Contract Amendment Sum Recommended	\$325,000

- (a) Task objectives and process are largely dictated by OAR and federal and state guidance.
- (b) Address DEQ comments on draft RI Report and prepare final report / Meet with DEQ as needed to secure approval of a final RI Report / Conduct stakeholder outreach as appropriate.
- (c) Conduct additional field investigation needed to further characterize the nature and extent of contamination / Perform detailed evaluations of feasible measures to remediate risks.
- (d) Provide technical support to respond to DEQ questions or otherwise to discuss and negotiate final interpretations, evaluations and options –in support of the DEQ RI-FS Staff Report.
- (e) Approximate - as of January 17, 2012.

Agenda Item No. 4.2

Resolution No. 12-4329, For the Purpose of Approving a
Contract Amendment for the Central Transfer Station
Stormwater Assessment and Source Control Evaluation.

Contract Review Board

Metro Council Meeting
Thursday, Feb. 16, 2012
Metro, Council Chamber

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF APPROVING A)	RESOLUTION NO. 12-4329
CONTRACT AMENDMENT FOR THE)	
CENTRAL TRANSFER STATION)	Introduced by Metro Chief Operating Officer
STORMWATER ASSESSMENT AND SOURCE)	Martha Bennett, with the concurrence of
CONTROL EVALUATION)	Council President Tom Hughes.

WHEREAS, pursuant to ORS 279A.060 and Metro Code 2.04.010 the Metro Council is designated as the Contract Review Board for the regional government; and

WHEREAS, Metro Code 2.04.046 requires Council approval for contract amendments that exceed twice the amount of the original contract; and

WHEREAS, in 2010 Metro entered into an agreement with the Oregon Department of Environmental Quality (“DEQ”), whereby Metro must perform a Stormwater Assessment and Source Control Evaluation (“the Project”) to identify and control stormwater contaminants at the Metro Central Transfer Station that may impact the Willamette River; and

WHEREAS, the Project must provide a sufficient basis for DEQ to issue a Source Control Decision establishing any stormwater contaminant control measures needed at the Transfer Station to meet Portland Harbor Superfund project objectives; and

WHEREAS, through an open and competitive Request-for-Proposals procurement process, a selection committee determined that URS Corporation was the highest ranked proposer for providing stormwater consulting and technical services relevant to the Station, and accordingly URS was awarded a contract for that purpose; and

WHEREAS, through the efforts of URS consistent with the original contract, Metro has completed two investigative phases of the Project and is preparing to implement a third phase; and additional work is required to complete the Project, culminating in a Source Control Decision; and

WHEREAS, the original amount of the contract was \$45,000; and now previous amendments increased the total amount to \$90,000; and a contract amendment of \$135,000 is proposed to perform additional work anticipated to complete the Project; and

WHEREAS, the Metro Procurement Officer recommends amending the existing contract with URS Corporation because such action is in the best interests of Metro; and

BE IT RESOLVED that the Metro Council acting as the Contract Review Board authorizes the Chief Operating Officer to execute a contract amendment with URS for the purpose of completing the Project, in a form substantially similar to Attachment 1.

ADOPTED by the Metro Council acting as the Contract Review Board this ___ day of February, 2012.

Tom Hughes, Council President

Approved as to Form:

Alison Kean Campbell, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 12-4329, FOR THE PURPOSE OF APPROVING A CONTRACT AMENDMENT TO COMPLETE A STORMWATER ASSESSMENT AND SOURCE CONTROL EVALUATION FOR THE METRO CENTRAL TRANSFER STATION

Date: February 6, 2012

Prepared by: Darin Matthews
Paul Vandenberg

BACKGROUND

A 2001 memorandum of understanding between the U.S. Environmental Protection Agency (EPA) and the Oregon Department of Environmental Quality (DEQ) requires that the two agencies define a process to identify and control potential sources of contamination that may impact the Willamette River within the Portland Harbor Superfund project area. Accordingly, the 2005 Portland Harbor Joint Source Control Strategy (JSCS) was developed and implemented.

Consistent with the JSCS, DEQ has been conducting investigations of possible upland sources of contaminants of concern relevant to Portland Harbor. In this process DEQ identified the Metro Central Transfer Station (Central Station) as one possible source of some contaminants of concern. In that context, Metro negotiated and entered into an agreement with DEQ in 2010 (Letter Agreement) whereby Metro must perform an assessment of stormwater quality for Central Station, and as necessary based on the assessment, evaluate and implement control measures for stormwater contaminants. The culmination of this project is a DEQ Source Control Decision, as approved by EPA.

In 2009, prior to the Letter Agreement with DEQ, staff issued a Request-for-Proposals (RFP) for professional consulting services needed to guide Metro in decision-making surrounding anticipated regulatory requirements relating to stormwater collected and discharged from Central Station, in the context of Portland Harbor, including any needed technical and field support. Proposals received in response to the RFP were evaluated and rated by a selection committee of three staff, and URS Corporation was selected as the preferred consultant. A contract with URS was negotiated and executed in 2009, in the amount of \$45,000, with a scope of work understanding that task detail and associated costs would evolve with regulatory developments and investigative findings.

On behalf of Metro, URS has completed two phases of stormwater investigation at Central Station, and is preparing to implement a third phase. This phasing process has allowed DEQ and Metro to adapt and refine workscope detail as the investigation progresses. The primary objective is to identify contaminants detected in the stormwater collection system at Central Station that have been and/or are currently discharged into the municipal sewer system at unacceptable levels, and to evaluate and implement effective controls for any such contamination. Around \$80,000 has been expended on these efforts, and steady progress is being made.

Going forward, consistent with the Letter Agreement, staff expects to complete the investigation and prepare a final report, conduct studies and prepare a comprehensive evaluation of source controls appropriate to the findings of the investigation, and coordinate with DEQ as needed for purposes of the Source Control Decision. Staff estimates that completion of this process will take up to two years.

In the course of the project URS has developed a strong working knowledge of the project's technical aspects, including site operational detail, contaminants of concern in site stormwater, likely sources of contamination, and potential source control measures. Further, URS has developed significant understanding of the stringent regulatory process being followed, and is representing Metro effectively in required meetings with DEQ and other stakeholders. This expertise and the momentum it affords is moving the project efficiently through the regulatory process. For these reasons it would be inopportune and inefficient to conduct a competitive procurement process for the additional cost required to complete the stormwater project at Central Station. As such, staff recommends that \$135,000 be authorized through amendment of the existing agreement with URS, rather than through an additional competitive procurement process, and that the contract expiration date be extended to December 31, 2013.

A summary of the work to be performed and related costs is included as Attachment 1.

ANALYSIS/INFORMATION

1. **Known Opposition** None known.
2. **Legal Antecedents** Metro Code 2.04.046 | Portland Harbor Joint Source Control Strategy (EPA-DEQ, 2005) | Letter Agreement (DEQ-Metro, 2009)
3. **Anticipated Effects** Expert consulting services will continue, ensuring efficient forward progress toward a DEQ Source Control Decision.
4. **Budget Impacts** The FY 2011-2012 budget adopted by Council includes \$125,000 for Contracted professional Services associated with Engineering and Technical Support in the Solid Waste Revenue Fund's operating account. Staff recommends authorization of the \$135,000 contract amendment to complete the project by December 2013. The SW Operating Account is very large and contains sufficient appropriations to absorb the costs that will occur this fiscal year. The balance of the costs will be included in the FY 2012-2013 and FY 2013-14 budgets.

RECOMMENDED ACTION

Metro Council, acting as a Public Contract Review Board, approves the contract amendment with URS Corporation.

ATTACHMENT 1

PROJECT TASK SUMMARY

Proposed Amendment to Contract 929325 Metro Central Transfer Station Stormwater Assessment and Source Control Evaluation

Project Task (a)	Cost (est.)
Phase 3 Investigation (b)	\$45,000
Final Evaluation and Report (c)	\$10,000
Source Control Evaluation (d)	\$85,000
DEQ Source Control Decision Support	\$5,000
Total	\$145,000
Contract Balance (e)	\$10,000
Contract Amendment Sum Recommended	\$135,000

- (a) Task objectives and process are largely dictated by DEQ guidance for evaluating stormwater discharges from upland sites within the Portland Harbor project area.
- (b) Strategic sampling of catch basin sediments and stormwater within the Central Station stormwater collection and management system; Evaluate results and review with DEQ.
- (c) Technical support as needed to respond to DEQ questions or otherwise to discuss and negotiate final interpretations, evaluations and options, as needed to complete the assessment stage.
- (d) Review all data collected and evaluate lines of evidence for on-site sources of contaminants of concern; Evaluate feasible measures to control such contaminants. Collect and evaluate additional data as necessary to monitor and determine the effectiveness of measures implemented.
- (e) Approximate – as of January 17, 2012.

Agenda Item No. 5.1

Resolution No. 12-4330, For the Purpose of Endorsing a
Regional Position on the Authorization of a Surface
Transportation Act in the US Congress.

Resolutions

Metro Council Meeting
Thursday, Feb. 16, 2012
Metro, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENDORSING A) RESOLUTION NO. 12-4330
REGIONAL POSITION ON THE)
AUTHORIZATION OF A SURFACE) Introduced by Councilor Collette
TRANSPORTATION ACT IN THE US)
CONGRESS)

WHEREAS, the Senate Environment and Public Works Committee of the US Senate has introduced to the 112th Congress a new highway authorization bill entitled “Moving Ahead for Progress in the 21st Century (MAP-21)” and the Senate Committee on Banking, Housing and Urban Affairs has introduced a new transit authorization bill entitled “The Federal Public Transportation Act of 2012;” and

WHEREAS, the Committee on Transportation and Infrastructure of the US House of Representatives has introduced a new transportation authorization bill entitled “The American Energy and Infrastructure Jobs Act of 2012;” and

WHEREAS, federal transportation legislation is critical to the successful implementation of the region’s plans to achieve the six adopted outcomes of a successful region; and

WHEREAS, it will be important for the region to actively engage in development of legislation as it continues to evolve; and

WHEREAS, on _____, 2012 the Joint Policy Advisory Committee on Transportation recommended adoption of this resolution; now therefore

BE IT RESOLVED that the Metro Council endorses Exhibit A reflecting the following key policy positions:

1. The Congress of the United States should invest in America’s prosperity through infrastructure.
2. Congress should end the indecision on transportation authorization legislation in recognition of the need for long lead times for transportation operation, rehabilitation and improvements.
3. The long standing commitment to a funding split between transit and highways should be maintained.
4. The collaborative decision-making of the metropolitan planning organizations should be maintained.
5. The program structure should support the region’s planning for desired outcomes through a program structure that reinforces flexibility with accountability.
6. The federal program should be designed to support discretionary programs to allow for the construction of major transportation projects.

7. The federal program should seek ways to streamline project development and permitting to eliminate wasteful and inefficient requirements while maintaining important environmental protections provided through the National Environmental Policy Act (NEPA).
8. The federal program should support incremental upgrading of intercity passenger rail service.
9. The Sustainable Communities Partnership should be sustained, supported and expanded.
10. Although there will not be project earmarking, Congressional intervention will be required for competitive grant applications for programs such as TIFIA, Projects of National Significance and New Starts.

ADOPTED by the Metro Council this _____ day of February 2012.

Tom Hughes, Council President

Approved as to Form:

Alison Kean Campbell, Deputy Metro Attorney

**Portland Metro Region Position
on
Federal Transportation Authorization Legislation**

The Portland Region urges Congress to take action on transportation authorizing legislation with the region's priority policy emphasis as follows:

1. **The Congress of the United States should invest in America's prosperity through infrastructure:** Continued and increased federal investment in transportation infrastructure is essential to national economic prosperity and competitiveness. While reduced tax collections in the highway trust fund may limit the size of the program for now, supplemental funding is needed just to maintain status quo funding and it is critical to identify the funding mechanism to address the gap. It is equally important to position the program to invest at a higher level needed for economic prosperity in the future as improving economic conditions permit.
2. **Congress should end the indecision and adopt transportation authorization legislation in recognition of the need for long lead times for transportation operation, rehabilitation and improvements:** There is an urgent need to end the Congressional indecision of the past few years and establish a clear federal policy direction. Transportation improvement and rehabilitation projects require significant lead time tied to clear and reliable policy and funding.

In adopting authorizing legislation, the key priority elements of interest to the region are as follows:

- A. **The long standing commitment to a funding split between transit and highways should be maintained:** Equal in importance to the overall funding level is the compact maintained over the past two decades to invest in both highways and transit. The long-standing commitment to an 80/20 balance between dedicated highway and transit funding needs to at least be maintained.
- B. **The collaborative decision-making of the metropolitan planning organizations should be maintained:** The federal transportation program has been built since the 1970's on the principle of collaborative decision-making in metropolitan areas. The proposed Senate bill includes a number of adjustments to ensure metropolitan planning organizations (MPOs) meet a minimum level of capability and employ the best practices in evaluation of transportation issues, which are welcome additions. However, both the Senate and House bills also include a shift in decision-making from the MPO to the state DOTs. It is important to maintain the decision-making structure of metropolitan planning organizations in urban areas to include the effective participation by the various transportation jurisdictions (the state DOT, the transit operators, the port districts and the local governments) and ensure integration with the land use jurisdictions (cities, counties and regions).

- C. **The program structure should support the region’s planning for desired outcomes through a program structure that reinforces flexibility with accountability:** The region has oriented its planning and policy setting around achieving six outcomes that define a great place:

People live, work and play in vibrant communities where their everyday needs are easily accessible.

Current and future residents benefit from the region’s sustained economic competitiveness and prosperity.

People have safe and reliable transportation choices that enhance their quality of life.

The region is a leader in minimizing contributions to global warming.

Current and future generations enjoy clean air, clean water and healthy ecosystems.

The benefits and burdens of growth and change are distributed equitably.



The proposed authorization bill begins to move in a similar direction by establishing a program structure around a few broad programs, with performance standards to measure progress and a required minimum spending level for certain types of projects (particularly bridge and pavement conditions and safety). It establishes clear expected outcomes, provides the needed flexibility for states and MPOs to determine how to best meet those outcomes and ensures accountability. Continued movement in this direction to enable the region to reach its six desired outcomes is a good step.

The basic proposed program structure is as follows:

- a) National Highway Performance Program
- b) Transportation Mobility Program
- c) Safety
- d) Congestion Mitigation/Air Quality
- e) Freight

However, fundamental program structure concerns associated with the relationship between the National Highway Program and the Transportation Mobility Program need to be addressed:

- Funding for bridges **off** the National Highway System needs to follow the assignment of responsibility. Specifically, an amount equivalent to the amount of Bridge funds spent on non-NHS bridges under SAFETEA-LU should be provided under the TMP where the responsibility for addressing non-NHS bridges has been assigned.
- Requirements to spend a minimum funding level on bridges **off** the Federal Aid Highway System should not be retained because it results in more spending on bridges of lower significance in better condition than bridges **on** the Federal Aid Highway System.
- The requirement to meet the minimum standard for NHS bridge and pavement conditions should be funded by shifting spending from NHS expansion rather than by shifting funds from the TMP or STP categories to the NHPP.

- D. The federal program should be designed to support discretionary programs to allow for the construction of major transportation projects:** It is important that the federal program be structured to support implementation of large projects, addressing critical needs that are beyond the capacity of the region to fund. The core formula programs cannot be used to implement these mega-projects without doing so at the expense of transportation needs throughout the rest of the region and state.
- a. For the transit program, the New Starts/Small Starts program is critical to expand and streamline to make project delivery more efficient. Continued implementation of the regional light rail and streetcar system is dependent upon this commitment.
 - b. For the highway program, the Projects of National Significance and TIFIA Programs are important to maintain and expand. Projects of National Significance should be funded at a higher level and be based upon very rigorous and competitive criteria. TIFIA should be awarded competitively, not on a first-come-first-served basis. Implementation of the Columbia River Crossing (CRC) Project is dependent upon these programs.
 - c. With a model track record for a competitive program, the TIGER program should be maintained and expanded for multi-modal projects. The region has submitted a number of high priorities that are beyond the scale of the region to implement.
- E. The federal program should seek ways to streamline project development and permitting to eliminate wasteful and inefficient requirements while maintaining important environmental protections provided through the National Environmental Policy Act (NEPA):** Certain process streamlining changes are welcomed reductions in bureaucratic requirements but others go so far as to undermine the integrity of NEPA.
- F. The federal program should support incremental upgrading of intercity passenger rail service:** To ensure that Oregon and Washington can continue to improve service by reducing travel times, improving reliability, and increasing roundtrips, Congress should provide long-term, dedicated funding for both large-scale corridor projects as well as for small-scale projects that make incremental improvements to service.
- G. The Sustainable Communities Partnership should be sustained, supported and expanded:** The federal partnership between USDOT, HUD and EPA to coordinate their programs toward the goal of achieving sustainable communities should be applauded and reinforced. Unless our federal partners work together, it is difficult for the region to advance efforts to integrate programs locally and regionally.
- H. Although there will not be project earmarking, Congressional intervention will be required for competitive grant applications for programs such as TIFIA, Projects of National Significance and New Starts:** It is clear that there will not be earmarks in the bill. However, there are a few instances in the future that will need some Congressional intervention, including Full-Funding Grant Agreements for New Starts projects (most immediately Portland to Milwaukie and CRC), application for TIFIA funds and Projects of National Significance funds for the Columbia River Crossing project and significant competitive applications like TIGER funds.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 12-4330, FOR THE PURPOSE OF ENDORSING A PORTLAND METRO AREA REGIONAL POSITION ON THE AUTHORIZATION OF A SURFACE TRANSPORTATION ACT IN THE US CONGRESS

Date: January 23, 2012

Prepared by: Andrew Cotugno

BACKGROUND

The region annually produces a position paper that outlines the views of the Metro Council and the Joint Policy Advisory Committee on Transportation (JPACT), a regional body that consists of local elected and appointed officials, on issues concerning transportation funding that are likely to be considered by Congress during the coming year. In the past, the region has adopted a substantial federal authorization position on both policy and programmatic changes as well as project earmarking. This year, after significant delay and indecision by Congress, it is evident that neither is feasible. In the past, it has been possible to consider substantial policy decisions and earmarking based upon the expectation of a significant increase in funding levels (consistent with increases adopted in the past three 6-year bills). However, the funding level in the next authorization is expected to be status quo plus inflation at best, resulting in no earmarks or programmatic expansion. In addition, there is a strong move to consolidate multiple programs into a few broad categories with decision-making delegated to state DOTs and MPOs and new emphasis on performance measures and accountability rather than multiple categories of projects tied to specific funding amounts in specific programs.

In this changing federal environment, it is important to focus the region's priorities on the issues of highest regional importance where there is a prospect of impacting the results. As delineated in further detail in Exhibit A to this resolution, the key priorities are as follows:

1. The Congress of the United States should invest in America's prosperity through infrastructure.
2. Congress should end the indecision on transportation authorization legislation in recognition of the need for long lead times for transportation operation, rehabilitation and improvements.
3. The long standing commitment to a funding split between transit and highways should be maintained.
4. The collaborative decision-making of the metropolitan planning organizations should be maintained.
5. The program structure should support the region's planning for desired outcomes through a program structure that reinforces flexibility with accountability.
6. The federal program should be designed to support discretionary programs to allow for the construction of major transportation projects.
7. The federal program should seek ways to streamline project development and permitting to eliminate wasteful and inefficient requirements while maintaining important environmental protections provided through the National Environmental Policy Act (NEPA).
8. The federal program should support incremental upgrading of intercity passenger rail service.
9. The Sustainable Communities Partnership should be sustained, supported and expanded.
10. Although there will not be project earmarking, Congressional intervention will be required for competitive grant applications for programs such as TIFIA, Projects of National

Significance and New Starts.

Attached to this staff report is a sample list of specific legislative language that would enable the Portland region to meet its objectives through the use of the federal legislation. As the bills continue to evolve additional specific amendments will need to be pursued.

ANALYSIS/INFORMATION

1. **Known Opposition:** None
2. **Legal Antecedents:** Policy positions being sought through federal transportation legislation are consistent with the Regional Transportation Plan, adopted by Resolution No. 10-1241B, “For the Purpose of Amending the 2004 Regional Transportation Plan to Comply with State Law; To Add the Regional Transportation Systems Management and Operations Action Plan, the Regional Freight Plan and the High Capacity Transit System Plan; To Amend the Regional Transportation Functional Plan and Add it to the Metro Code; To Amend the Regional Framework Plan; And to Amend the Urban Growth Management Functional Plan.” In addition, changes in federal authorizing legislation will change funding authorities delegated to the Metro Council and JPACT.
3. **Anticipated Effects:** Resolution would provide the US Congress and the Oregon Congressional delegation with the region's priorities for transportation funding policy for use in the federal transportation authorization and appropriation process.
4. **Budget Impacts:** Federal transportation legislation will impact the level of federal funding available to the Portland region, a portion of which funds planning and projects at Metro.

RECOMMENDED ACTION

Approve Resolution No. 12-4330 for submission to the Oregon Congressional delegation.

Proposed federal action	To support the following regional objective
Sustain, increase and streamline the New Starts Program	To facilitate securing a Full Funding Grant Agreement for Portland to Milwaukie Light Rail and facilitate the needed New Starts funding contribution toward the Columbia River Crossing Light Rail project
<p>Maintain the 50% set-aside of TMP and CMAQ funds and correct the program structure as follows:</p> <ul style="list-style-type: none"> • assign non-NHS bridge funding to the TMP where the responsibility to fund non-NHS bridges is placed; • shift the NHPP pavement and bridge condition penalty from the TMP to the expansion component of the NHPP; • drop the minimum spending requirement to spend 15% of the bridge program on off-system bridges 	<p>To continue the region’s investment in expansion of the light rail, streetcar and high capacity bus system, demand management programs, system management and operation projects, transit oriented development projects, bike and pedestrian projects, freight projects</p> <ul style="list-style-type: none"> • To ensure bridge repair and replacement on the non-NHS bridges is adequately funded • To link the consequence of inadequate expenditure on NHS system pavement and bridge condition to decisions to invest in NHS expansion • To ensure higher priority bridges are addressed
Increase the maximum amount of Small Starts funding to \$100 million	To support closing the eastside streetcar loop (at OMSI) To help build the streetcar production market for Oregon Ironworks as a regional economic development strategy
Allow for a Documented Categorical Exclusion in the Small Starts program	To facilitate streamlined delivery of future streetcar projects in the right-of-way
Allow the MPO planning funds to be used as match against university research funds (like the State Planning and Research (SPR) funds)	To increase the partnership between the MPOs and OTREC
<p>Increase the funding level for Projects of National Significance</p> <p>Increase the funding level for TIFIA to \$1 billion (as reflected in the MAP-21 bill) and apply competitive criteria rather than awarding on a “first-come, first-served” basis</p>	To ensure the needed federal highway funding contribution to CRC is feasible
Provide for implementation of “practical design”	To facilitate implementation of more economically viable projects in the face of fiscal limits
Implement the proposed Freight Program	This region is disproportionately trade dependent and this program will enable focused attention on the most significant freight routes (for both planning and projects)
Maintain the eligibility of urbanized areas that operate rail systems to access Section 5307 “Bus and bus facilities” funding. This is current law, is maintained in the Senate bill and is proposed for change in the House bill.	This would provide funds to TriMet for routine bus replacement.

Agenda Item No. 5.2

Resolution No. 12-4331, For the Purpose of Confirming the
Appointment of Alison Kean Campbell as Metro Attorney.

Resolutions

Metro Council Meeting
Thursday, Feb. 16, 2012
Metro, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE) RESOLUTION NO. 12-4331
APPOINTMENT OF ALISON KEAN)
CAMPBELL AS METRO ATTORNEY) Introduced by Council President Tom Hughes

WHEREAS, pursuant to Section 25 of the Metro Charter and Chapter 2.08 of the Metro Code, the Metro Council President has the authority to appoint the Metro Attorney subject to confirmation of the Metro Council; and

WHEREAS, the duties and responsibilities of the Metro Attorney are described and provided for in the Metro Charter and the Metro Code; and

WHEREAS, the Metro Council President has appointed Alison Kean Campbell to serve as Metro Attorney subject to Council confirmation; and

WHEREAS, Ms. Kean Campbell is qualified to be the Metro Attorney; and

WHEREAS, the Metro Code provides that the employment of the Metro Attorney shall be subject to the terms of an employment agreement and the Metro Council President has negotiated an employment agreement with Alison Kean Campbell, subject to approval by the Council; now therefore

BE IT RESOLVED by the Metro Council:

- 1. The appointment of Alison Kean Campbell as Metro Attorney is confirmed; and
- 2. The Metro Council President is authorized to execute an employment agreement with Alison Kean Campbell substantially similar in form to Exhibit A attached herein.

ADOPTED by the Metro Council this _____ day of February 2012.

Tom Hughes, Council President

Approved as to Form:

Nathan A. Schwartz Sykes
Senior Metro Attorney

EMPLOYMENT AGREEMENT FOR METRO ATTORNEY

THIS AGREEMENT is entered into by and between Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter (herein referred to as “Metro”) and Alison Kean Campbell (herein referred to as “Ms. Kean Campbell” or “Metro Attorney”).

RECITALS

- A. The Metro Charter, Section 25 (2), as amended in November 2000, provides for the creation of the office of Metro Attorney and provides that “the Council President appoints the Metro Attorney subject to the confirmation by the Council.” The powers and duties of the Metro Attorney are set forth in Chapter 2.08 of the Metro Code.
- B. The Metro Code, Section 2.08.030, provides that the Metro Attorney shall have the following powers:
 - a. General control and supervision of all civil actions and legal proceedings in which Metro may be a party or may be interested; and
 - b. Full charge and control of all the legal business of all departments and commissions of Metro, or of any office thereof, which requires the services of an attorney or counsel in order to protect the interests of the district.
- C. The Metro Code, Sections 2.08.040 and 2.08.080, provide that the Metro Attorney shall have the following duties:
 - a. Give legal advice and opinions orally and in writing and prepare documents and ordinances concerning any matter in which Metro is interested in when requested by the Council, the Chief Operating Officer, the Auditor, or any Metro commission;
 - b. Review and approve as to form all written contracts, ordinances, resolutions, executive orders, bonds, or other legally binding instruments of the district;
 - c. Appear for, represent, and defend the district, and its departments, officers, commissions and employees and other persons entitled to representation by Metro;
 - d. Submit to the Council, Chief Operating Officer and Auditor annually a formal report of all suits or actions in which the district is a party, and at any time the Metro Attorney shall at the request of the Council, the Chief Operating Officer, or the Auditor, report on the status of any or all matters being handled by the Metro Attorney;
 - e. Appear, commence, prosecute, defend or appeal any action, suit, matter, cause or proceeding in any court or tribunal when requested by the Council, the Chief Operating Officer, or any Metro commission when, in the discretion of the Metro Attorney, the same may be necessary or advisable to protect Metro’s interests; and
 - f. Prepare formal written opinions regarding interpretations of federal and Oregon law, the Metro Charter, and Metro ordinances.
- D. In accordance with the Metro Charter and Code, the Council President has appointed Alison Kean Campbell to be the Metro Attorney, and on February 16, 2012 the Metro Council confirmed her appointment; and
- E. The Metro Code provides that the employment of the Metro Attorney shall be subject to a contract in regard to compensation.

NOW, THEREFORE, IN CONSIDERATION of the compensation to be paid by Metro to Ms. Kean Campbell, as specified in this Agreement, and in consideration of the mutual promises contained in this Agreement, the parties hereby agree as follows:

AGREEMENT

1. Engagement. Subject to the parties' right to terminate this Agreement as specified below, Metro hereby employs and Ms. Kean Campbell hereby accepts employment from Metro for Ms. Kean Campbell's services as the Metro Attorney.
2. Term of Agreement. Ms. Kean Campbell's employment under this Agreement shall begin on February 16, 2012, and shall continue until terminated as provided herein.
3. Services. Ms. Kean Campbell shall faithfully, industriously and to the best of her ability provide her services as Metro Attorney, and shall perform all duties as may be required of her by the Metro Charter, Metro Code and the Council.
4. Exclusivity. During the term of this Agreement, and except as otherwise provided herein, Ms. Kean Campbell shall devote all of her business efforts, time, attention, knowledge, and skills to Metro as its Metro Attorney. Ms. Kean Campbell shall not actively engage in any other paid employment for any direct or indirect remuneration without the prior approval of the Metro Council.
5. Attorney Status. As a condition of employment, Ms. Kean Campbell shall maintain status as an active member of the Oregon State Bar in good standing. Ms. Kean Campbell shall be permitted to engage in pro bono activities required or encouraged for members of the Oregon State Bar, to the extent that such activities present no conflict and are non inconsistent with her service as Metro Attorney. Metro shall pay Ms. Kean Campbell's Oregon State Bar annual membership fee and any other fees required by the Oregon State Bar as a condition of practice of law in the State of Oregon.
6. Employment At-Will. Metro and Ms. Kean Campbell understand and acknowledge that the Metro Attorney serves at the pleasure of the Metro Council President and the Metro Council. Metro and Ms. Kean Campbell understand and acknowledge that Ms. Kean Campbell's employment with Metro constitutes "at-will" employment. Ms. Kean Campbell and Metro acknowledge that this employment relationship may be terminated at any time, upon written notice to the other party, with or without cause or good reason and for any or no cause or reason, at the option of either Metro or Ms. Kean Campbell. It is further understood and agreed that neither this Agreement, nor service provided under this Agreement, shall create a property interest of any kind. This Agreement has no monetary value.
7. Compensation.
 - A. Salary. As compensation for Ms. Kean Campbell's services, Metro shall initially pay Ms. Kean Campbell the sum of One Hundred Sixty Five Thousand Dollars (\$165,000) per year, payable in the same frequency and manner as other Metro employees. Ms. Kean Campbell shall be eligible for an increase of between 3-4% effective January 1, 2013 provided she receives a successful initial evaluation by the Council and Council President which shall occur in December of 2012. Ms. Kean Campbell's performance

and salary shall be reviewed annually by Metro as provided below. Any salary increases shall be based on Metro's annual evaluation of Ms. Kean Campbell's performance, availability of funding, and on Metro's assessment of inflation and a survey of annual salaries paid to comparable positions. For the purpose of this Agreement, comparable positions shall include but not be limited to, the head attorney position of the Metro Area's largest city and the head attorney position at other Metro-area regional government entities. The compensation paid to Ms. Kean Campbell shall be subject to customary withholding taxes and other taxes as required with respect to compensation paid by Metro to an employee.

- B. Benefits. Ms. Kean Campbell shall receive all normal and regular benefits accruing to Metro non-represented employees. For the purposes of this section, "benefits" means health insurance, including dental and vision care, life insurance, disability insurance, sick leave, employee assistance, and retirement benefits pursuant to the Public Employees Retirement System ("PERS") for existing employees. Ms. Kean Campbell shall be entitled to these benefits under the same terms and conditions as provided for Metro's non-represented employees. She will continue to have her employee portion of PERS paid by Metro. Except as otherwise expressly provided in this Agreement, the employee benefits provided to Ms. Kean Campbell under this section are subject to any additions, reductions or other changes made by the Metro Council to the benefits provided to Metro's non-represented employees.
 - C. Vacation Leave. Ms. Kean Campbell shall accrue paid vacation leave of five weeks per year, plus personal holiday leave and sick leave accruing to Metro non-represented employees. Ms. Kean Campbell may accrue up to 1080 hours of vacation leave but Ms. Kean Campbell's paid vacation leave upon termination will be capped at this amount. Any vacation leave accrued above 1080 hours shall be forfeited. Ms. Kean Campbell will also receive forty (40) hours of administrative leave per year but these hours must be used in the fiscal year received or be lost at the end of the fiscal year.
 - D. Modifications to Compensation. Metro may change or modify Ms. Kean Campbell's salary or benefits on six months' written notice to Ms. Kean Campbell, or at any time by mutual agreement of the parties.
 - F. Dues, Subscriptions, Professional Development, and Civic Involvement. Metro agrees to budget for and pay for Ms. Kean Campbell's reasonable costs for continuing legal education and other professional education and for memberships in professional organizations necessary or beneficial to carrying out his duties as Metro Attorney. In addition, Metro agrees to budget and pay for Ms. Kean Campbell's reasonable professional dues, subscriptions, travel, and training for Ms. Kean Campbell's participation in national, regional, State and local associations necessary and desirable for Ms. Kean Campbell's professional development and for the good of Metro.
8. Performance/Compensation Reviews. Metro shall annually evaluate Ms. Kean Campbell's performance as soon as practicable after July 1. The performance evaluation will be in accordance with criteria and process developed jointly by Metro and Ms. Kean Campbell prior to each annual evaluation. Further, Ms. Kean Campbell shall receive a written copy of the findings of the evaluation and the process will provide an adequate opportunity for Ms. Kean Campbell and the Metro Council to discuss the evaluation. No failure to evaluate Ms. Kean Campbell shall limit Metro's right to terminate Ms. Kean Campbell as specified in this Agreement.

9. Termination

- A. Termination for Convenience. Either party may terminate this Agreement whenever it determines that it would be convenient and/or desirable to do so. In the event that either party elects to terminate this Agreement for convenience, this Agreement shall terminate upon a date chosen by the terminating party, unless another termination date is mutually agreed upon. In the event of a termination for convenience, the terminating party shall provide the other party with a written notice of termination that specifies the date the termination becomes effective. Examples of termination for convenience include but are not limited to the following situations, unless they also accompany “cause” as provided for in paragraph 9(C):
- i. If the Council President or Metro Council discharges or dismisses the employee without prior written notice of a “cause” identified in paragraph 9(C).
 - ii. If Metro reduces the base salary, compensation or any other financial benefit of Ms. Kean Campbell, unless it is applied in no greater percentage than the average reduction of all members of the Metro Senior Leadership Team.
 - iii. If Ms. Kean Campbell resigns following an offer to accept resignation, whether formal or informal, by the Council President or Metro Council that the employee resign.
- B. Payments Upon Termination for Convenience.
- i. In the event that this Agreement is terminated for convenience by Metro or its lawful successor, as severance pay Ms. Kean Campbell shall receive the equivalent of six months’ salary, plus the cash value of any accrued and unused vacation leave up to a maximum of 1080 accrued vacation hours. In addition, the severance will require Metro to continue to pay the employer portion of the premium for medical and dental insurance coverage for up to six months or until the last day of the month in which Ms. Kean Campbell obtains employment with a alternative insurance, whichever occurs earlier.
 - ii. As a condition of the severance offer, Ms. Kean Campbell will be required to release Metro, its officers, representatives, insurers and employees from claims arising from employment with Metro and separation of employment.
 - iii. In the event Ms. Kean Campbell terminates for convenience, no severance pay or pay for benefits shall be due Ms. Kean Campbell. Ms. Kean Campbell shall use her best efforts to provide a minimum of 30 days notice prior to terminating this Agreement for convenience.
- C. Termination for Cause. Metro may terminate this Agreement for “cause” by giving Ms. Kean Campbell 72 hours written notice of its intent to terminate for cause. In the event that Metro elects to terminate this Agreement for “cause,” no severance pay shall be due Ms. Kean Campbell. “Cause” shall be one or more of the following:
- (i) Willful failure to follow lawful resolutions or directives of the Metro Council or the Metro Charter or Metro Code;
 - (ii) Willful failure to attempt to substantially perform her duties as Metro Attorney (other than any such failure resulting from her incapacity due to physical or mental impairment), unless such failure is corrected within thirty (30) days following written notice by the Metro Council President that specifically identifies the manner in which the Metro Council President believes Ms. Kean Campbell has substantially not attempted to materially perform her duties;
 - (iii) Misappropriation of funds or property of Metro;

- (iv) Fraud or gross malfeasance;
- (v) Conduct of a felonious or criminal nature which would tend to bring discredit or embarrassment to Metro or its operations;
- (vi) Commission of any act, the nature of which would tend to bring discredit or embarrassment to Metro or its operations
- (vii) Significant violation of the written work rules or written policies of Metro that bring doubt on Ms. Kean Campbell's ability to adequately perform the functions of the Metro Attorney after written notice of violation from the Metro Council President.

10. Termination Authority. In accordance with the Metro Code, the Council President has the sole authority to terminate this Agreement on behalf of Metro, subject to concurrence of the Council by resolution. The Council President may terminate this Agreement in writing pursuant to any provision of Paragraph 9 of this Agreement. Upon receipt of a termination notice, Ms. Kean Campbell may accept the termination or request in writing within 48 hours that the Council President submit the termination to the Council for its concurrence. Concurrence in the termination by the Council is a final decision.

11. Disability or Death.

A. If, as the result of any physical or mental disability, Ms. Kean Campbell shall have failed or is unable to perform her duties for more than twenty-four (24) consecutive weeks, Metro may, by subsequent written notice to Ms. Kean Campbell, terminate her employment under this Agreement as of the date of the notice without any further payment or the furnishing of any benefit by Metro under this Agreement (other than accrued and unpaid salary and accrued benefits), subject to compliance with all applicable laws and regulations including the Americans With Disabilities Act.

B. The term of Ms. Kean Campbell's employment under this Agreement shall terminate upon her death without any further payment or the furnishing of any benefit by Metro under this Agreement (other than accrued and unpaid salary and accrued benefits).

11. Successorship. This Agreement shall inure to and shall be binding upon Metro's successors, assigns, trustees, etc.

12. Modification. This Agreement can only be modified by a written amendment, signed by Ms. Kean Campbell and the Metro Council President. No oral or written statements, promises, or course of conduct shall serve to modify the Agreement in any way. No practices or customs which may arise between Ms. Kean Campbell and Metro shall modify this Agreement or affect its meaning in any way.

13. Construction. This At Will Employment Agreement is the final agreement between the parties, shall be construed as having been drafted jointly by the parties is intended to be a complete and final expression of the agreement between the parties, and shall supersede any and all prior discussions or agreements.

14. Severability. In the event that any court of competent jurisdiction determines that one or more portions of this Agreement are invalid or unlawful, the remaining portions shall remain in full force and effect.

15. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Ms. Kean Campbell consents to the personal jurisdiction of the state and federal courts located in Multnomah County, Oregon for any action or proceeding arising from or relating to this Agreement.
16. Waiver: No waiver by Metro of any default shall operate as a waiver of any other default on a future occasion or the same default. No delay or omission by Metro in exercising any right or remedy shall operate as a waiver thereof, and no single or partial exercise of a right or remedy shall preclude any other or further exercise thereof, or the exercise of any other right or remedy.

EXECUTED IN TRIPLICATE on _____, to be effective immediately.

METRO

Alison Kean Campbell

Tom Hughes
Metro Council President

APPROVED AS TO FORM:

Nathan A. Schwartz Sykes
Senior Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 12-4331, FOR THE PURPOSE OF CONFIRMING THE APPOINTMENT OF ALISON KEAN CAMPBELL AS METRO ATTORNEY

Date: February 7, 2012

Prepared by: Andy Shaw,
503-797-1746

BACKGROUND

Pursuant to the Metro Charter and the Metro Code, the Metro Council President appoints the Metro Attorney subject to Council confirmation. In January 2012, after having served Metro as head attorney for twenty-five (25) years, Metro Attorney Daniel B. Cooper announced his intention to retire as of November 2012, and to resign his Metro Attorney position effective at the end of the day on February 15, 2012. Metro Council President Tom Hughes has appointed Alison Kean Campbell as the Metro Attorney, subject to confirmation by the Metro Council pursuant to this resolution.

Ms. Kean Campbell has practiced law for 23 years. She has worked for Metro for 16 years. Kean Campbell graduated from the University of Michigan Law School in 1988, where she was an associate editor of the Michigan Law Review. She holds a degree in economics from Case Western Reserve University. In 1996, Ms. Kean Campbell was hired as the lead lawyer in charge of implementing Metro's first natural area acquisition program. In 2006 Ms. Kean Campbell drafted the Construction Excise Tax (CET) ordinance and administrative rules, and negotiated intergovernmental agreements with the region's cities and counties to collect CET tax revenues and to distribute to CET grants to local jurisdictions.

Ms. Kean Campbell also negotiated and drafted the legal documents related to Metro's multi-year investigation of the potential development of a convention center headquarters hotel, and she advised the Metro Council and the MERC Commission on the legal aspects of the project. Ms. Kean Campbell currently provides legal counsel to the Community Investment Initiative (CII), working with the CII Leadership Counsel, the Metro Council, the Metro COO and agency staff providing legal advice on the evolving project. Ms. Kean Campbell has been a member of Metro's Senior Leadership Team since 2008, and has advised the Metro Council, the MERC Commission, the Metro COO, and agency staff regarding state and federal constitutional, statutory, and regulatory law and the requirements of the Metro Code and Charter. She also provides training throughout Oregon to elected officials and agency staff on public records laws, the Oregon Ethics Act, and other public law issues.

In 2007 the Metro Council recommended that a Deputy Metro Attorney position be created and that Mr. Cooper prepare a succession plan for the Office of Metro Attorney. After a competitive process, Alison Kean Campbell was appointed as the Deputy Metro Attorney in 2008. The selection of a Deputy Metro Attorney was the first step in a succession plan for the Office of Metro Attorney, and Mr. Cooper and Ms. Kean Campbell, along with the Metro Chief Operating Officer, have been working together to implement the various stages of that succession plan since 2008. From March through October 2011, Ms. Kean Campbell served as the Acting Metro Attorney while Mr. Cooper served as the agency's Acting Chief Operating Officer during the recruitment process for a new Metro Chief Operating Officer.

Prior to joining Metro, Kean Campbell worked in private practice in Washington D.C., Seattle, and Portland, focusing on complex civil and commercial litigation. Kean Campbell is licensed to practice law

in both Oregon and Washington.

ANALYSIS/INFORMATION

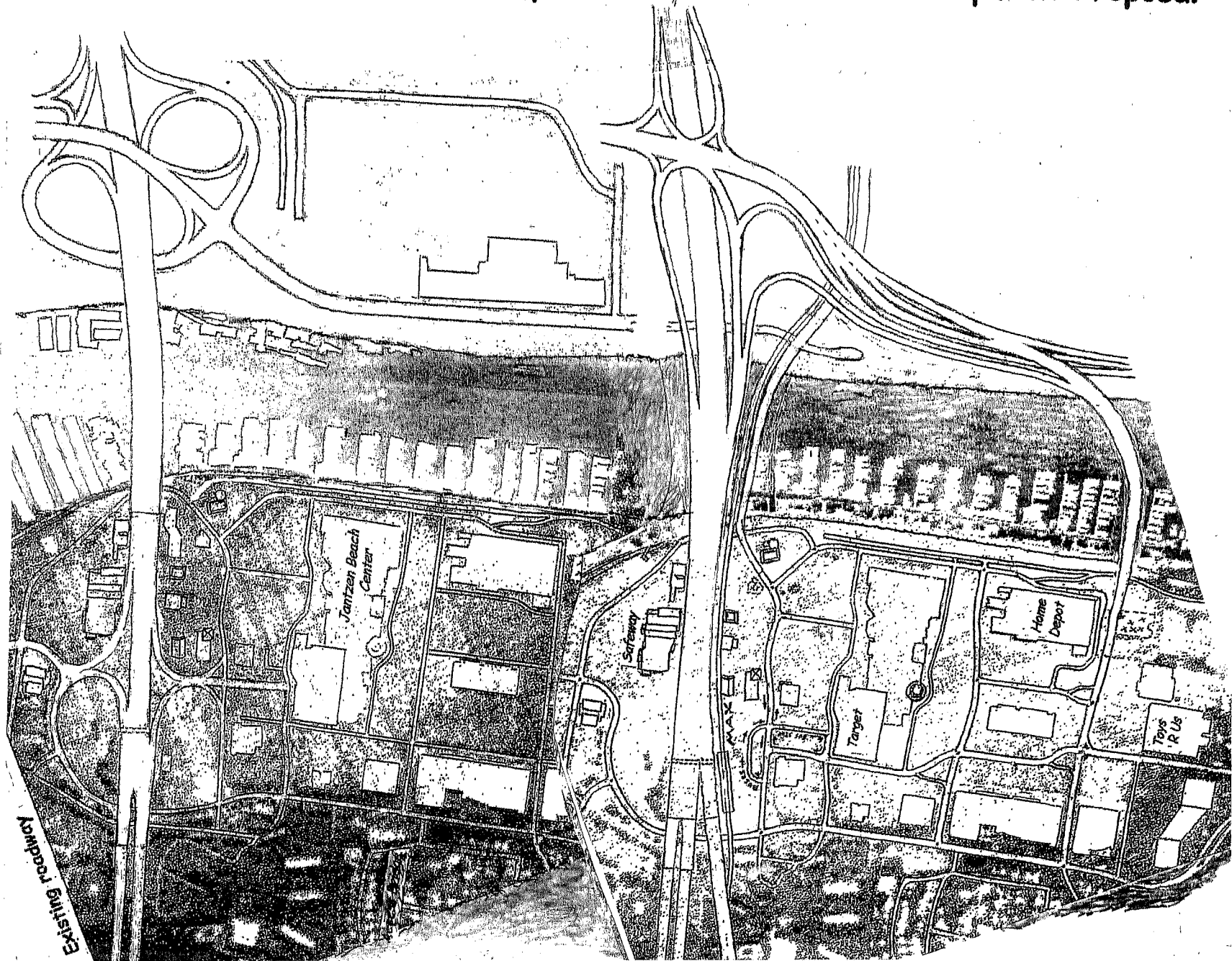
1. **Known Opposition.** None
2. **Legal Antecedents.** Metro Charter Chapter V, Section 25(2) and Metro Code Chapter 2.08 govern the creation, duties, powers, and other functions of the Metro Attorney. Section 2.08.020(a) of the Metro Code provides that the Metro Attorney shall be appointed by the Council President subject to confirmation by the Council by resolution. Metro Council President Tom Hughes has appointed Alison Kean Campbell as the Metro Attorney subject to the Metro Council's confirmation via this resolution.
3. **Anticipated Effects** This resolution will confirm the Council Presidents appointment of Alison Kean Campbell as the Metro Attorney and authorize the Council President to enter into an employment agreement with Alison Kean Campbell.
4. **Budget Impacts.** The salary of the Metro Attorney is currently budgeted for in the approved Metro Budget.

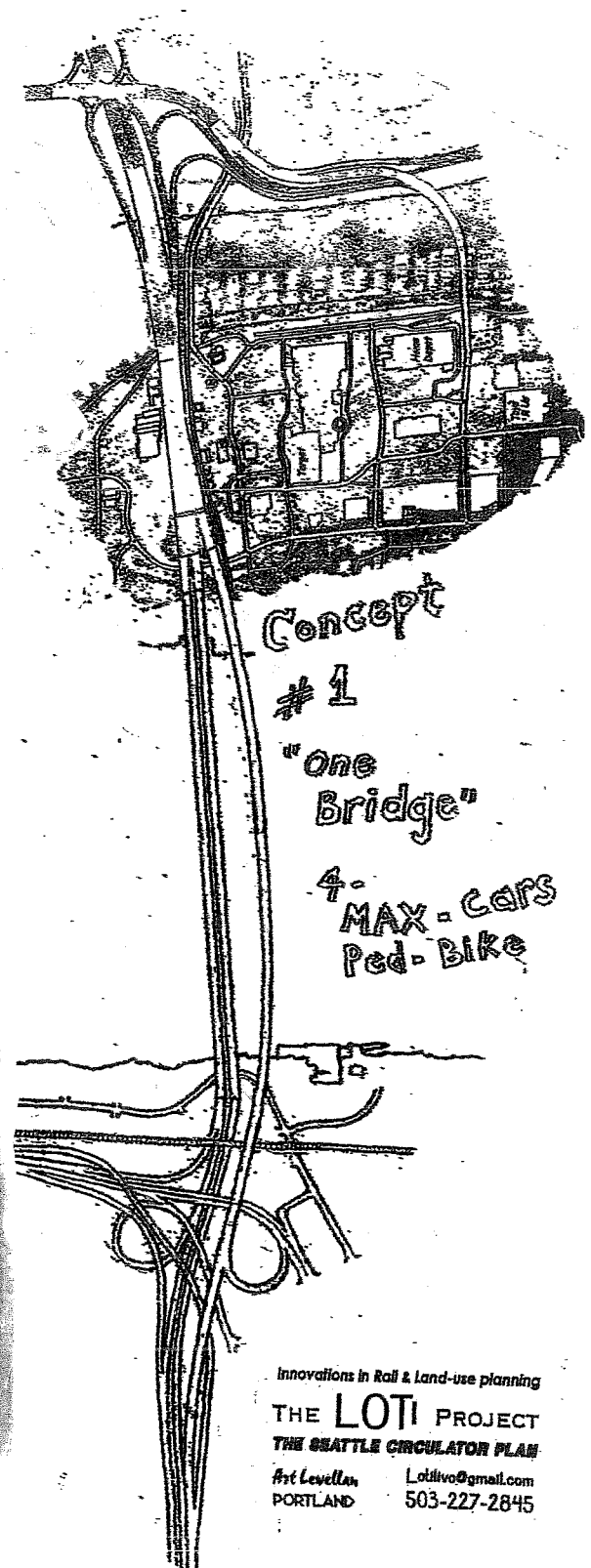
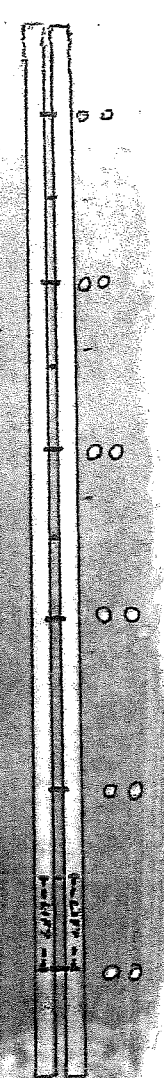
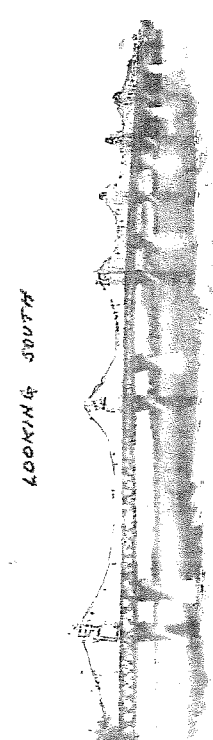
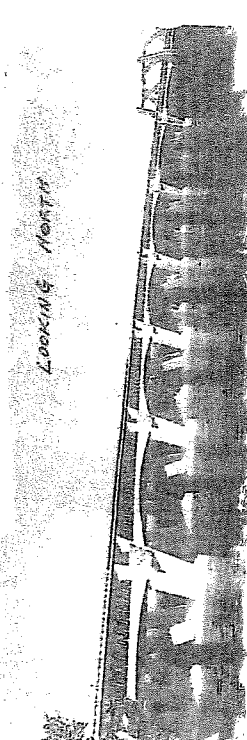
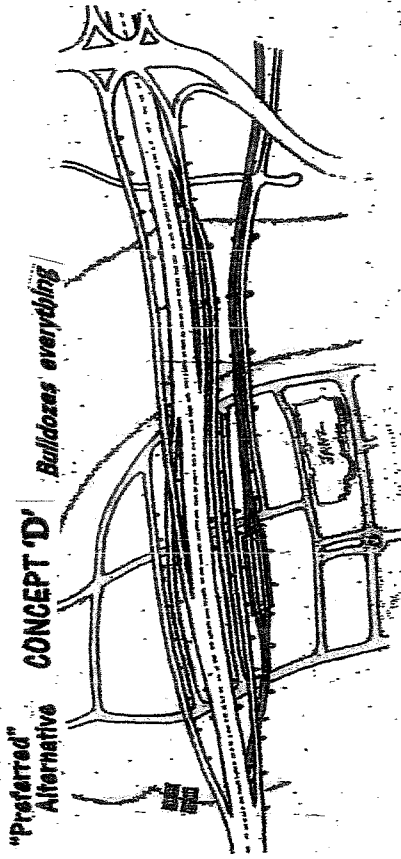
RECOMMENDED ACTION

Council President Hughes and staff recommend adoption of Resolution No. 12-4331.

Materials following this page were distributed at the meeting.

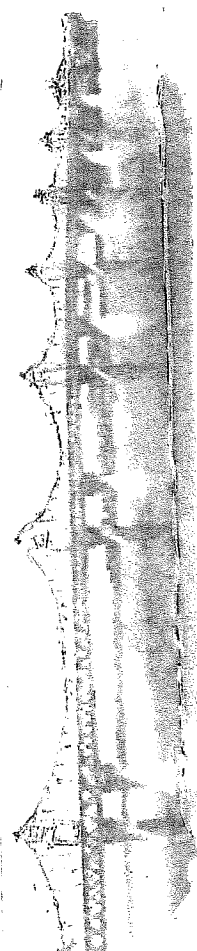
Concept #1 Hayden Island Roadway Network Land-use & Development Proposal



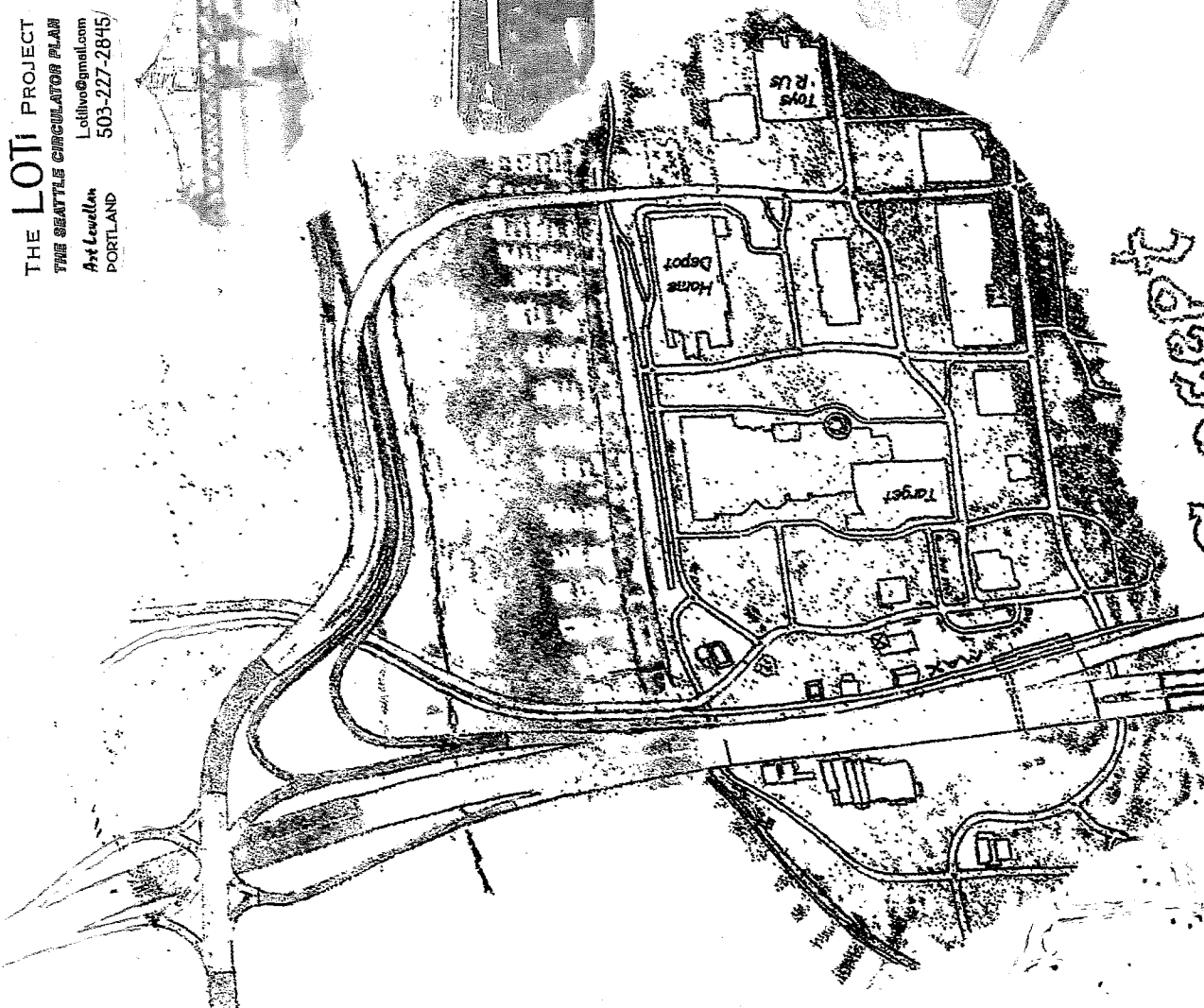
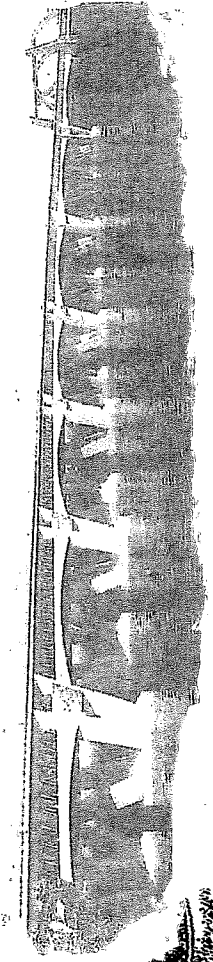


Innovations in Rail & Land-use planning
THE LOTI PROJECT
THE SEATTLE CIRCULATOR PLAN
 Art Lovell, Lotilvo@gmail.com
 PORTLAND 503-227-2845

'Looking south' at Northbound Cable-stayed behind Southbound Stressed-truss in foreground



'Looking north' at REJECTED Wsdot bridge design



Concept

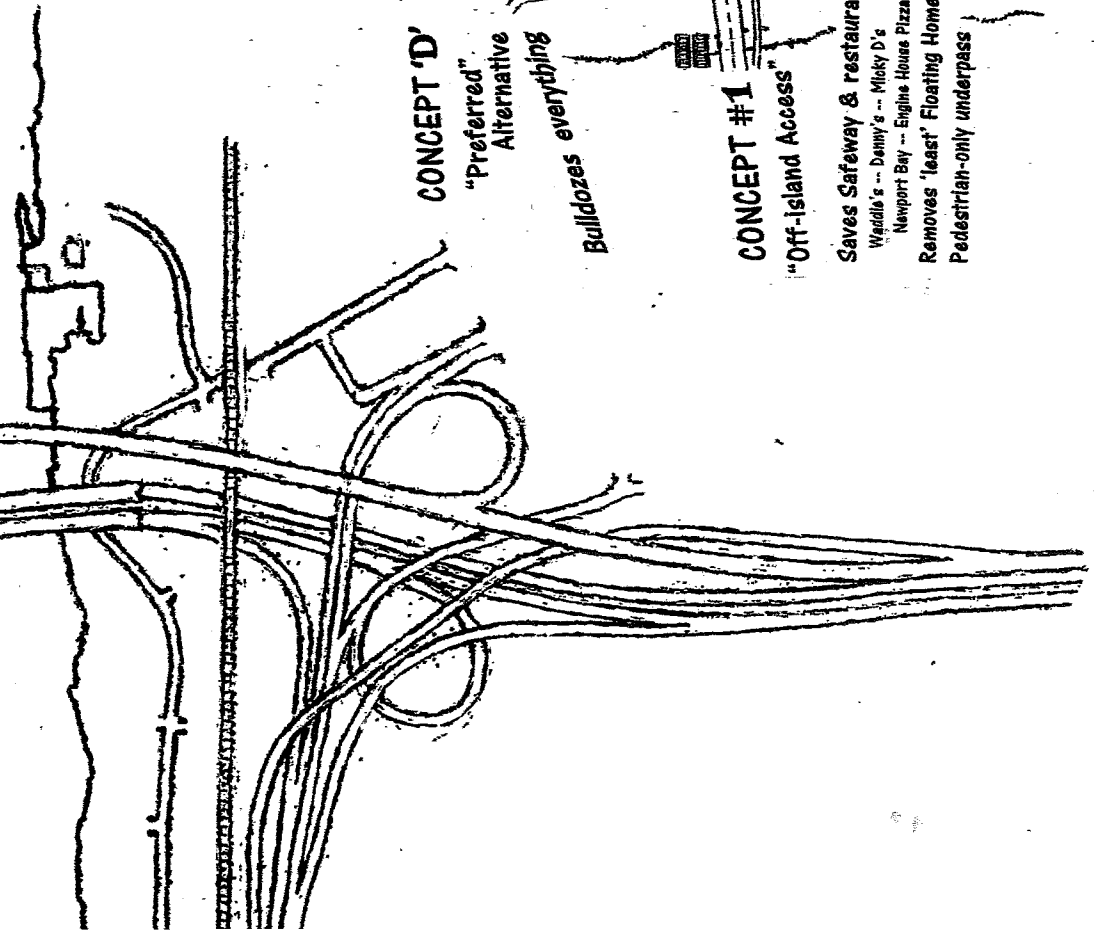
#1

"One Bridge"

4-

MAX - Cars

Ped - Bike



CONCEPT 'D'

"Preferred" Alternative

Bulldozes everything

CONCEPT #1

"Off-island Access"

Saves Safeway & restaurants

Wiggle's -- Benny's -- Micky D's

Newport Bay -- Engine House Pizza

Removes 'least' Floating Home docks

Pedestrian-only underpass - near I-5

"Alternative Eastbound Entry To Left-turn Lane from Marine Drive"

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENDORSING A) RESOLUTION NO. 12-4330
REGIONAL POSITION ON THE)
AUTHORIZATION OF A SURFACE) Introduced by Councilor Collette
TRANSPORTATION ACT IN THE US)
CONGRESS)

WHEREAS, the Senate Environment and Public Works Committee of the US Senate has introduced to the 112th Congress a new highway authorization bill entitled “Moving Ahead for Progress in the 21st Century (MAP-21)” and the Senate Committee on Banking, Housing and Urban Affairs has introduced a new transit authorization bill entitled “The Federal Public Transportation Act of 2012;” and

WHEREAS, the Committee on Transportation and Infrastructure of the US House of Representatives has introduced a new transportation authorization bill entitled “The American Energy and Infrastructure Jobs Act of 2012;” and

WHEREAS, federal transportation legislation is critical to the successful implementation of the region’s plans to achieve the six adopted outcomes of a successful region; and

WHEREAS, it will be important for the region to actively engage in development of legislation as it continues to evolve; and

WHEREAS, on February 9, 2012 the Joint Policy Advisory Committee on Transportation recommended adoption of this resolution; now therefore

BE IT RESOLVED that the Metro Council endorses Exhibit A reflecting the following key policy positions:

1. The Congress of the United States should invest in America’s prosperity through infrastructure.
2. Congress should end the indecision on transportation authorization legislation in recognition of the need for long lead times for transportation operation, rehabilitation and improvements.
3. The long standing commitment to a funding split between transit and highways should be maintained.
4. The collaborative decision-making of the metropolitan planning organizations should be maintained.
5. The program structure should support the region’s planning for desired outcomes through a program structure that reinforces flexibility with accountability.
6. The federal program should be designed to support discretionary programs to allow for the construction of major transportation projects.

7. The federal program should seek ways to streamline project development and permitting to eliminate wasteful and inefficient requirements while maintaining important environmental protections provided through the National Environmental Policy Act (NEPA).
8. The federal program should support incremental upgrading of intercity passenger rail service.
9. The Sustainable Communities Partnership should be sustained, supported and expanded.
10. Although there will not be project earmarking, Congressional intervention will be required for competitive grant applications for programs such as TIFIA, Projects of National Significance and New Starts.

ADOPTED by the Metro Council this _____ day of February 2012.

Tom Hughes, Council President

Approved as to Form:

Alison Kean Campbell, Deputy Metro Attorney