

BEFORE THE METRO COUNCIL CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING THE)	RESOLUTION NO. 04-3459
CHIEF OPERATING OFFICER TO AMEND THE)	
OUTSIDE COUNSEL CONTRACT REGARDING)	
ENVIRONMENTAL ISSUES RELATED TO THE)	Introduced by Chief Operating Officer
WILLAMETTE COVE PROPERTY)	Michael J. Jordan, with the concurrence of
)	Council President David Bragdon

WHEREAS, at the election held on May 16, 1995, the Metro Area voters approved the Open Spaces, Parks and Streams Bond Measure (Ballot Measure 26-26), which authorized Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and capital improvements;

WHEREAS, on January 18, 1996, via Resolution No. 96-2266 (For the Purpose of Authorizing the Executive Officer to Purchase Property Within the Willamette River Greenway Regional Target Area), the Metro Council authorized the purchase of the 27-acre Willamette Cove property (the "Property") on the east bank of the Willamette River which had been under option to The Trust for Public Land and identified in the Ballot Measure 26-26 Fact Sheet 4 as on the "option" sites;

WHEREAS, Metro acquired the Property on February 28, 1996, from The Trust for Public Land;

WHEREAS, on June 13, 1996, via Resolution No. 96-2340 (For the Purpose of Approving a Refinement Plan for Willamette Cove Target Area as Outlined in the Open Space Implementation Work Plan), the Metro Council adopted the Willamette Cove Target Area Refinement Plan;

WHEREAS, subsequent to the acquisition of the Property, the Portland Harbor has been designated a federal Superfund Site by the Federal Environmental Protection Agency (EPA) and State of Oregon Department of Environmental Quality (DEQ);

WHEREAS, subsequent to the acquisition of the Property, Metro requested proposals for outside counsel specializing in environmental law pursuant to Metro Code Chapter 2.04;

WHEREAS, Metro awarded the initial contract to Miller Nash (Outside Counsel), Contract No. 921549, for an initial contract amount of \$25,000.00, with an initial term of August 10, 1999 through June 30, 2000 (Contract), and the Contract has been amended once by \$25,000.00 and also extending the duration of the Contract through November 30, 2004;

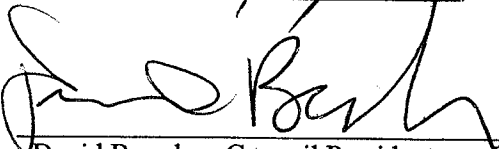
WHEREAS, Outside Counsel has assisted Metro in negotiating preliminary settlement with the Port of Portland and is currently in negotiations with DEQ, EPA, and the Port about ongoing issues;

WHEREAS many new legal issues are being negotiated as the sediment portion of the Superfund Site investigation and remediation proceeds; and

WHEREAS, Outside Counsel's current Contract will need to be amended pursuant to Metro Code Section 2.04.026 Council Approval of Contracts to extend its duration and increase its amount; now therefore

BE IT RESOLVED that the Metro Council authorizes the Metro Chief Operating Officer to direct the Office of Metro Attorney to execute an Amendment No. 5 to Outside Counsel's Contract No. 921549, increasing the Contract an additional Fifty Thousand Dollars (\$50,000.00) and extending the Contract term an additional three (3) years up through November 30, 2007.

ADOPTED by the Metro Council this 20th day of May, 2004.


David Bragdon, Council President

Approved as to Form:


Daniel B. Cooper, Metro Attorney



STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 04-3459, FOR THE PURPOSE OF
AUTHORIZING THE CHIEF OPERATING OFFICER TO AMEND THE OUTSIDE
COUNSEL CONTRACT REGARDING ENVIRONMENTAL ISSUES RELATED
TO THE WILLAMETTE COVE PROPERTY

Date: May 6, 2004

Prepared by: Daniel B. Cooper
Metro Attorney

BACKGROUND

Subsequent to Metro's acquisition of the Willamette Cove Property, Metro made an informal request for proposal for outside counsel specializing in ongoing environmental issues for the Property pursuant to Metro Code Chapter 2.04.

Metro awarded the initial contract to Miller Nash (Outside Counsel), Contract No. 921549, for an initial contract amount of \$25,000.00, with an initial term of August 10, 1999 through June 30, 2000 (Contract). The Contract has been amended as follows:

1. Amendment No. 1: Contract increased with another \$25,000.00, extended through June 30, 2001;
2. Amendment No. 2: Contract extended through December 31, 2001;
3. Amendment No. 3: Contract extended through November 30, 2003; and
4. Amendment No. 4: Contract extended through November 30, 2004

Due to pending legal issues regarding the environmental status of the Willamette Cove Property, Outside Counsel's current Contract will need to be amended, increasing the Contract amount for an additional \$50,000.00 and extend the Contract term an additional three (3) years up through three years up through November 30, 2007, pursuant to Metro Code Section 2.04.026 Council Approval of Contracts.

Metro anticipates ongoing environmental issues with the Property creating the need for specialized assistance of Outside Counsel.

ANALYSIS/INFORMATION

1. **Known Opposition:** None.
2. **Legal Antecedents:**
 - A. Metro Code Chapter 2.04 Contracts Policies;
 - B. Metro Code Section 2.04.026 Council Approval of Contracts;
 - C. May 16, 1995, the Metro Area voters approved the Open Spaces, Parks and Streams Bond Measure (Ballot Measure 26-26), approved by the Metro Area voters on May 16, 1995;
 - D. Resolution No. 96-2266 (For the Purpose of Authorizing the Executive Officer to Purchase Property Within the Willamette River Greenway Regional Target Area, adopted on January 18, 1996;

- E. Resolution No. 96-2340 (For the Purpose of Approving a Refinement Plan for Willamette Cove Target Area as Outlined in the Open Space Implementation Work Plan), adopted June 13, 1996; and
 - F. Metro Contract No. 921549.
3. **Anticipated Effects:** Subsequent to the Metro Council President, Chief Operating Officer and Contract Review Board authorization, the Office of Metro Attorney will have an Amendment No. 5 to Outside Counsel's Contract No. 921549 executed, increasing the Contract amount for another \$50,000.00 and extend the Contract term an additional three (3) years up through November 30, 2007.
4. **Budget Impacts:** This contract will be paid for from existing appropriations in the Open Spaces Bond Fund, under the Stabilization program. Approval of this contract has no impact on future expenditure appropriations and can be cancelled at any time if necessary. The Office of the Metro Attorney oversees this contract.

RECOMMENDED ACTION

Michael J. Jordan, Chief Operating Officer, with the concurrence of David Bragdon, Council President, recommends adoption of Resolution No. 04-3459.