

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING ) RESOLUTION NO. 92-1618B  
THE TOTAL AMOUNT OF THE )  
REGION 2040 CONSULTING ) Introduced by Rena Cusma,  
CONTRACT ) Executive Officer

WHEREAS, The Council of the Metropolitan Service District approved Resolution No. 91-1530 on December 12, 1991, authorizing the execution of a contract for the Region 2040 Study with the team led by ECO Northwest; and

WHEREAS, Resolution No. 91-1530 states that the "project will not exceed \$280,000 without the express consent of the Council"; and

WHEREAS, Portland General Electric has provided the Region 2040 Study with \$20,000 for additional public outreach, in addition to a total of \$40,000 in in-kind services for public outreach; and

WHEREAS, The donation of cash and in-kind services from Portland General Electric was discussed with the Metro Council Transportation and Planning Committee; and

WHEREAS, The application of the \$20,000 provided by Portland General Electric to the Region 2040 Study raises the total consultant contract from \$280,000 to \$300,000; and

WHEREAS, Metro staff are exploring other possible non-excise tax avenues for augmenting the Region 2040 Study budget; now, therefore,

BE IT RESOLVED,

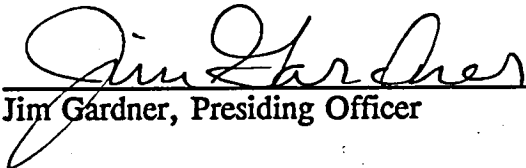
That the Council of the Metropolitan Service District hereby consents to the increase

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of the Region 2040 Consultant Contract from \$280,000 to \$300,000 due to the donation of \$20,000 from Portland General Electric.

ADOPTED by the Council of the Metropolitan Service District

this 25th day of June, 1992.

  
\_\_\_\_\_  
Jim Gardner, Presiding Officer

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1092

Contract Number: 902254

**REVENUE AGREEMENT**

THIS AGREEMENT dated this 20<sup>th</sup> day of December, 1991, is between the METROPOLITAN SERVICE DISTRICT, a municipal corporation, hereinafter referred to as "METRO", whose address is 2000 Southwest First Avenue, Portland Oregon 97201-5398, and PORTLAND GENERAL ELECTRIC COMPANY, 121 Southwest Salmon Street, Portland, Oregon 97204, hereinafter referred to as "PGE", for the period of December 18, 1991, through June 30, 1992, and for any extensions thereafter pursuant to written agreement of both parties.

**WITNESSETH:**

WHEREAS, This agreement is exclusively for contributions relating to Metro's Region 2040 project; NOW THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

**PGE AGREES:**

1. To contribute to METRO the sum, TWENTY THOUSAND DOLLARS EXACTLY (\$20,000.00), one-third to be provided immediately and two-thirds to be contributed during the first quarter of calendar year 1992; and
2. To contribute printing services not to exceed the sum TWENTY THOUSAND DOLLARS (\$20,000.00) as determined by PGE; and
3. To contribute video services not to exceed the sum TWENTY THOUSAND DOLLARS (\$20,000.00) as determined by PGE; and
4. That cash contribution, printing and video services shall be used solely to support efforts to explain to the public the purpose and design of METRO's Region 2040 project and to provide opportunities for the public to express their preferences for how the region should manage future growth; and,
5. That METRO will be responsible for the final decision as to how the resources provided by PGE will be used by the consultant team selected by METRO. PGE's Manager of Community Development will participate as liaison between PGE and METRO to coordinate the provision of printing and video services; and,

**METRO AGREES:**

1. That PGE's contribution will be recognized, along with those contributions of other project sponsors, on documents printed by PGE and videos produced by PGE as well as at public workshops, related public events and appropriate documents; and,
2. That METRO will be responsible for the final decision as to how the resources provided by PGE will be used by the consultant team selected by METRO. PGE's Manager of Community Development will participate as liaison between PGE and METRO to coordinate the provision of printing and video services and to review products to be distributed to the public which are to be contributed by PGE; and,
3. That METRO will accept a contribution from PGE in the amount of a sum not to exceed TWENTY THOUSAND DOLLARS EXACTLY, (\$20,000) as well as video and printing services, to be used for tasks related to public involvement with Region 2040, Phase I; and,

**BOTH PARTIES AGREE:**

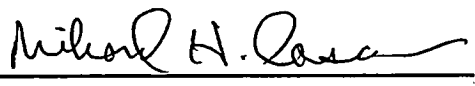
1. That this Agreement may be amended only by the written agreement of both parties.

**PORTLAND GENERAL ELECTRIC**

By:   
Gregg Karlov, Manager, Community Development

Date: 12-18-91

**METROPOLITAN SERVICE DISTRICT**

By:   
Richard H. Carson, Director, Planning & Development

Date: 12-19-91

**APPROVED AS TO FORM:**



## TRANSPORTATION AND PLANNING COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 92-1618 FOR THE PURPOSE OF AMENDING THE TOTAL AMOUNT OF THE REGION 2040 CONSULTING CONTRACTING

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Date: June 18, 1992

Presented by: Councilor Devlin

Committee Recommendation: At the June 9 meeting, the Transportation and Planning Committee voted unanimously to recommend Council adoption of Resolution No. 92-1618-A. Voting in favor: Councilors Devlin, McLain, Buchanan, and Washington. Excused: Councilor Bauer.

Committee Issues/Discussion: Andy Cotugno presented the staff report. He explained reviewed the history of the Region 2040 Consultant contract and explained that the department is in the process of soliciting corporate funds for the Region 2040 project. This resolution is the result of a donation from Portland General Electric of \$40,000 of in-kind funds and \$20,000 cash. In order to expend the cash bequest, the contract amount needs to be increased from \$280,000 to \$300,000.

If the corporate solicitation continues to be successful, as the department hopes, there will be additional contract amendments. For that reason, the resolution also asks the Council to authorize "the Transportation and Planning Committee to amend the total amount for this contract to incorporate additional **non-excise tax sources of funding** as long as the department has sufficient expenditure authority, or to refer such amendments to the full Council for its consideration should the Committee fail to reach agreement".

The committee approved the resolution with the following changes and concerns regarding section 2:

1. They amended the language (above in bold) to state "...to incorporate additional revenue [non-excise tax] sources [of funding]...".

2. They asked Council Staff to request a legal opinion regarding the appropriateness of section 2. They questioned the precedent being set by allowing a Metro committee to act independent of Council approval.

Subsequent Action following Transportation and Planning meeting: Discussions with Dan Cooper, Metro Legal Counsel, indicate that adoption of section 2 of the resolution, amended or unamended, is an inappropriate action. He explained that only the Public Contract Review Board (PCRB) can amend a contract over \$10,000 and suggested removal of section 2 of the resolution (memo to follow).

## STAFF REPORT

### RESOLUTION NO. 92-1618, FOR THE PURPOSE OF AMENDING THE TOTAL AMOUNT OF THE REGION 2040 CONSULTING CONTRACT

May 8, 1992

Presented by: Ethan Seltzer

On December 12, 1991, the Metro Council passed Resolution No. 91-1530 and approved the awarding of a contract for consulting services for the Region 2040 Study to the team led by ECO Northwest. The Resolution included three conditions:

- 1) The project would not exceed \$280,000 without the express consent of the Council;
- 2) That progress reports would be made at reasonable intervals to the Transportation and Planning Committee; and
- 3) A final scope of work would be completed prior to initiation of work on the contract, and would be forwarded to the Transportation and Planning Committee.

Since December, the final scope of work has been agreed on, and has been forwarded to the Transportation and Planning Committee. However, it has been abundantly clear since that time that the total resources available to the project then, some \$280,000, was barely adequate to effectively accomplish the objectives of the project. Consequently, Metro staff approached Portland General Electric to see if they would be interested in making a contribution of either cash or in-kind services to the project.

Portland General Electric responded with both \$20,000 in cash and up to \$40,000 in in-kind services, all to be directed at public outreach. In addition to contributing generously to the project, PGE has also provided additional support through the time of their senior staff and the use of their helicopter to provide speakers at the 1992 Regional Growth Conference with a tour of the region.

The cash contribution has been applied to consultant services directed at public outreach. However, doing so raises the direct project budget from \$280,000 to \$300,000, necessitating an amendment of the previous resolution. Since Metro staff are continuing to seek additional funding for the project, and additional amendments of this type are anticipated, Resolution No. 92-1618 requests that the Transportation and Planning Committee be authorized to approve increases in the size of the contract as long as any subsequent increases involve non-exercise tax resources, the department has sufficient expenditure authority, and the Committee can reach agreement.

#### EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval for Resolution No. 92-1618.

ES/es 5/8/92



# METRO

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

*Yeil R.*

June 24, 1992

Executive Officer  
Rena Cusma

Metro Council

Jim Gardner  
Presiding Officer  
District 3

Judy Wyers  
Deputy Presiding  
Officer  
District 8

Susan McLain  
District 1

Lawrence Bauer  
District 2

Richard Devlin  
District 4

Edward P. Gronke  
District 5

George Van Bergen  
District 6

Ruth McFarland  
District 7

Tanya Collier  
District 9

Roger Buchanan  
District 10

Ed Washington  
District 11

Sandi Hansen  
District 12

The Honorable Jim Gardner  
Presiding Officer, Metro Council  
Metropolitan Service District  
2000 S. W. First Avenue  
Portland, OR 97201-5398

Dear Councilor Gardner:

Re: Resolution No. 92-1618A

The Transportation and Planning Committee has recommended that the Council adopt the above-referenced Resolution. The Resolution, as approved by the Committee, contains the following language as Section 2 thereof:

"2. That the Metro Council hereby authorizes the Transportation and Planning Committee to amend the total amount for this contract to incorporate additional revenue [~~non-exercise-tax~~] sources [~~of-funding~~] as long as the department has sufficient expenditure authority, or to refer such amendments to the full Council for its consideration should the Committee fail to reach agreement."

As is indicated in the Committee's report to the Council, concern has been raised by the Committee whether this language is appropriate and Council staff has been directed to request this Office prepare a legal opinion regarding the matter.

Metro Code Section 2.04.054 provides in pertinent part that "any (Personal Services) contract amendment or extension exceeding \$10,000 shall not be approved unless the Contract Review Board shall have specifically exempted the contract amendment or extension from the competitive procurement procedures of Section 2.04.053." The provisions of the Metro Code constitute generally applicable rules or laws for the District in conducting its activities. The Council may not, by resolution, either amend, or waive, or otherwise modify a specific provision of the

The Honorable Jim Gardner  
Page 2  
June 24, 1992

Metro Code unless the Council has by ordinance provided for the authority to do so. In the absence of a specific provision in the Metro Code to allow the Council to adopt the provision contained in Section 2 of Resolution No. 92-1618A, I believe inclusion of this language in the Resolution would be of no legal effect. I recommend that the Resolution be amended by deleting Section 2 therefrom in its entirety. Accordingly, I have prepared a proposed version of Resolution No. 92-1618B to accomplish this purpose, a copy of which is attached.

The question of whether the Council may by ordinance provide a procedure by which the Contract Review Board can delegate to a Committee of the Council the powers it possesses is one that has not been directly addressed by this Office in the past. A previous opinion of this Office on contracting procedures in general has concluded that the Council may not delegate to its Committees the legislative powers possessed by the Council. Before any ordinance is introduced or considered that would allow the powers of the Contract Review Board to be delegated to a Council Committee I would strongly recommend that thorough legal research be conducted to review whether this is, in fact, possible.

I will be available at the Council meeting when this matter is considered to answer any questions that you or any member of the Council may have in this regard.

Yours very truly,



Daniel B. Cooper,  
General Counsel

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1581

cc: Rena Cusma  
Dick Engstrom  
Andy Cotugno



BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING THE	)	RESOLUTION NO. 92-1618A
TOTAL AMOUNT OF THE REGION 2040	)	Introduced by Rena Cusma,
CONSULTING CONTRACT	)	Executive Officer

WHEREAS, The Metropolitan Service District Council approved Resolution No. 91-1530 on December 12, 1991, authorizing the execution of a contract for the Region 2040 Study with the team led by ECO Northwest; and

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WHEREAS, Metro Staff are exploring other possible non-excise tax avenues for augmenting the Region 2040 Study budget; now, therefore

BE IT RESOLVED,

1. That the Metro Council hereby consents to the increase

of the Region 2040 Consultant Contract from \$280,000 to \$300,000 due to the donation of \$20,000 from Portland General Electric.

2. That the Metro Council hereby authorizes the Transportation and Planning Committee to amend the total amount for this contract to incorporate additional revenue sources as long as the department has sufficient expenditure authority, or to refer such amendments to the full Council for its consideration should the Committee fail to reach agreement.

ADOPTED by the Council of the Metropolitan Service District this \_\_\_\_\_ day of \_\_\_\_\_, 1992.

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Jim Gardner, Presiding Officer