

BEFORE THE COUNCIL CONTRACT REVIEW BOARD  
OF THE METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF APPROVING A	)	RESOLUTION NO. 92-1708
A CONTRACT AMENDMENT AND	)	
EXTENSION WITH WM BENEFITS	)	Introduced by Rena Cusma,
	)	Executive Officer

WHEREAS, an agreement currently exists between the Metropolitan Service District and the Western Retirement Trust for the management of Metro's retirement plan; and

WHEREAS, the Western Retirement Trust currently performs services for Metro pursuant to this agreement; and

WHEREAS, in Resolution No. 91-1506, the Council of the Metropolitan Service District authorized the merger of Metro's then two different retirement plans into one plan, and assigned Western Retirement Trust as the Trustee of Plan; and

WHEREAS, in Resolution No. 92-1592, the Council appointed WM Trust as the non-discretionary Trustee of the Plan, and authorized the Executive Officer to appoint a five person Administrative/Advisory Committee to control plan assets and all matters concerning the Plan; and

WHEREAS, the Administrative/Advisory Committee has negotiated an acceptable extension and amendment to the original contract with the Western Retirement Trust; and

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WHEREAS, it would be unnecessary, duplicative, and impractical for Metro to subject this contract extension and amendment to competitive procurement procedures; now, therefore,

BE IT RESOLVED,

1. That pursuant to Metro Code Section 2.04.054 (a) (3), the Personal Services Agreement attached as Exhibit "A" is exempted from the competitive procurement procedures of Metro Code Section 2.04.053.
2. That the Executive Officer or her designee is authorized to enter into an agreement with WM Benefits in a form substantially similar to Exhibit "A."

ADOPTED by the Council Contract Review Board of the Metropolitan Service District this 24th day of November, 1992.

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

EXHIBIT "A"

*Scope of Work*

**Metropolitan Service District**

Plan Recordkeeping and  
Trust and Custodial Services

*October 1992*

**WM BENEFITS GROUP**

1201 Third Avenue, Suite 1200  
Seattle, WA 98101  
(206) 461-8600

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## Executive Summary

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- ▶ WM Benefits Group is a dba covering two wholly-owned subsidiaries of Washington Mutual Savings Bank: Benefit Service Corporation and WM Trust Company.
- ▶ The engagement outlines the plan recordkeeping services through Benefit Service Corporation and the trust and custodial services through WM Trust Company.
- ▶ The recordkeeping and trust costs are combined into one annualized charge through WM Trust Company utilizing a "basis" point charge with minimal transaction costs. All services provided under this agreement will be charged by WM Trust Company. However, the agreement separately identifies the recordkeeping charges of Benefit Service Corporation.
- ▶ The fees shown in this agreement assume that all employee data and payroll information is received in an electronic format via tape or diskette. The cost to process "hard copy" data will be billed at our hourly fee of \$35.00 per hour.
- ▶ Benefit Service Corporation will receive a portion of the fees earned by WM Trust Company. In the first year of the engagement, this is predicted to be \$18,500.
- ▶ This fee arrangement is for a two (2) year period beginning August 1, 1992 for the September 30, 1992 quarterly valuation and ending with the June 30, 1994 quarterly valuation.
- ▶ Our scope of work does not include future professional consulting services that are required to address legal and regulatory issues. WM Benefits Group shall be responsible for notifying Metro whenever it determines that it is providing services outside this engagement. Such services shall be contracted for in advance, in writing.

*Section I*  
**Administration & Recordkeeping Services**

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**A. Participant Recordkeeping & Plan Administration**

Our recordkeeping and administration services are divided into two categories as follows:

**(1) Participant Recordkeeping. This category includes:**

- Updating the participant data base for contributions and investment election information on a quarterly basis using employer provided participant data;
- Updating individual participant accounts with investment income, gains and losses as well as reconciling trust investments to participant accounts;
- Updating participant account records with distributions, hardships and loans;
- Accounting for participant loans;
- Processing participant directed investment transfers; and
- Daily valuations of participant accounts and quarterly participant statements.
- PIN numbers to participants who complete the PIN application form, and voice response.

**(2) Plan Administration. This category includes:**

- Consultation with Metro as to the most cost effective and efficient procedures for plan administration, not to exceed ten (10) hours per calendar year; provided, however, that it shall be WM Benefits Group responsibility to notify Metro when the ten (10) hour limit is reached. Any consultation beyond ten (10) hours will be contracted for in advance, in writing.
- Assistance in developing and maintaining a complete administration forms and procedures manual, including:
  - ▶ Participation and enrollment forms,
  - ▶ Investment election forms,

- ▶ Loan package of promissory note, amortization schedule and security agreement,
- ▶ Distribution forms for retirement, termination, death, disability, hardship and loans,
- ▶ Beneficiary statement, and
- ▶ Qualified Domestic Relations Order (QDRO) package.
- Audit of the earnings allocation basis from the trust investment returns to the participant level accounts.
- Preparation of quarterly valuation reports, including balance sheet, income and expense statement, asset statement, reconciliation reports between WM Trust Company and recordkeeping reports, and schedules of adjustments and notes. All statements and reports will be sent within 45 days following receipt of all contribution and investment fund information.

f.

*Section II*  
**Directed Trustee and Custodial Services**

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WM Trust Company will provide the following services for all plan assets:

- As a directed trustee, our fiduciary responsibility for the assets in our custody substantially reduces the liability of the individual trustees of the Plan.
- Monthly trust fund accountings showing all cash receipts, cash disbursements and asset changes in the portfolio will be provided within ten (10) business days following the end of each month, subject to timely reports from investment managers.
- Preparation of all disbursements, including lump sum and periodic benefit payments, and all tax forms.
- Automated cash management of deposits.
- Assignment of a professional trust administrator who is responsible for the overall supervision of the account.
- Settlement of all security trade transactions, including mutual funds.
- Safekeeping of all assets, including audit-controlled vault protection of securities and depository services.
- Reinvestment of dividend, interest and other income.
- Timely attention to bond maturities, bond calls, conversion rights, stock rights, stock and bond offerings, stock and cash dividends, stock splits and exchanges.
- Loan set-up and amortization schedule.
- Process participant-directed investment transfers at the request of recordkeeper.
- Annual performance measurement of investment options relative to the statement of investment policy.



*Section III*  
**Fee Agreement**

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**WM Trust Company Directed Trustee and Custodian and  
Plan Administration from Benefit Service Corporation**

**A) Plan Recordkeeping and Trust Services - Recurring Annually**

The annual Directed Trustee, Custodial and Plan Administration fees are combined under the following schedule, and are based upon the market value of the accounts.

For all services shown in Sections I and II (*except for special consulting projects and for benefit distributions and participant loans, see below*) the fees charged will be 0.50% annually of all Plan assets held at WM Trust Company, plus out-of-pocket costs for wire transfers and certain distribution expenses detailed below for the period from August 1, 1992 until July 31, 1994.

Trustee, Custodial and Plan Administration services described in Sections I and II, shall be separately contracted for in advance, in writing.

**Invoice Procedure**

WM Trust Company will invoice Metro one-quarter (1/4) of the annual asset fee each quarter from August 1, 1992 through July 31, 1994. This invoice will also include wire transfer fees and distribution expenses described below.

**Note:** For participants who terminate employment and elect to maintain an account balance after separation from service, the fees described above will be charged to that participant's account. Metro shall have no liability for such fees.

**B) Benefit Distribution Expenses**

Distribution expenses for participants who terminate employment and elect an immediate distribution will be paid by Metro:

- \$55 for each lump sum benefit payment. This includes tax withholding and tax information for Form 1099-R.

Distribution expenses will be paid by participants who terminate employment but elect to maintain an account balance after separation from service. These expenses will be deducted from participant account balances. Metro shall have no liability for such fees.

- \$55 for each lump sum benefit payment. This includes tax withholding and tax information for Form 1099-R.

- \$50 per year for each recurring benefit payment. This includes tax withholding and tax information for Form 1099-R.

**C) Participant Loan Expenses Paid by Participants** (either paid directly by participant or deducted from participants' accounts) Metro shall have no liability for such fees.

- \$150 for each initial loan set up and check issue.

**D) 1992 Consulting Projects**

Professional fees for consulting, restatement and consolidation of two retirement plans into one document.

Consulting and drafting and merger consultation	\$2,250
IRS filing preparation	750
IRS user fee	750 (charged by IRS)

Additional consulting services may be required to answer IRS questions concerning the filing of the new document. These will be invoiced at \$185 per hour and covered by a separate agreement for each assignment. All additional consulting services will be contracted in advance.

**Invoice Procedure**

Benefit Service Corporation will invoice Metro on an incurred basis for the specific services listed above.

**E) No fees or charges other than those authorized herein or authorized by separate written agreement shall be charged.**

**F) Termination and Renewal**

Either party may terminate this agreement with 90 days written notice in advance of the termination date. This agreement may be renewed for subsequent periods after negotiation concerning proposed services and fees.

**NOTE:**

**Benefit Service Corporation Fees Received from WM Trust Company**

For its services as Plan Administrator, Benefit Service Corporation will receive \$18,500 in fees from WM Trust Company from August 1, 1992 until July 31, 1993, and from August 1, 1993 until July 31, 1994. These fees will compensate Benefit Service Corporation for the services detailed in Section I of this Letter of Engagement. In addition, Benefit Service Corporation will receive \$35 of each lump sum benefit payment from WM Trust Company.

## Fee/Engagement for Recordkeeping and Trust Services

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### EXECUTION PAGE

This fee arrangement and engagement for services is for a two (2) year period beginning as of the effective date below. This engagement may be renewed for each year thereafter upon prior written agreement between Metro and WM Benefits Group. The agreement may be terminated at any time by either party (Metro or WM Benefits Group) effective upon thirty (90) days written notice to each party to this agreement.

Metro hereby acknowledges that Benefit Service Corporation is an affiliated company of WM Trust Company and that the fees to be paid to Benefit Service Corporation represent reasonable compensation for the services provided.

EFFECTIVE DATE: August 1, 1992

FOR: METROPOLITAN SERVICE DISTRICT OF PORTLAND

By: \_\_\_\_\_

Date: \_\_\_\_\_

FOR: WM TRUST COMPANY

By: \_\_\_\_\_  
Alan W. Kennebeck

Date: \_\_\_\_\_

FOR: BENEFIT SERVICE CORPORATION

By: \_\_\_\_\_  
Alan W. Kennebeck

Date: \_\_\_\_\_

## GOVERNMENTAL AFFAIRS COMMITTEE REPORT

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### RESOLUTION NO. 92-1708, APPROVING A CONTRACT AMENDMENT AND EXTENSION WITH WM BENEFITS

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Date: November 20, 1992

Presented by: Councilor Collier

**COMMITTEE RECOMMENDATION:** At its November 19, 1992 meeting the Governmental Affairs Committee voted 4-0 to recommend Council adoption of Resolution No. 92-1708. Voting were Councilors Collier, Devlin, Moore, and Wyers. Councilor Gronke was excused.

**COMMITTEE DISCUSSION/ISSUES:** Personnel Director Paula Paris introduced Benefits Manager Sarah Keele, who presented the staff report. Ms. Keele explained that Resolution No. 92-1708 would exempt from competitive procurement procedures a contract with WM Trust for recordkeeping services related to Metro's 401(k) retirement plan. She said the cost for these services is expected to increase by \$4,000, from \$33,000 to \$37,000 as a result of merging the 5% and 6% plans (authorized by Resolution No. 91-1506). A waiver of competitive bids is requested because it would be more costly to have a new contractor provide these services than to stay with WM Trust, which knows the Metro system and has performed adequately.

Councilor Van Bergen asked for clarification of what sort of organization WM Trust is - is it affiliated with a bank? Ms. Keele said it is a wholly owned subsidiary of Washington Mutual Savings Bank, whose headquarters are in Seattle.

Councilor Wyers asked whether the resolution required specific authorization to enter into a sole source contract. Ms. Paris said the resolution was reviewed and approved by General Counsel.

Councilor Moore asked about the membership of the advisory committee referred to on page 1 of the staff report. Ms. Keele said it consisted of herself and four department heads, with legal advice from Mark Williams of the Office of General Counsel. Councilor Moore asked if part of the work to be done was completing the merger of the 5% and 6% plans. Staff said the merger is complete, and that is not part of this contract work. Councilor Moore asked why the contract amount was increasing \$4,000. Ms. Paris said the increase reflects an increase in scope of services, including employee self-direction of funds, a larger number of funds to administer, and improved coordination of services with Metro. Councilor Moore suggested the resolution include reference to contract term and amount.

Chair Collier asked Council staff to see that Councilor Wyers' question was answered prior to Council's consideration of this resolution. (A response is attached.)



**METRO**

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

# Memorandum

Date: November 19, 1992  
To: Paula Paris, Personnel Manager  
From: Sarah Keele, Benefits Officer  
RE: COUNCILOR WYERS SOLE SOURCE QUESTION

After the Governmental Affairs Committee meeting this afternoon where Councilor Wyers asked whether the WM Trust contract would be a sole source, I contacted Rich Wiley, Metro's Procurement Officer.

I asked Mr. Wiley if it would be necessary to enter into a sole source agreement with WM Trust since we will not be soliciting proposals from other organizations to provide those services currently provided by WM Trust. Mr. Wiley indicated that there is not a special sole source agreement. He said what we are intending to enter into with WM Trust is a change order; we are expanding the scope of work and dollars paid for services. We are not implying that WM Trust is the only organization capable of providing these services.

## STAFF REPORT

### CONSIDERATION OF RESOLUTION NO. 92-1708, FOR THE PURPOSE OF APPROVING A CONTACT AMENDMENT AND EXTENSION WITH WM BENEFITS

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Date: November 19, 1992

Presented by: Sarah Keele  
Paula Paris

#### BACKGROUND

Prior to the implementation of PERS, Metro's retirement plan consisted of the 5% Plan, which was administered through the Principal Financial Group, and the 6% Plan, administered through Western Retirement Trust. A previous agreement still currently in effect, existed between Metro and the Western Retirement Trust.

To improve plan design, service and eliminate administrative redundancy and expense, Resolution No. 91-1506 was brought before the Council and approved in September, 1991. This Resolution authorized:

- 1) the merger of the 5% Plan into Western Retirement Trust which operated the 6% Plan and 401(k) plan;
- 2) permitted savings that resulted from the elimination of the fees paid to administer the 5% Plan to be used to enhance the new plan by allowing employees to self-direct the investment of their accounts; and
- 3) assigned Western Retirement Trust as the Trustee of the Plan which provided them with the authority to negotiate the plan merger with the Principal Financial Group in Metro's behalf, and reassigned the plan's fiduciary responsibilities to Western Retirement Trust. This action relieved the Metro Executive Officer of this liability.

In March, 1992, an internal change occurred within Western Retirement Trust and the custodial and trust division's legal name changed to the WM Trust Company. In order for WM Trust to legally continue negotiations with the Principal Group, and retain their fiduciary responsibilities for the plans, they required the Metro Council to formally acknowledge the name change and approve WM Trust to perform all duties and services originally assigned to Western Retirement Trust.

Resolution No. 92-1592 appointed WM Trust as the non-discretionary Trustee of the plan and authorized WM Trust with the sole responsibility for the management and control of Metro's Trust Fund. This Resolution also authorized the Executive Officer to appoint a five person Administrative/Advisory Committee to control plan assets and all matters concerning the plan.

This Committee assembled on several occasions with representatives of WM Trust to oversee the plan merger's progress and to develop the self-direction of investment program.

FISCAL IMPACT

Fiscal Impact: \$4,000

An extension and amendment of the existing contract with WM Trust for the implementation of the merger of the 5% and 6% plans, all Trustee and fiduciary liabilities, and the development and maintenance of the self-direction of investment program will increase the total administrative and recordkeeping costs of the two original 5% and 6% plans which was \$33,000, and which is budgeted within the current fringe rates, an additional \$4,000, or for a total annual cost of \$37,000, to operate the new merged plan.

ACTION REQUESTED

This action is a reconfirmation of the Metro Council's prior two Resolutions cited above. Because of the ongoing meetings with and administrative direction to WM Trust under these two prior Resolutions, it would not be practical to solicit proposals from other organizations to provide the services currently performed by WM Trust. However, to conform with the current Metro Code relative to extensions of Personal Service Contracts in excess of \$10,000, Council action is needed to finalize the Personal Service Contract and Fee Agreement with WM Trust. Therefore, pursuant to section 2.04.054(a)(3) of the Metro Code, we request authorization to immediately enter into an extension and amendment of the current agreement with WM Trust, resulting in a two-year personal services agreement with WM Trust, without evaluating proposals from other organizations, and pursuant to section 2.04.054 (a)(3), request Council approval to waive further Council action on this agreement, and authorize the Executive Officer to execute the contract with WM Trust.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 92-1708.





Competitive quotes, bids or proposals:

Submitted by _____	\$Amount _____	M/W/DBE _____	Foreign or Oregon Contractor _____
Submitted by _____	\$Amount _____	M/W/DBE _____	Foreign or Oregon Contractor _____
Submitted by _____	\$Amount _____	M/W/DBE _____	Foreign or Oregon Contractor _____

Comments: Actual costs will be expensed to 35 different appropriation units, up to 60 different account codes.

- Attachments:
- Ad for bid
  - Plans and specifications
  - Bidders list (M/W/DBEs included)

Instructions:

1. Obtain contract number from procurement division. Contract number should appear on the summary form and all copies of the contract.
2. Complete summary form.
3. If contract is:
  - A. Sole source, attach memo detailing justification.
  - B. Less than \$2,500, attach memo detailing need for contract and contractor's capabilities, bids, etc.
  - C. More than \$2,500, attach quotes, evaluation form, notification of rejection, etc.
  - D. More than \$10,000 or \$15,000 attach RFP or RFB respectively.
  - E. More than \$50,000, attach agenda management summary from council packet, bids, RFP, etc.
4. Provide packet to procurement for processing.

Special program requirements:

General liability: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Liquidated damages \$ \_\_\_\_\_ day

<input type="checkbox"/> Workers comp	<input type="checkbox"/> Prevailing wages
<input type="checkbox"/> Auto	<input type="checkbox"/> Non-standard contract
<input type="checkbox"/> Professional liability	<input type="checkbox"/> Davis/Bacon

<b>Dates:</b>	<b>Project estimate:</b> _____
Ads _____ (Publication) _____	<b>Funding:</b>
Pre-bid meeting _____	<input type="checkbox"/> Local/state
Filed with council _____	<input type="checkbox"/> Federal
Filed with council committee _____	<input type="checkbox"/> Other

Bond requirements:

_____ % Bid \$ _____	_____ % Performance/payment* \$ _____
_____ % Performance \$ _____	_____ % L/M \$ _____

\* Separate bonds required if more than \$50,000.

\*\* Minimum period: two weeks from last day advertised.



**METRO**


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

# Memorandum

## MEMO OF EXPLANATION

Date: November 4, 1992

To: WM Trust Contract File

From: Sarah Keele, Benefits Officer 

RE: MEMO TO FILE FOR THE EXPLANATION OF FUNDING FOR EXCESS CONTRACT AMOUNT

All costs associated with this contract are expensed to 35 different appropriation units based on the number of employees participating in the plan from each appropriation unit.

The maximum amount charged to any one appropriation unit as a result of this amendment will be minimal. While it is impossible at this time to specifically identify excess fringe benefit appropriations in each fund, it is believed that all divisions will be able to absorb the excess cost without problem. Lower than anticipated health care costs and position vacancies will result in increased funds available for other purposes. As the year proceeds, the budget will be monitored to ensure appropriation problems do not arise.

## PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is between the METROPOLITAN SERVICE DISTRICT, a municipal corporation organized under ORS Chapter 268, referred to herein as "Metro," located at 2000 S.W. First Avenue, Portland, OR 97201-5398, and WM TRUST COMPANY AND BENEFIT SERVICE CORPORATION, two wholly owned subsidiaries of Washington Mutual Savings Bank, collectively referred to herein as "Contractor," located at 1201 Third Avenue, Suite 1200, Seattle, Washington 98181.

In exchange for the promises and other consideration set forth below, the parties agree as follows:

1. Duration. This personal services agreement shall be effective August 1, 1992 and shall remain in effect until and including June 30, 1994, unless terminated or extended as provided in this Agreement.
2. Scope of Work. Contractor shall provide all services and materials specified in the attached "Exhibit A -- Scope of Work," which is incorporated into this Agreement by reference. All services and materials shall be provided by Contractor in accordance with the Scope of Work, in a competent and professional manner. To the extent that the Scope of Work contains additional contract provisions or waives any provision in the body of this Agreement, the Scope of Work shall control.
3. Payment. Metro shall pay Contractor for services performed and materials delivered in the amount(s), manner and at the time(s) specified in the Scope of Work.
4. Maintenance of Records. Contractor shall maintain all of its records relating to the Scope of Work on a generally recognized accounting basis and allow Metro the opportunity to inspect and/or copy such records at a convenient place during normal business hours. All required records shall be maintained by Contractor for three years after Metro makes final payment and all other pending matters are closed.
5. Ownership of Documents. All documents of any nature including, but not limited to, reports, drawings, works of art and photographs, produced by Contractor pursuant to this Agreement are the property of Metro, and it is agreed by the parties that such documents are works made for hire. Contractor hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such documents.
6. Project Information. Contractor shall share all project information and fully cooperate with Metro, informing Metro of all aspects of the project including actual or potential problems or defects. Contractor shall abstain from releasing any information or project news without the prior and specific written approval of Metro.

7. Independent Contractor Status. Contractor shall be an independent contractor for all purposes and shall be entitled only to the compensation provided for in this Agreement. Under no circumstances shall Contractor be considered an employee of Metro. Contractor shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified in the Scope of Work. Contractor is solely responsible for its performance under this Agreement and the quality of its work; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified in the Scope of Work; and for meeting all other requirements of law in carrying out this Agreement. Contractor shall identify and certify tax status and identification number through execution of IRS form W-9 prior to submitting any request for payment to Metro.

8. Right to Withhold Payments. Metro shall have the right to withhold from payments due to Contractor such sums as necessary, in Metro's sole opinion, to protect Metro against any loss, damage, or claim which may result from Contractor's performance or failure to perform under this Agreement or the failure of Contractor to make proper payment to any suppliers or subcontractors.

9. State and Federal Law Constraints. Both parties shall comply with the public contracting provisions of ORS chapter 279, and the recycling provisions of ORS 279.545 - 279.650, to the extent those provisions apply to this Agreement. All such provisions required to be included in this Agreement are incorporated herein by reference. Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations including those of the Americans with Disabilities Act.

10. Situs. The situs of this Agreement is Portland, Oregon. Any litigation over this agreement shall be governed by the laws of the state of Oregon and shall be conducted in the circuit court of the state of Oregon, for Multnomah County, or, if jurisdiction is proper, in the U.S. District Court for the District of Oregon.

11. Assignment. This Agreement is binding on each party, its successors, assigns, and legal representatives and may not, under any circumstance, be assigned or transferred by either party.

12. Termination. This Agreement may be terminated by mutual consent of the parties. In addition, Metro may terminate this Agreement by giving Contractor 90 days prior written notice of intent to terminate, without waiving any claims or remedies it may have against Contractor. Termination shall not excuse payment for expenses properly incurred prior to notice of termination, but neither party shall be liable for indirect or consequential damages arising from termination under this section.

13. No Waiver of Claims. The failure to enforce any provision of this Agreement shall not constitute a waiver by Metro of that or any other provision.

14. Modification. Notwithstanding and succeeding any and all prior agreement(s) or practice(s), this Agreement constitutes the entire Agreement between the parties, and may only be expressly modified in writing(s), signed by both parties.

CONTRACTOR

METROPOLITAN SERVICE DISTRICT

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_