

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF RATIFYING AND )  
APPROVING CONTRACT AMENDMENT NO. 4 ) RESOLUTION NO. 94-1972  
BETWEEN METRO AND OREGON WASTE )  
SYSTEMS, INC., AND DIRECTING LEGAL ) Introduced by Councilor Devlin  
COUNSEL TO ISSUE AN OPINION )  
CONCERNING THE ALLOCATION OF POWER )  
BETWEEN THE COUNCIL AND THE )  
EXECUTIVE OFFICER )

WHEREAS, the voters of the Metropolitan Service District (Metro) adopted a charter on November 3, 1992 which became effective on January 1, 1993 and which established the form of government for Metro; and

WHEREAS, under the Metro Charter, the Council retains all powers of the District that are not expressly assigned elsewhere and, under the Metro Charter, the primary duty of the Executive is to enforce Metro ordinances and otherwise to execute the policies of the Council; and

WHEREAS, the Metro Code expressly provides that amendments to Metro's agreement with designated facilities, including Oregon Waste Systems, Inc., shall be approved by the Council prior to execution by the Executive; and

WHEREAS, the Metro Executive requested a recommendation from the Council on Contract Amendment No. 4 to the contract between Metro and Oregon Waste Systems, Inc., at the January 4, 1994 Council Solid Waste Committee meeting and the Executive Officer prepared and introduced Resolution No. 94-1904 requesting authority from the Council to execute Contract Amendment No. 4 at the March 1, 1994 Council Solid Waste Committee meeting; and

WHEREAS, the Metro Executive executed Contract Amendment No. 4 to the contract between Metro and Oregon Waste Systems, Inc. on March 16, 1994 without prior approval of the Metro Council and therefore Amendment No. 4 is not valid and not binding on Metro; and

WHEREAS, the Metro Council approved Resolution No. 94-1939 on March 24, 1994 authorizing the General Counsel to employ outside legal counsel to advise the Council regarding its authority under the 1992 Metro Charter to control the approval of contracts and contract amendments; and

WHEREAS, the Metro Council held a special meeting on May 31, 1994, at which time it went into Executive Session to confer with outside legal counsel concerning its authority to approve and control contract amendments; and

WHEREAS, it is in the best interests of Metro and the Citizens of the District to obtain a judicial determination of the validity of Amendment No. 4 to the contract between Oregon Waste Systems, Inc. and Metro; now therefore,

BE IT RESOLVED,

1. That the Metro Council directs special legal counsel to initiate litigation to obtain a judicial declaration as to the validity of Amendment No. 4 to the contract between Metro and Oregon Waste Systems, Inc. executed by the Metro Executive Officer on March 16, 1994.

Adopted by the Metro Council this \_\_\_\_\_ day of June, 1994

Not Adopted  
Judy Wyers, Presiding Officer



## METRO

Date: June 3, 1994

To: Metro Council

From: *JW/ste* Judy Wyers, Presiding Officer

Re: Council Consideration of Non-Referred Resolutions on Contracting Authority and Amendment No. 4 to the Oregon Waste Systems Contract.

Please find attached copies of two resolutions introduced as a result of the special Council meeting held on May 31, 1994. These resolutions will be placed on the agenda as a single item. The following procedure will be used for consideration of the resolutions:

1. A motion to suspend the rules to consider the non-referred resolutions will be entertained and acted upon;
2. Each proposer of a resolution will briefly explain the purpose and effect of the resolution;
3. Special outside legal counsel will provide information on the basis of Council consideration of the resolutions;
4. A public hearing will be held on the agenda item. Interested persons and members of the public may testify on either or both resolutions;
5. The Council will consider and decide on either or both resolutions.

This procedure should enable the Council to consider all aspects of this important matter when it makes its decision. If you have any questions about the meeting, please let me know.