

BEFORE THE METRO COUNCIL.

FOR THE PURPOSE OF EXTENDING) RESOLUTION NO. 94-1974A
THE FUEL PURCHASE AGREEMENTS)
WITH DEVIN AND STEIN OIL) Introduced by
COMPANIES UNTIL MARCH 31, 1995) Rena Cusma, Executive Officer

WHEREAS, Metro has executed Change Order No. 15 to the Waste Transport Services Contract (EXHIBIT "A") which provides for a reduction in unit prices; and

WHEREAS, Under Change Order No. 15, Metro must purchase fuel for the Waste Transport Services Contractor in exchange for the reduction in unit prices; and

WHEREAS, As a result of this arrangement Metro has realized monthly savings of approximately \$50,000 per month (see EXHIBIT "B"); and

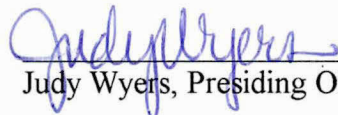
WHEREAS, Metro has purchased the fuel through Devin and Stein Oil Companies utilizing agreements which expire in November, 1994; and

WHEREAS, It is in Metro's best interest to continue to purchase fuel as provided in EXHIBIT "C" and EXHIBIT "D" until replacement agreements are reached; now therefore,

BE IT RESOLVED,

That the Metro Council hereby authorizes the Executive Officer to execute the change orders attached hereto as EXHIBITS "C" and "D".

ADOPTED by the Metro Council this 27th day of October, 1994.



Judy Wyers, Presiding Officer

CHANGE ORDER NO. 15
METRO CONTRACT NO. 900848

MODIFICATION TO THE CONTRACT BETWEEN
METRO AND JACK GRAY TRANSPORT, INC.
ENTITLED
"WASTE TRANSPORT SERVICES"

PROJECT: Waste Transport Services
METRO POC: Jim Watkins, Engineering & Analysis Manager
CONTRACTOR POC: Gary Goldberg, Executive V.P.

This Amendment is to Metro Contract No. 900848, entitled "Waste Transport Services," dated March 1, 1989 (herein, "Original Contract"). In exchange for the promises and other consideration set forth in the Waste Transport Services Contract and this Amendment, the Parties agree as follows:

1. Purpose. The purpose of this Amendment is for Metro to supply fuel for Contractor's "over the road" tractors while exclusively used in transporting solid waste for Metro.
2. Fuel Delivery Periods. The initial period covered by this Amendment shall be from the date on which Metro begins supplying fuel to Contractor until June 30, 1994. Subsequent periods shall begin on July 1 of each year and end on June 30 of each subsequent year, until termination of the Original Contract between the Parties.
3. Termination. (a) Either Party may terminate this Amendment by giving notice to the other no later than April 30 of any period (other than the initial period), of pending termination on June 30. Upon termination, Metro's per load payments to Contractor shall revert to the adjusted amount that would have been paid under the Original Contract, had this Amendment not been executed.

(b) If the Internal Revenue Service (IRS) contacts Contractor, either through audit or otherwise, and indicates that it may have to pay federal excise taxes on fuel provided by Metro under this amendment, Contractor shall immediately notify Metro and provide Metro with a copy of all correspondence received from the IRS. Once Metro confirms that the IRS has made such a contact, the parties shall cooperate to contest the IRS and/or to establish a reasonable date for terminating this amendment. In either case, at the point at which Metro determines not to contest the IRS further, Metro shall pay directly to the IRS all amounts required to be paid to the IRS related to fuel provided to Contractor under this amendment and used by Contractor in conformance with this amendment.

4. Amount of Fuel Provided.

(a) The amount of fuel provided by Metro to Contractor for Metro's sole and exclusive use shall be equal to the number of loads projected for the period times 58 gallons. The projected number of loads shall be established by written notice from Metro provided on or before April 30 of each year for the subsequent period. Metro may update such notice, in writing, as necessary throughout the period. Metro shall also provide notice to its fuel supplier of the amount of fuel that may be provided to Contractor.

(b) If Contractor requires more fuel per actual load than provided by this section 4, Contractor shall be responsible for purchasing the additional fuel required during that period and for payment of all applicable taxes.

5. Exclusive Use of Metro. Fuel supplied by Metro to the Contractor is to be used exclusively for the performance of the Contract, and Contractor shall ensure, and comply with all Metro-established safeguards to ensure, that fuel provided by Metro is used only for the performance of the Waste Transport Contract.

6. Per Load Payment Reduction.

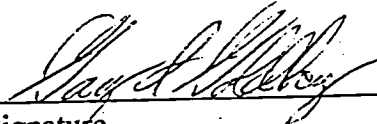
(a) From the date on which Metro begins supplying fuel to Contractor through September 30, 1994, the per load unit price paid to the Contractor shall be \$333.50.

(b) Beginning October 1, 1994, the per load unit price paid to the Contractor shall be \$332.92. This per load unit price shall be adjusted in the same manner as Contractor's unit price is adjusted as specified in Article 12 of the general conditions.

7. Fuel Deliveries. Metro shall make fuel available in a manner reasonably acceptable to Contractor and reasonably consistent with historical service levels obtained by Contractor.

8. Effect of Amendment. Except as modified herein, all other terms and conditions of the Contract and previous Change Orders shall remain in full force and effect.

JACK GRAY TRANSPORT, INC.




Signature

Gary I. Goldberg Ex. Vice Pres.
Print Name and Title

4-18-94
Date

METRO



Signature

Rena Cusma
Executive Officer
Print Name and Title

4-12-94
Date

1197

EXHIBIT B

COMPARISON OF FUEL COSTS AND JGT UNIT PRICE

DATE	LOADS		JACK GRAY TRANSPORT		FUEL			METRO SAVINGS	EXEMPT EXCISE TAX TOTAL	
	MSS	MCS	UNIT PRICE DIFFERENCE	UNIT PRICE SAVINGS	GALLONS	COSTS Excludes Excise Tax	AVERAGE GALLONS PER LOAD			
*APRIL 94	431	377	\$54.52	\$44,052.16	46,900.160	\$29,313.29	58.04	\$14,738.87	\$11,443.64	\$3,295.23
MAY 94	1155	988	\$54.52	\$116,836.36	121,898.990	\$72,906.37	56.88	\$43,929.99	\$29,743.35	\$14,186.64
JUNE 94	1192	1046	\$54.52	\$122,015.76	127,402.980	\$74,547.72	56.93	\$47,468.04	\$31,086.33	\$16,381.71
JULY 94	1153	1129	\$54.52	\$124,414.64	123,243.200	\$74,758.25	54.01	\$49,656.39	\$30,071.34	\$19,585.05
AUG 94	1263	1247	\$54.52	\$136,845.20	140,684.970	\$85,131.91	56.05	\$51,713.29	\$34,327.13	\$17,386.16
SEPT 94										
OCT 94										
NOV 94										
TOTAL	5,194	4,787		\$544,164.12	560,130.300	\$336,657.54	56.12	\$207,506.580	\$136,671.79	\$70,834.79

*April 94 is for the time period April 20 through April 30, 1994

\$0.244 = Excise Tax

EXHIBIT "C"

CHANGE ORDER NO. 1
METRO INVOICE NO. 8742

MODIFICATION TO THE CONTRACT BETWEEN
METRO AND DEVIN OIL COMPANY

A. Purpose and Duration of Change Order

The purpose of this Change Order is to extend the term of the Contract until March 31, 1995.

B. Terms of the Change Order

SCOPE OF WORK, Item No. 7:

REPLACE "November 30, 1994" with "March 31, 1995"

DEVIN OIL COMPANY

METRO

Signature

Signature

Print Name and Title

Print Name and Title

Date

Date

EXHIBIT "D"

CHANGE ORDER NO. 1
METRO INVOICE NO. 8743

MODIFICATION TO THE CONTRACT BETWEEN
METRO AND STEIN OIL COMPANY, INC.

A. Purpose and Duration of Change Order

The purpose of this Change Order is to extend the term of the Contract until March 31, 1995.

B. Terms of the Change Order

SCOPE OF WORK, Item No. 7:

REPLACE "November 30, 1994" with "March 31, 1995"

STEIN OIL COMPANY, INC.

METRO

Signature

Signature

Print Name and Title

Print Name and Title

Date

Date

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 94-1974 FOR THE PURPOSE OF EXTENDING THE FUEL PURCHASE AGREEMENTS WITH DEVIN AND STEIN OIL COMPANIES UNTIL MAY 31, 1995

Date: October 7, 1994

Presented by: Jim Watkins

Proposed Action

Adopt Resolution No. 94-1974 to permit the Executive Officer to execute extensions to the current fuel purchase agreements.

Factual Background and Analysis

In April, 1994, Metro began purchasing diesel fuel required to transport waste from Metro facilities to the Columbia Ridge Landfill per Change Order No. 15 to the Waste Transport Services Contract (see Exhibit "A" to the attached resolution). As a result of this action, Metro has realized savings of approximately \$50,000 per month (see Exhibit "B" to the attached resolution).

In order to maximize savings to Metro, the fuel was purchased through the vendors who had been supplying the Waste Transport Contractor prior to execution of the change order. Subsequent to execution of the change order, staff began investigation of fuel markets in order to prepare bid documents prior to expiration of the agreements with current fuel suppliers. Due to the complexity of fuel markets, limited staff availability and recent legislative developments, the Executive Officer has concluded that it is in Metro's best interest to extend the current fuel purchasing agreements pending further investigation by staff.

The majority of fuel consumed by the Waste Transport Contractor is supplied at an Arlington, Oregon cardlock. The current purchase agreement with the Arlington supplier stipulates that fuel will be purchased at one of three fuel terminals depending on the cost of fuel (the "rack" price) plus freight costs. The supplier then checks the prices at these terminals plus freight costs and makes the lowest cost purchase for Metro. It is clear from our research that Metro is obtaining excellent prices for fuel under the current arrangements. Our research has consisted of a survey of other jurisdictions as well as review of industry pricing through trade publications and rack price listings. The jurisdictions contacted included TRI-MET, the City of Portland (which also purchases some of the fuel for Multnomah Co., Portland Housing Authority, City of Gresham and the City of Lake Oswego), Portland Public Schools and the State of Oregon. Most of the jurisdictions have fuel delivered to their own storage tanks rather than through a cardlock system which Metro uses.

TRI-MET, the largest buyer at 5 million gallons per year, was able to contract directly with a refinery at a markup of less than 1 cent over rack, including freight costs. However, TRI-MET has indicated that an additional 2 cent per gallon cost is incurred for environmental monitoring of storage tanks. The State of Oregon, which did contract for fuel through a cardlock statewide, received a markup of 7 cents per gallon over rack for quantities comparable to Metro's purchases (over 1 million gallons per year). Attachments Nos. 1 and 2 are the agreements with our current suppliers. Approximately 95% of the fuel is purchased from Devin Oil located in Arlington, Oregon. As you can see from Attachment No. 1, the markup is only 1.5 cents over rack plus freight costs (freight costs are set by the PUC). While Metro is not obtaining the same savings that TRI-MET is, Metro is doing substantially better than the only other jurisdiction (the State of Oregon) using a cardlock system and having pricing for similar quantities. The other jurisdiction purchasing diesel, the City of Portland, did not solicit prices as a function of rack plus other costs (Portland Public Schools uses natural gas). However, a review of the price obtained by the City in comparison to the rack and final price to Metro through Devin Oil indicates that Metro may be obtaining a lower markup than the City of Portland even though Metro's fuel is being provided through a cardlock, although more analysis is required. Our research does indicate that potential savings are possible on the 5% of fuel purchased in the Metro area.

Staff is still investigating procurement strategies to keep prices competitive, either by a similar arrangement or an improved one, while allowing for the submission of bids rather than proposals. However, given the wide range of procurement strategies in use and the limited number used for cardlocks, staff believes additional research is necessary before a procurement approach is recommended. Since last year's budget did not anticipate staff preparation of procurement documents for this project, inadequate resources have been available to devote to this project prior to expiration of the current agreements.

An additional uncertainty in bid parameters has been created by legislation adopted by Congress in August of 1994 (effective January 1, 1995) that ends economic regulation of trucking. The impact of this legislation is still being assessed.

Budget Impacts

Metro would continue to save approximately \$50,000 per month during the extension period.

Executive Officer's Recommendation

The Executive Officer recommends adoption of Resolution No. 94-1974.

ATTACHMENT 1

SCOPE OF WORK FOR DEVIN OIL CO., INC. (Contractor)

1. Contractor shall within 10 days of notice from Metro, establish a Metro account at its cardlock station located in Arlington, OR., for the provision of diesel fuel to Jack Gray Transport, Inc.'s (JGT) over-the-road tractors used to haul waste from Metro transfer stations to the Columbia Ridge Regional Landfill, located in Gilliam Co., Oregon. Contractor shall comply with all Metro-established safeguards to ensure that the fuel supplied through the Metro account is used only for the work described above.
2. Contractor shall provide a card for each JGT tractor designated by JGT's terminal manager (or representative) to access the cardlock, 24 hours per day, 365 days per year. The card shall be programmed to provide the same invoice information as provided to JGT as of March, 1994.
3. Metro shall purchase the fuel on a cost plus margin basis. Contractor shall charge Metro the cost of the fuel (including applicable terminal fees, freight, terminal taxes - excluding the federal excise tax), plus 1.5 cents per gallon. Contractor shall purchase the fuel at the fuel terminal which results in the least cost to Metro. Metro shall pay Contractor within 10 business days of receiving invoice.
4. Metro shall provide the appropriate documentation to the Contractor in order to obtain a rebate of the federal excise tax.
5. Contractor shall cancel access to the CFN cardlock system from the cards provided to JGT under this scope of work, within 24 hours of written notification from Metro to do so.
6. Contractor, in consultation with JGT, shall provide for the proper blending of cold weather fuels to ensure one hundred percent "non-gel" operation of JGT tractors at all times.
7. The services provided under this scope of work shall terminate on November 30, 1994, unless extended by mutual agreement.
8. Metro reserves the right to terminate this agreement at any time upon written notice to Contractor.
9. Within 10 business days from the provision of fuel to Metro by Contractor, Metro shall provide the Contractor with a deposit in the amount of \$25,000. The deposit shall be applied as partial payment to the final payment due under this Scope of Work.

Metro P.O. #

8742

ATTACHMENT 2

SCOPE OF WORK FOR STEIN OIL CO. INC. (Contractor)

1. Contractor shall within 10 days of notice from Metro, establish a Metro account with the Pacific Pride cardlock system, for the provision of diesel fuel to Jack Gray Transport, Inc.'s (JGT) over-the-road tractors used to haul waste from Metro transfer stations to the Columbia Ridge Regional Landfill, located in Gilliam Co., Oregon. Contractor shall comply with all Metro-established safeguards to ensure that the fuel supplied through the Metro account is used only for the work described above.
2. Contractor shall provide a card for each JGT tractor designated by JGT's terminal manager (or representative) to access the Pacific Pride cardlocks, 24 hours per day, 365 days per year, to be used by JGT at the following Oregon locations: Rufus, Oregon City, Troutdale, Arlington and at NW 29th Avenue in Portland. Each card shall be programmed to purchase up to 50 gallons per use, except for those tractors based in the Portland area and designated by Metro and JGT, which shall be provided with cards with 120 gallon limit. The cards shall be programmed to provide the same invoice information as provided to JGT as of March, 1994.
3. Metro shall purchase the fuel on a cost plus margin basis. If fuel is purchased at a facility owned by the Contractor, Contractor shall charge Metro the cost of the fuel (including applicable terminal fees, freight, and terminal taxes -excluding the federal excise tax), plus 5 cents per gallon. For fuel purchased at Pacific Pride cardlocks not owned by the Contractor, Metro shall be charged cost plus 7 cents per gallon. Metro shall pay Contractor within 15 business days of receiving invoice.
4. Metro shall provide the appropriate documentation to the Contractor in order to obtain a rebate of the federal excise tax.
5. Contractor shall cancel access to the Pacific Pride cardlock system from the cards provided to JGT under this scope of work, within 24 hours of written notification from Metro to do so.
6. Contractor, in consultation with JGT, shall provide for the proper blending of cold weather fuels at the cardlock owned by the Contractor, to ensure one hundred percent "non-gel" operation of JGT tractors at all times. Contractor shall obtain written confirmation from those Pacific Pride cardlocks listed in Item #2 above, of their intention to provide "non-gel" protection.
7. The services provided under this scope of work shall terminate on November 30, 1994, unless extended by mutual agreement.
8. Metro reserves the right to terminate this agreement at any time upon written notice to Contractor.

Metro P.O. #

8743

SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 94-1974, FOR THE PURPOSE OF EXTENDING THE FUEL PURCHASE AGREEMENTS WITH DEVIN AND STEIN OIL COMPANIES UNTIL MAY 31, 1995

Date: October 20, 1994

Presented by: Councilor Hansen

Committee Recommendation: At the October 18 meeting, the Committee voted 5-0 to recommend Council adoption of Resolution No. 94-1974. Voting in favor: Councilors Hansen, McFarland, McLain, Monroe and Wyers. Councilor Buchanan was absent.

Committee Issues/Discussion: Jim Watkins, Solid Waste Engineering and Analysis Manager, presented the staff report. He briefly reviewed the history of the existing contract under which Metro purchases fuel that is used in the Jack Gray Transport trucks that transfer waste from the transfer stations to the Columbia Ridge Landfill. He noted Metro began to directly purchase the fuel in April because Metro would not be required to pay federal fuel excise taxes under a local government tax exemption provided in federal law. Watkins explained that Metro is now saving between \$1,200-1,300/day through directly purchasing this fuel.

Initially Metro accepted the terms of the existing fuel purchase contract that Jack Gray had signed with Stein and Devin Oil Companies. Watkins noted that this contract is scheduled to expire on November 30, 1994. Staff had initially indicated that it would rebid the contract prior to its expiration date. But, Watkins cited several factors that have combined to make it impossible to complete a rebid process by November. Therefore, staff introduced this resolution requesting a six-month extension to May 31, 1995. Watkins indicated that it was necessary for the staff person assigned to rebid the contract to give a higher priority to other projects including the renegotiation of the Metro Central and Metro South operating contracts. In addition, staff will need additional time to examine other issues including how other jurisdictions address the purchase of large quantities of fuel and whether Metro should use an RFB or an RFP process. Watkins noted that staff must proceed carefully with the procurement process because the terms of any new contract must be acceptable to Jack Gray, otherwise Gray has the right under the existing agreement to begin purchasing its own fuel again.

Bob Martin noted that Jack Gray had been cooperative throughout this entire process and that Metro is attempting to address the desire of Jack Gray and Gilliam County that a significant portion of the fuel be provided in the Arlington area.

Watkins indicated that staff intends to bring bid documents to the Council in December, release the documents in January, and hopefully complete the evaluation and awarding of a new contract by

March.

Councilor Wyers asked that a comparison of the the pros and cons of using an RFB or an RFP process be presented to the committee prior to finalizing the procurement documents. Martin indicated that he would comply with this request.

Councilor Kvistad asked about the need for fuel to be provided in Arlington. Watkins noted that all of the Jack Gray transport rigs are stationed at Arlington overnight and that they would prefer to be able to top off their tanks prior to beginning their first trip to the Portland area each day.

Councilor Kvistad expressed concern that the resolution was not brought forward until only 45 days before the expiration of the existing contract. Martin noted that procurement documents will have to be carefully crafted and that this work simply could not be completed prior to November 30. He commented that Metro will still be achieving significant savings under the existing contract.

John Pulliam, representing Burns Brothers, testified in opposition to the extension. He argued that issues related to any procurement process could be easily overcome and that an extension could result in the loss of additional savings under a new contract. He indicated that Burns Brothers would likely bid on any new contract.

Councilors Monroe and McLain confirmed that, if a new contract was awarded prior to the new May 31 deadline, the new contract could go into effect prior to May 31. Martin and Watkins agreed that it could go into effect.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF EXTENDING) RESOLUTION NO. 94-1974
THE FUEL PURCHASE AGREEMENTS)
WITH DEVIN AND STEIN OIL) Introduced by
COMPANIES UNTIL MAY 31, 1995) Rena Cusma, Executive Officer

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WHEREAS, Under Change Order No. 15, Metro must purchase fuel for the Waste Transport Services Contractor in exchange for the reduction in unit prices; and

WHEREAS, As a result of this arrangement Metro has realized monthly savings of approximately \$50,000 per month (see EXHIBIT "B"); and

WHEREAS, Metro has purchased the fuel through Devin and Stein Oil Companies utilizing agreements which expire in November, 1994; and

WHEREAS, It is in Metro's best interest to continue to purchase fuel as provided in EXHIBIT "C" and EXHIBIT "D" until replacement agreements are reached; now therefore,

BE IT RESOLVED,

That the Metro Council hereby authorizes the Executive Officer to execute the change orders attached hereto as EXHIBITS "C" and "D".

ADOPTED by the Metro Council this _____ day of _____, 1994.

Judy Wyers, Presiding Officer

EXHIBIT "C"

**CHANGE ORDER NO. 1
METRO INVOICE NO. 8742**

**MODIFICATION TO THE CONTRACT BETWEEN
METRO AND DEVIN OIL COMPANY**

A. Purpose and Duration of Change Order

The purpose of this Change Order is to extend the term of the Contract until May 31, 1995.

B. Terms of the Change Order

SCOPE OF WORK, Item No. 7:

REPLACE "November 30, 1994" with "May 31, 1995"

DEVIN OIL COMPANY

METRO

Signature

Signature

Print Name and Title

Print Name and Title

Date

Date

EXHIBIT "D"

**CHANGE ORDER NO. 1
METRO INVOICE NO. 8743**

**MODIFICATION TO THE CONTRACT BETWEEN
METRO AND STEIN OIL COMPANY, INC.**

A. Purpose and Duration of Change Order

The purpose of this Change Order is to extend the term of the Contract until May 31, 1995.

B. Terms of the Change Order

SCOPE OF WORK, Item No. 7:

REPLACE "November 30, 1994" with "May 31, 1995"

STEIN OIL COMPANY, INC.

METRO

Signature

Signature

Print Name and Title

Print Name and Title

Date

Date



METRO

To: Metro Councilors

From: *JMH*
John Houser, Senior Council Analyst

Date: October 26, 1994

Re: Proposed Amendment to Resolution No. 94-1974

At the request of Presiding Officer Wyers, I have prepared an amendment to Resolution No. 94-1974. The purpose of the resolution is to extend existing contracts with Devin and Stein Oil Companies for the purchase of fuel for the Jack Gray trucks that transport waste to the Columbia Ridge Landfill. The original resolution would extend the existing contracts from November 30, 1994 to May 31, 1995. Staff contended that an extension was needed to provide additional time for the development of bid documents and completion of the bidding and awarding of a new contract.

The proposed amendment (see attached) would reduce the length of the extension to January 31, 1995.

cc: Executive Officer Rena Cusma
Bob Martin
Jim Watkins

(Wyers Amendment)
10-26-94

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF EXTENDING)	RESOLUTION NO. 94-1974
THE FUEL PURCHASE AGREEMENTS)	
WITH DEVIN AND STEIN OIL)	Introduced by
COMPANIES UNTIL [MAY] 31, 1995)	Rena Cusma, Executive Officer
	<i>January</i>

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BE IT RESOLVED,

That the Metro Council hereby authorizes the Executive Officer to execute the change orders attached hereto as EXHIBITS "C" and "D".

ADOPTED by the Metro Council this _____ day of _____, 1994.

Judy Wyers, Presiding Officer

EXHIBIT "C"

CHANGE ORDER NO. 1
METRO INVOICE NO. 8742

MODIFICATION TO THE CONTRACT BETWEEN
METRO AND DEVIN OIL COMPANY

A. Purpose and Duration of Change Order

The purpose of this Change Order is to extend the term of the Contract until May 31, 1995.

B. Terms of the Change Order

SCOPE OF WORK, Item No. 7:

REPLACE "November 30, 1994" with May 31, 1995"
January

DEVIN OIL COMPANY

METRO

Signature

Signature

Print Name and Title

Print Name and Title

Date

Date

EXHIBIT "D"

CHANGE ORDER NO. 1
METRO INVOICE NO. 8743

MODIFICATION TO THE CONTRACT BETWEEN
METRO AND STEIN OIL COMPANY, INC.

A. Purpose and Duration of Change Order

The purpose of this Change Order is to extend the term of the Contract until May 31, 1995.

B. Terms of the Change Order

SCOPE OF WORK, Item No. 7:

REPLACE "November 30, 1994" with ["May 31] 1995"

January

STEIN OIL COMPANY, INC.

METRO

Signature

Signature

Print Name and Title

Print Name and Title

Date

Date