

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING AN ) RESOLUTION NO. 95-2073A  
EXEMPTION FROM THE COMPETITIVE BID )  
PROCESS AND AUTHORIZING ISSUANCE ) Introduced by  
RFP #94R-35-SW FOR PURCHASING ) Mike Burton, Executive Officer  
DIESEL FUEL )

WHEREAS, Metro has executed Change Order No. 15 to the Waste Transport Services Contract (EXHIBIT "A") which provides for a reduction in unit prices for solid waste transported to the Columbia Ridge Landfill; 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 March, 1995; and

WHEREAS, It is in Metro's best interest to continue to purchase fuel utilizing a request for proposal rather than the competitive bid process for the reasons stated in EXHIBIT "C"; and

WHEREAS, Metro Code Section 2.04.041(c) and ORS 279.015(2) authorize the Metro Contract Review Board to exempt a public contract from competitive bidding if it finds that the exemption will not encourage favoritism or substantially diminish competition for public contracts and that such an exemption will result in substantial cost savings; and

WHEREAS, EXHIBIT "C" to this resolution presents findings which satisfy the requirements for such an exemption; and

WHEREAS, This resolution was submitted to the Executive Officer for consideration and was forwarded to the Contract Review Board for approval; now therefore,


BE IT RESOLVED,

1. That the Metro Contract Review Board adopts as findings the information and reasoning contained in EXHIBIT "C", made part of this resolution by reference, and concludes that:
  - a) It is unlikely that exempting the purchase of diesel fuel from the competitive bid process will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts;
  - b) The exemption will result in substantial cost savings to Metro; and

Therefore, exempts the contract to be solicited through Request for Proposals No. 94R-35-SW from competitive bid requirements.

2. That the Metro Council authorizes issuance of RFP #94R-35-SW attached as EXHIBIT "D"; and
3. That Council approval shall be required prior to Metro's exercise, at any time, of its option to extend the agreement for up to an additional three years in one year increments, as stated in Section III.A.7 of RFP #94R-35-SW.

ADOPTED by the Metro Council this 19 day of Jan, 1995.

  
J. Ruth McFarland, Presiding Officer

## PROPOSED AMENDMENTS TO RESOLUTION NO. 95-2073

The following amendments to Resolution No. 95-2073 will clarify that Council approval will be required prior to Metro's exercise of its option to extend the diesel fuel purchase contract for one year increments following the first year of purchase:

- \* On page 2 of the Resolution, add a third "Be It Resolved" clause, as follows:

"3. That Council approval shall be required prior to Metro's exercise, at any time, of its option to extend the agreement for up to an additional three years in one year increments, as stated in Section III.A.7 of RFP #94R-35-SW."

- \* On page 4 of RFP #94R-35-SW, Section III.A.7, strike "'s Executive Officer" from the end of the sentence.

## STAFF REPORT

### CONSIDERATION OF RESOLUTION NO. 95-2073 FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION FROM THE COMPETITIVE BID PROCESS AND AUTHORIZING ISSUANCE OF RFP #94R-35-SW FOR PURCHASING DIESEL FUEL

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Date: January 9, 1995

Presented by: Jim Watkins  
Chuck Geyer

## PROPOSED ACTION

Adopt Resolution No. 95-2073 to permit the Executive Officer to issue a request for proposals for the purchase of diesel fuel.

## 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).

The current agreements to purchase fuel expire in March, 1995. For the reasons contained in Exhibit "C" to the attached resolution, it is in Metro's best interest to utilize a proposal rather than bid process to secure replacement agreements. Utilizing a proposal process requires an exemption from the competitive bid process. Resolution No. 95-2073 provides the required exemption and authorizes issuance of the request for proposals which will result in replacement agreements.

## BUDGET IMPACTS

Metro would continue to save approximately \$50,000 per month.

## EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 95-2073.

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.

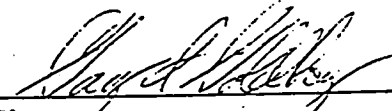
(a) From the date on which Metro begins supplying fuel to Contractor through September 30, 1994, the per load unit price paid to the Contractor shall be \$333.50.

(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.

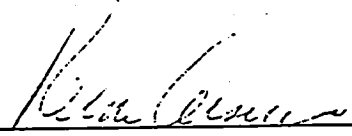
JACK GRAY TRANSPORT, INC.

  
\_\_\_\_\_  
Signature

Gary L. Goldstein, Ex. Vice Pres.  
Print Name and Title

4-18-94  
Date

METRO

  
\_\_\_\_\_  
Signature

Kena 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"

### FINDINGS FOR AN EXEMPTION FROM THE COMPETITIVE BID PROCESS FOR THE PROCUREMENT OF DIESEL FUEL

In order to utilize the proposal process to purchase diesel fuel for the Waste Transport Services Contract, findings are presented below to satisfy the following exemption requirements:

- (a) It is unlikely that such exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts; and
- (b) The awarding of public contracts pursuant to the exemption will result in substantial cost savings to the public contracting agency. In making such finding, the director or board may consider the type, cost, amount of the contract, number of persons available to bid and such other factors as may be deemed appropriate.

The approach will not encourage favoritism because it should increase the number of potential proposers. This is because the proposal process will allow greater flexibility in the arrangements vendors can make in providing the fuel to Metro, than would a bid. There are multiple ways in which fuel can be provided (i.e. cardlocks, either onsite or en route to the landfill, or subcontracting with OWS to retrofit existing onsite tanks etc.), some of which we probably have not thought of. Writing precise specifications, without limiting the number of approaches, would therefore be difficult. A proposal process should increase to number of proposals received, thereby satisfying "a" above, because it allows more approaches.

Increasing competition should result in savings as vendors vie to cut their margins. Price competition however, is not the only way in which substantial savings to Metro will result. The modification to the JGT (Jack Gray Transport, Inc. - the Waste Transport Services Contractor) contract which permitted Metro to take advantage of an exemption to the excise tax, contains service levels for the provision of fuel by Metro and is annually renewable. JGT does not enjoy any of the savings realized by Metro, and in fact, is specifically prohibited by IRS rules from doing so. JGT is concerned with fuel being provided in an efficient manner. If it is not, it is quite likely that the firm will withdraw from the current arrangement and Metro will then lose over \$300,000 in annual savings. The proposal process allows Metro to evaluate the proposals and proposers on their past performance and the convenience of their approach, **in addition to**, the proposed price. This should increase the probability that the selected firm and approach satisfies JGT's needs and thereby maintain the substantial savings Metro currently has.

In addition, the RFP does not anticipate the use of liquidated damages or performance bonds as contractual safeguards, since these would substantially

increase the cost and probably decrease competition. This is because such measures are not common in the industry and because competition is so great that dissatisfied customers typically just switch suppliers. Given the location of the fuel purchases and the service requirements of JGT, suppliers are somewhat limited. Metro is therefore evaluating proposers on their past performance. This will help ensure that the contract negotiated, will be performed satisfactorily. For these reasons, the procurement of fuel through the RFP proposed will also satisfy the requirements of "b" above.

geye/graygas/exhibite.doc



**METRO**

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Request for  
Proposals for  
Providing Diesel  
Fuel

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**REQUEST FOR PROPOSALS**  
(#94R-35-SW)

*January 1995*

Solid Waste Department  
600 NE Grand Ave  
Portland, OR 97232-2736  
(503) 797-1650  
Fax (503) 797-1795

**REQUEST FOR PROPOSALS  
FOR PROVIDING DIESEL FUEL**

**(RFP # 94R-35-SW)**

Metro  
Solid Waste Department  
600 NE Grand Avenue  
Portland, OR 97232  
(503) 797-1650

## TABLE OF CONTENTS

	PAGE
I. INTRODUCTION.....	1
II. BACKGROUND/HISTORY OF PROJECT .....	1
III. PROPOSED SCOPE OF WORK/SCHEDULE.....	2
IV. PROPOSAL CONTENTS.....	6
V. EVALUATION OF PROPOSALS .....	7
VI. GENERAL PROPOSAL/CONTRACT CONDITIONS.....	7

**REQUEST FOR PROPOSALS  
FOR PROVIDING DIESEL FUEL  
(RFP # 94R-35-SW)**

**I. INTRODUCTION**

The Solid Waste Department of Metro is requesting proposals for the supply of approximately 1.4 million gallons of No. 2, low sulfur diesel fuel. Portions of the fuel are to be provided at one of two separate locations. Metro is a regional government serving the Portland metropolitan area, organized under the laws of the State of Oregon and the 1992 Metro Charter. Metro is located at 600 NE Grand Avenue, Portland, OR 97232-2736. Proposals will be due no later than \_\_\_ p.m., \_\_\_\_\_, 19\_ in Metro's Solid Waste Department. Details concerning the project and proposal are contained in this document.

**II. BACKGROUND/HISTORY OF PROJECT**

In 1991, Metro began transporting solid waste generated in the region to the Columbia Ridge Landfill located in Gilliam County, Oregon (see map located in the Appendix), approximately 150 miles east of Portland, Oregon. The landfill is owned and operated by Oregon Waste Systems, Inc. and disposal capacity is available to Metro until 2009. Transport of the waste is provided through a contract with Jack Gray Transport, Inc. (JGT) for the same period of time.

Loads of waste to be transported are prepared at Metro transfer stations by compactors. One transfer station is located in Oregon City (Metro South Station) and the other in northwest Portland (Metro Central Station). A load of waste is 7 x 7 x 39 feet in size and weighs about 29 tons. In calendar year 1993, JGT transported 696,084 tons of solid waste to the Columbia Ridge Landfill, a total of 24,116 loads, traveling 7.43 million miles.

The typical JGT driver transports two loads per day. Beginning at the landfill, a driver takes an empty trailer to a transfer station, picks up a full trailer which is transported to a staging area located in Rufus. At the staging area, an empty trailer is picked up for another trip to a transfer station, where a full trailer is picked up and transported to the landfill. Full trailers left at the staging area in Rufus are shuttled to the landfill. Four of the tractors are based at the Metro Central Station, the rest are based at the landfill.

JGT utilizes approximately 45 tractors and 200 trailers. The tractors are Standard Peterbilt 378 three-axle conventionals with a 262 inch wheel base, plus a drop axle. The trailers are 48 foot Fruehaufs. Engines are a combination of 425 hp Cat 3406C ATAAC mechanical diesels and Cat's new electronic 3406-rated 435 hp with 1,650 pounds per foot of torque. They drive through Fuller Super 10 transmissions and Rockwell 3.90 rearends. Each tractor is equipped with one, 120 gallon fuel tank which is accessed from the driver's side.

The original contract between Metro and JGT provided that JGT purchase all the fuel to be used in performance of the work. In April 1994, Metro began to purchase the fuel used by JGT for its over-

the-road vehicles through a modification of the contract (see Appendix). Metro proposed this modification to realize substantial cost savings. These cost savings are incurred because Metro is a political subdivision of the state of Oregon and as such is exempt from payment of federal fuel excise taxes.

As part of this modification to the JGT contract, Metro agreed to provide the fuel to JGT "in a manner ... reasonably consistent with historical service levels...". In 1993, JGT purchased approximately 1.4 million gallons of fuel for use by its over-the-road vehicles. About 95% of the fuel was purchased from a cardlock located in Gilliam County, on HWY 19 between the City of Arlington and the landfill. The remaining amount was purchased from a cardlock located off Interstate 84 between I-205 and the Sandy River. Metro plans to purchase fuel in the same proportion from these two general locations. However, for fuel to be purchased in Gilliam Co., proposals will be accepted which provide for locating a fueling facility on the landfill itself in cooperation with the landfill owner. It should be noted that vehicles generally fuel exclusively at only one location.

Since the cardlocks currently in use also supply fuel to customers who must pay the federal excise tax, the cardlock must pay the excise tax on Metro fuel when purchased from a terminal and request a refund of the tax from the federal government. The vendor must therefore be a "registered ultimate vendor" under IRS rules and comply with all IRS rules. If fuel were supplied to exempt users only, it is Metro's understanding the vendor could supply dyed fuel and avoid paying the excise tax altogether.

Detailed information on fuel purchases is located in the Appendix. While fuel has been, and still must be in the future, available on a 24 hour, seven day a week basis, most of the fuel purchases occur during the weekday/daylight hours. Branded, No. 2 low sulfur fuel is used exclusively, except when weather conditions require "blending" to achieve non-gel operation.

The current agreements for the provision of fuel expire March 31, 1994. This RFP is intended to result in replacement agreements taking effect on or before that date.

### **III. PROPOSED SCOPE OF WORK/SCHEDULE**

Metro is seeking proposals from qualified firms to perform the following services and to deliver the products described below. Since Metro will be purchasing fuel from two separate locations, the tasks below are divided into three parts. Section "A" contains those general requirements that apply to the fuel purchased at either location. Section "B" contains those specific requirements to provide fuel only for the location on I-84 between I-205 and the Sandy river (see map in the Appendix). Section "C" contains the specific requirements to provide fuel in Gilliam County. Section "C" is further subdivided to address requirements for the provision of fuel at a cardlock located on HWY 19 or a fueling facility to be located at the landfill.

#### **A. General Requirements**

1. Branded, low sulfur, No. 2 diesel fuel shall be available 24 hours per day, seven days a week. All fuel provided shall be filtered and free from impurities that might cause damage or impairment to vehicle operation. Fuel shall be weatherized during cold weather to ensure 100% non-gel operation. Specific requirements for each location are contained in sections "B" and "C" below. Contractor shall be liable for damages caused by fuel that is contaminated or otherwise does not meet specifications.
2. If the primary fueling system is disabled, Contractor shall provide an alternative fuel supply on an "as needed" basis until the primary system is available at the same cost to Metro as if the primary system were available. Any and all sites or systems must comply with applicable laws and regulations.
3. All cardlock sites must have restrooms, water, and emergency phone services; be capable of fueling two vehicles simultaneously and have high pressure pumps.
4. Fuel shall be accessed through the use of a card assigned to a specific vehicle, regardless of whether a cardlock or tank system is used. The system shall be programmable to limit purchases per use and to record the invoice information described below. Contractor shall be able to cancel access to fuel within 24 hours notice from Metro, either system-wide or on an individual card basis. Contractor shall provide cards to Metro (or a designated party at JGT) to access the system within 2 working days of a request.
5. It is desired that the Contractor's invoice shall contain the following information. Please indicate in your proposal which information would be available.
  - for each transaction by card # (provision of this information is mandatory):
    - Date / time / tractor # / odometer reading / m.p.g. / # of gallons / price per gallon<sup>i</sup> / total price
  - For each card (which is assigned to a specific tractor), the following summary information:
    - Average m.p.g. / total gallons / total charge
  - At the end of the invoice the following summary information shall be included:
    - For invoice period: Total gallons / total charge / average m.p.g. / average price per gallon / total excise tax avoided / state diesel tax
    - Year to date: Total gallons / total charge / average m.p.g. / average price per gallon / total excise tax avoided / state diesel tax

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<sup>i</sup>All price information shall exclude federal excise taxes.



6. Price - Proposers should present their proposed pricing structure using the following assumptions:

- > No excise tax will be charged to Metro (contractor will have to pay excise tax if applicable and obtain a refund from IRS)
- > Weekly billings
- > Metro payment within 15 working days
- > Weatherization of fuel for each location per the specification in "B" or "C" below

Submittal - Submit your price proposal in enough detail, utilizing the applicable price sheet(s) contained in the Appendix, to reflect the following:

- a. index to be used for base cost (i.e., Portland OPIS index, specific branded fuel, the terminal(s) where fuel will be purchased, etc.)
- b. base cost + freight cost + taxes (except excise) + markup + other (specify what it is)

**Example:** Portland OPIS index + \$0.04 (freight from Portland) + \$0.0035 (superfund tax) + \$0.015 (markup) + \$0.00 (other)

- c. Utilizing the actual monthly average base cost for the time period contained in the price sheet and the other components of the pricing structure presented in "a" above, present what the cost to Metro would have been for the period and location indicated on the applicable price sheet(s) contained in the Appendix.

Please attach enough backup information for Metro to verify the prices.

- 7. Term - The term of this agreement shall be for a period of April 1, 1995, to June 30, 1996, with the option to extend for up to an additional three years in one year increments, at the discretion of Metro's Executive Officer.
- 8. Adjustment - Price adjustments for the second and any additional years of the contract will be negotiated on the anniversary of the contract based on documented increases in costs other than those to the base cost. The base cost will fluctuate based on the index used throughout the term of the agreement.

B. Specific Requirements for Western Fueling Location

- 1. Fuel must be provided through a cardlock located within 50 yards of I-84 between I-205 and the Sandy River.

2. Weatherization of fuel for Portland area conditions, consistent with the practices of major suppliers.

**C. Specific Requirements for Eastern Fueling Location**

Two types of approaches are acceptable to Metro, fueling through a cardlock or through tanks to be located on the Columbia Ridge Landfill.

**1. Cardlock Option Requirements**

- a. The cardlock must be located on HWY 19, between the City of Arlington and Cedar Springs Road.
- b. In the event of a failure of the cardlock to provide fuel as required, the required backup system must be either another cardlock meeting these criteria or fueling at the Columbia Ridge Landfill through the provision of a tanker truck. Reporting requirements will be waived during this period and hand written receipts shall be issued.
- c. Working with Metro's transport contractor, Jack Gray Transport, Inc., branded #2 low sulfur diesel shall be blended with branded #1 low sulfur diesel to ensure "non-gel" operation when weather conditions require. For purposes of preparing the price sheet, assume that 30% of each gallon will be #1 diesel for the months of December through February.
- d. The delivery of some fuel to a tank located at the landfill during the winter may be negotiated as part of the contract.

**2. Tank Option Requirements**

- a. The successful proposer will supply a self-contained fuel storage and distribution facility on the Columbia Ridge Landfill of sufficient size to ensure 24 hour, 7 day per week operations of JGT.
- b. The provision of this facility must be accomplished through a contractual arrangement with the landfill owner, Oregon Waste Systems (contact Doug Coenan, Division President and General Manager at 503-454-2030) and be conveniently located in relation to JGT operations.
- c. In the event of a failure of the facility to provide fuel as required, the required backup system must be either a cardlock meeting the above criteria, or fueling at the Columbia Ridge Landfill through the provision of a tanker truck.
- d. Working with Metro's transport contractor, Jack Gray Transport, Inc., branded #2 low sulfur diesel shall be blended with branded #1 low sulfur diesel to ensure "non-gel" operation when weather conditions require. For purposes of preparing the price sheet,

assume that 30% of each gallon will be #1 diesel for the months of December through February.

#### IV. PROPOSAL CONTENTS

Five copies of the proposals should be furnished to Metro, addressed to:

Metro/ Solid Waste Dept.  
Attn: Chuck Geyer  
600 NE Grand  
Portland, OR 97232

Proposals must be received by \_\_\_\_\_ to be considered, and should contain the following:

- A. Transmittal Letter: Indicate which location the proposal is for, and if for both locations, whether you wish to be considered for only one location as well during evaluation. Indicate who is to be the contact for the project, who in the firm has the authority to enter into an agreement with Metro, and that the proposal will be valid for ninety days.
- B. Approach/Project Work Plan: Describe how your approach meets the requirements of the proposed Scope of Work above for each of the applicable sections "A", "B" and "C". If your proposal is for both locations, indicate what items in the proposal would change if the locations are considered independently. The work plan should include the pricing sheet from the Appendix, the pricing structure and backup.
- C. Staffing/Project Manager Designation: Identify the specific firms involved in providing the fuel and their roles. For example, if a cardlock, whether it will be a jobber for a specific brand of fuel, and who will be the transporter.
- D. Experience/Qualifications: List projects conducted over the past five years which involved services similar to the services required here. In particular specify any projects that involved continuous operation in locations with similar weather conditions. For each of these other projects, include the name of the customer contact person, his/her title, role on the project, and telephone number.

List any licenses or permits needed for the proposed approach and which your firm currently possesses. For those permits or licenses needed, provide a schedule for obtaining them and the relevant contact person and phone number of the issuing governmental body.

List any equipment or contracts which must be obtained and your schedule for obtaining them by April 1, 1995.

- E. Exceptions and Comments: To facilitate evaluation of proposals, all responding firms will adhere to the format outlined within this RFP. Firms wishing to take exception to, or comment on, any

specified requirements within this RFP are encouraged to document their concerns in this part of their proposal. Exceptions or comments should be succinct, thorough and organized. Please include any exceptions you wish to take with the proposed standard contract.

- F. **Confidentiality.** This paragraph shall apply to information Proposer is submitting to Metro which Proposer considers to be confidential and proprietary and which Proposer does not want Metro to disclose to third parties ("confidential information" herein). Such confidential information shall be separately contained in a sealed envelope, clearly and prominently marked "confidential information" and bearing the title and number of this RFP, and the sealed envelope shall be attached to the rest of the RFP. To the extent permitted by law, Metro will not disclose such properly identified confidential information to any person outside of Metro. However, Proposers should be aware that Oregon Law (ORS chapter 192) requires public disclosure of most records deemed to be "public records." Metro cannot, therefore, guarantee to protect the confidentiality of any records submitted to Metro, even if the Proposer believes them to be exempt from disclosure.

## V. EVALUATION OF PROPOSALS

- A. **Evaluation Procedure:** Only proposals received that conform to the proposal instructions will be evaluated. The evaluation will take place using the evaluation criteria identified in the following section. The evaluation process will result in Metro developing a short list of the firms who, in its opinion, are most qualified. Interviews with these firms may be requested prior to final selection of firm(s) to provide the goods and services for the two locations.
- B. **Evaluation Criteria:** This section provides a description of the criteria which will be used in the evaluation of the proposals submitted to accomplish the work defined in the RFP.
1. **Cost** - The lowest cost proposal, based on the "Total Cost" item from the applicable price sheets. 90%
  2. **Performance** - Ability of the proposal to satisfy the requirements of the scope of work and the standard contract. Proposers must satisfy these requirements to be the successful proposer.
  3. **Experience/Qualifications** - Experience in providing a similar level of service under similar conditions. Ability of the proposer to provide the necessary equipment and personnel. Ability to obtain the necessary permits, or other regulatory approvals. 10%

## VI. GENERAL PROPOSAL/CONTRACT CONDITIONS

- A. **Limitation and Award:** Based on the evaluation of proposals, Metro will enter into negotiations with the highest ranked firms for each location. If Metro is unsuccessful in negotiating an agreement, Metro will select the next highest ranked firm and attempt to negotiate a contract.

This process will continue until contract(s) have been signed or Metro terminates the procurement.

This RFP does not commit Metro to the award of a contract, nor to pay any costs incurred in the preparation and submission of proposals in anticipation of a contract. Metro reserves the right to waive minor irregularities, accept or reject any or all proposals received as the result of this request, negotiate with all qualified sources, or to cancel all or part of this RFP.

**B. Standard Agreement**

The attached public contract is a standard agreement approved for use by the Metro Office of General Counsel; it is included for your review prior to submitting a proposal:

Any changes in the standard agreement must be requested and resolved as part of the proposal process or as a condition attached to the proposal. Consider the language carefully. Suggested changes which cannot be resolved will result in rejection of the proposal.

**C. RFP as Basis for Proposals:**

This Request for Proposals represents the most definitive statement Metro will make concerning the information upon which Proposals are to be based. Any additional verbal information which is not presented in this RFP will not be considered by Metro in evaluating the Proposal. All questions relating to this RFP should be addressed to Chuck Geyer at (503) 797-1691. Any questions which, in the opinion of Metro, warrant a written interpretation or RFP amendment will be furnished to all parties receiving this RFP. Metro will not respond to questions received after \_\_\_\_\_.

**D. Information Release**

All proposers are hereby advised that Metro may solicit and secure background information based upon the information, including references, provided in response to this RFP. By submission of a proposal all proposers agree to such activity and release Metro from all claims arising from such activity.

**E. Disadvantaged, Minority and Women-Owned Business Program**

In the event that any subcontracts are to be utilized in the performance of this agreement, the proposer's attention is directed to Metro Code provisions 2.04.100, 200 & 300.

Copies of that document are available from the Procurement and Contracts Division of General Services, Metro, Metro Center, 600 NE Grand Avenue, Portland, OR 97232 or call (503) 797-1717.

CG:jc  
graygas\fuel.rfp  
11/09/94 3:56 PM

## **APPENDIX**

**consisting of:**

**Standard Metro Contract  
Location Maps  
Modification to JGT/Metro Contract  
Detailed Fuel Information  
Price Sheet**

**STANDARD METRO CONTRACT**

CONTRACT NO. \_\_\_\_\_

PUBLIC CONTRACT

THIS Contract is entered into between Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, whose address is 600 NE Grand Avenue, Portland, Oregon 97232, and \_\_\_\_\_, whose address is \_\_\_\_\_, hereinafter referred to as the "CONTRACTOR."

THE PARTIES AGREE AS FOLLOWS:

ARTICLE I

SCOPE OF WORK

CONTRACTOR shall perform the work and/or deliver to Metro the goods described in Attachment A, the Scope of Work, which is incorporated herein by this reference. All services and goods shall be of good quality and, otherwise, in accordance with the Scope of Work.

ARTICLE II

TERM OF CONTRACT

The term of this Contract shall be for the period commencing \_\_\_\_\_, through and including \_\_\_\_\_.

ARTICLE III

CONTRACT SUM AND TERMS OF PAYMENT

Metro shall compensate the CONTRACTOR for work performed and/or goods supplied as described in Attachment B, which is incorporated herein by this reference. Metro shall not be responsible for payment of any materials, expenses or costs other than those which are specifically included in Attachment B.



**ARTICLE IV**  
**LIABILITY AND INDEMNITY**

CONTRACTOR is an independent contractor and assumes full responsibility for the content of its work and performance of CONTRACTOR's labor, and assumes full responsibility for all liability for bodily injury or physical damage to person or property arising out of or related to this Contract, and shall indemnify, defend and hold harmless Metro, its agents and employees, from any and all claims, demands, damages, actions, losses, and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Contract. CONTRACTOR is solely responsible for paying CONTRACTOR's subcontractors and nothing contained herein shall create or be construed to create any contractual relationship between any subcontractor(s) and Metro.

**ARTICLE V**  
**TERMINATION**

Metro may terminate this Contract upon giving CONTRACTOR seven (7) days written notice. In the event of termination, CONTRACTOR shall be entitled to payment for work performed to the date of termination. Metro shall not be liable for indirect or consequential damages. Termination by Metro will not waive any claim or remedies it may have against CONTRACTOR.

**ARTICLE VI**  
**INSURANCE**

CONTRACTOR shall purchase and maintain at CONTRACTOR's expense, the following types of insurance covering the CONTRACTOR, its employees and agents. Contractor must comply with all applicable DOT regulations, including those related to transportation.

A. Broad form comprehensive general liability insurance covering personal injury, property damage, and bodily injury with automatic coverage for premises and operation and product liability. The policy must be endorsed with contractual liability coverage.

B. Automobile bodily injury and property damage liability insurance.

Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an aggregate limit, the aggregate limit shall not be less than \$1,000,000. Metro, its elected officials, departments, employees, and agents shall be named as an ADDITIONAL INSURED. Notice of any material change or policy cancellation shall be provided to Metro thirty (30) days prior to the change.

This insurance as well as all workers' compensation coverage for compliance with ORS 656.017 must cover CONTRACTOR's operations under this Contract, whether such operations be by CONTRACTOR or by any subcontractor or anyone directly or indirectly employed by either of them.

CONTRACTOR shall provide Metro with a certificate of insurance complying with this article and naming Metro as an insured within fifteen (15) days of execution of this Contract or twenty-four (24) hours before services under this Contract commence, whichever date is earlier.

#### ARTICLE VII

##### PUBLIC CONTRACTS

All applicable provisions of ORS chapters 187 and 279, and all other terms and conditions necessary to be inserted into public contracts in the State of Oregon, are hereby incorporated as if such provision were a part of this Agreement, including, but not limited to, ORS 279.310 to 279.320. Specifically, it is a condition of this contract that Contractor and all employers working under this Agreement are subject employers that will comply with ORS 656.017 as required by 1989 Oregon Laws, Chapter 684.

#### ARTICLE VIII

##### ATTORNEY'S FEES

In the event of any litigation concerning this Contract, the prevailing party shall be entitled to reasonable attorney's fees and court costs, including fees and costs on appeal to any appellate courts.

## ARTICLE IX

### QUALITY OF GOODS AND SERVICES

Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of the highest quality. All workers and subcontractors shall be skilled in their trades.

CONTRACTOR guarantees all work against defects in material or workmanship for a period of one (1) year from the date of acceptance or final payment by Metro, whichever is later. All guarantees and warranties of goods furnished to CONTRACTOR or subcontractors by any manufacturer or supplier shall be deemed to run to the benefit of Metro.

## ARTICLE X

### 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 hereto that such documents are works made for hire. CONTRACTOR does hereby convey, transfer and grant to Metro all rights of reproduction and the copyright to all such documents.

## ARTICLE XI

### SUBCONTRACTORS

CONTRACTOR shall contact Metro prior to negotiating any subcontracts and CONTRACTOR shall obtain approval from Metro before entering into any subcontracts for the performance of any of the services and/or supply of any of the goods covered by this Contract.

Metro reserves the right to reasonably reject any subcontractor or supplier and no increase in the CONTRACTOR's compensation shall result thereby. All subcontracts related to this Contract shall include the terms and conditions of this agreement. CONTRACTOR shall be fully responsible for all of its subcontractors as provided in Article IV.

## ARTICLE XII

### RIGHT TO WITHHOLD PAYMENTS

Metro shall have the right to withhold from payments due 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.

If a liquidated damages provision is contained in the Scope of Work and if CONTRACTOR has, in Metro's opinion, violated that provision, Metro shall have the right to withhold from payments due CONTRACTOR such sums as shall satisfy that provision. All sums withheld by Metro under this Article shall become the property of Metro and CONTRACTOR shall have no right to such sums to the extent that CONTRACTOR has breached this Contract.

## ARTICLE XIII

### SAFETY

If services of any nature are to be performed pursuant to this agreement, CONTRACTOR shall take all necessary precautions for the safety of employees and others in the vicinity of the services being performed and shall comply with all applicable provisions of federal, state and local safety laws and building codes, including the acquisition of any required permits.

## ARTICLE XIV

### INTEGRATION OF CONTRACT DOCUMENTS

All of the provisions of any bidding documents including, but not limited to, the Advertisement for Bids, Request for Bids or Proposals, General and Special Instructions to Bidders, Proposal, Bid, Scope of Work, and Specifications which were utilized in conjunction with the bidding of this Contract are hereby expressly incorporated by reference. Otherwise, this Contract represents the entire and integrated agreement between Metro and CONTRACTOR and supersedes all prior negotiations, representations or agreements, either written or oral. This Contract may be amended only by written

instrument signed by both Metro and CONTRACTOR. The law of the state of Oregon shall govern the construction and interpretation of this Contract.

**ARTICLE XV**

**ASSIGNMENT**

CONTRACTOR shall not assign any rights or obligations under or arising from this Contract without prior written consent from Metro.

\_\_\_\_\_

Metro

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

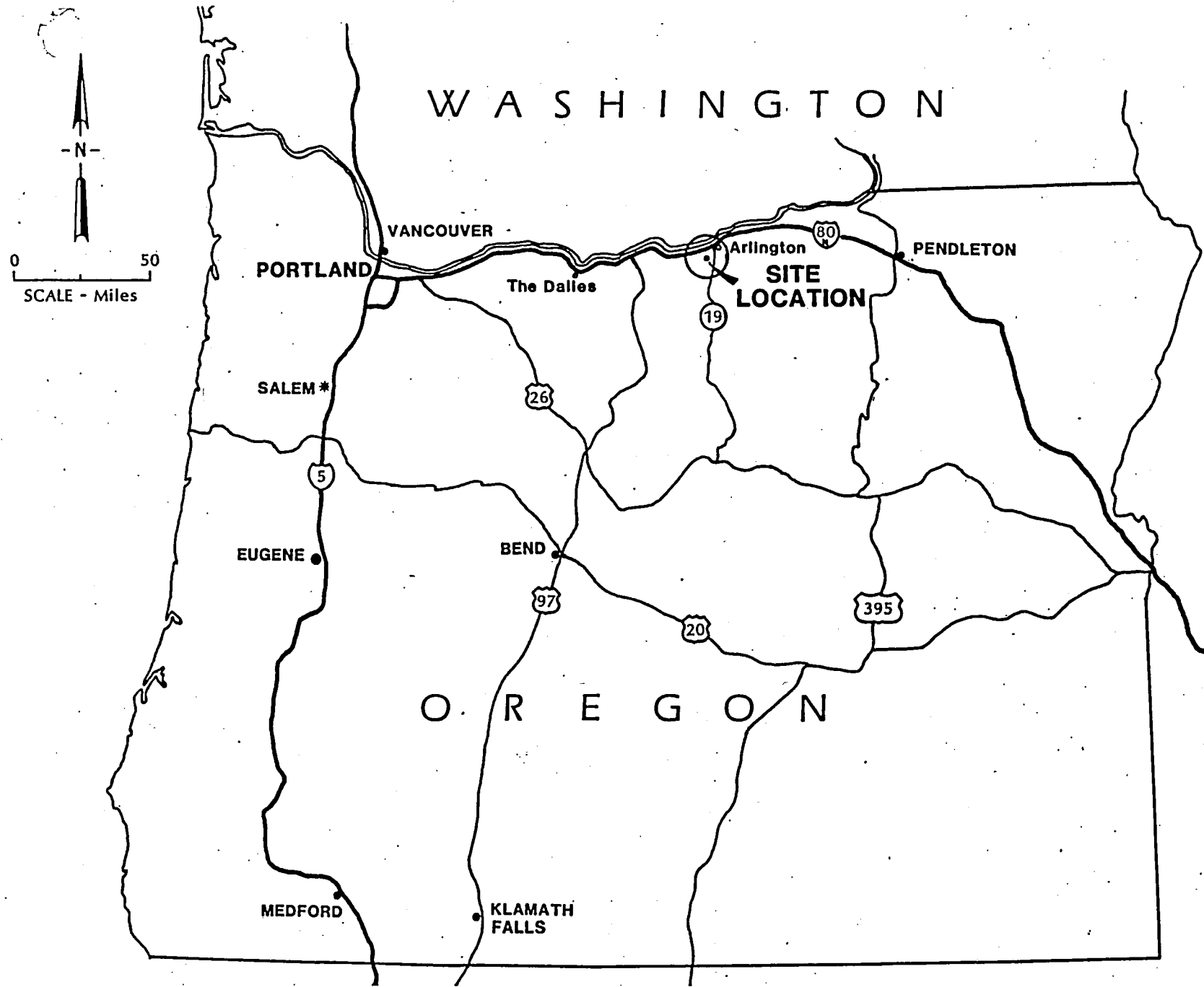
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Print name and title

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Print name and title

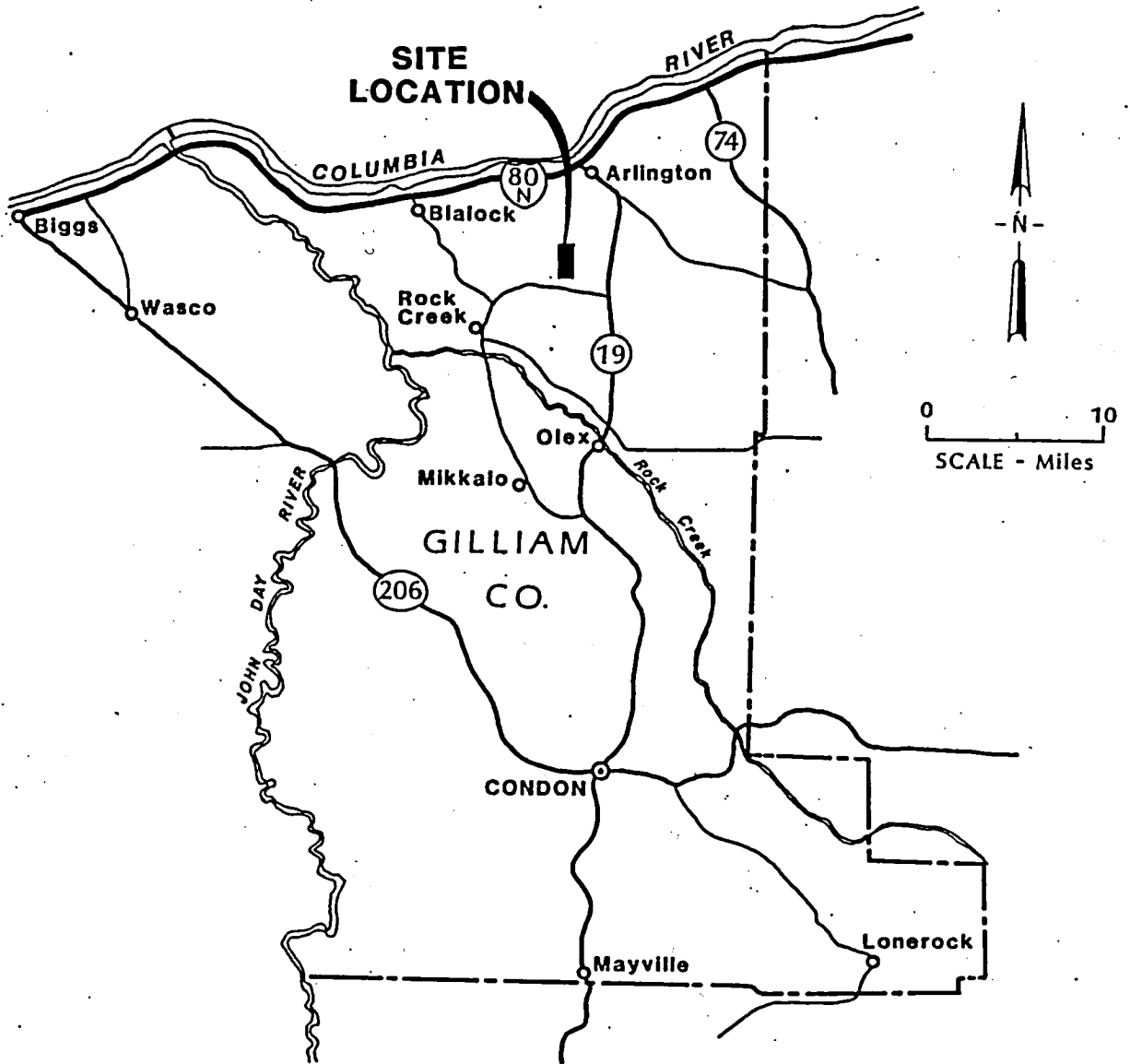
\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## LOCATION MAPS



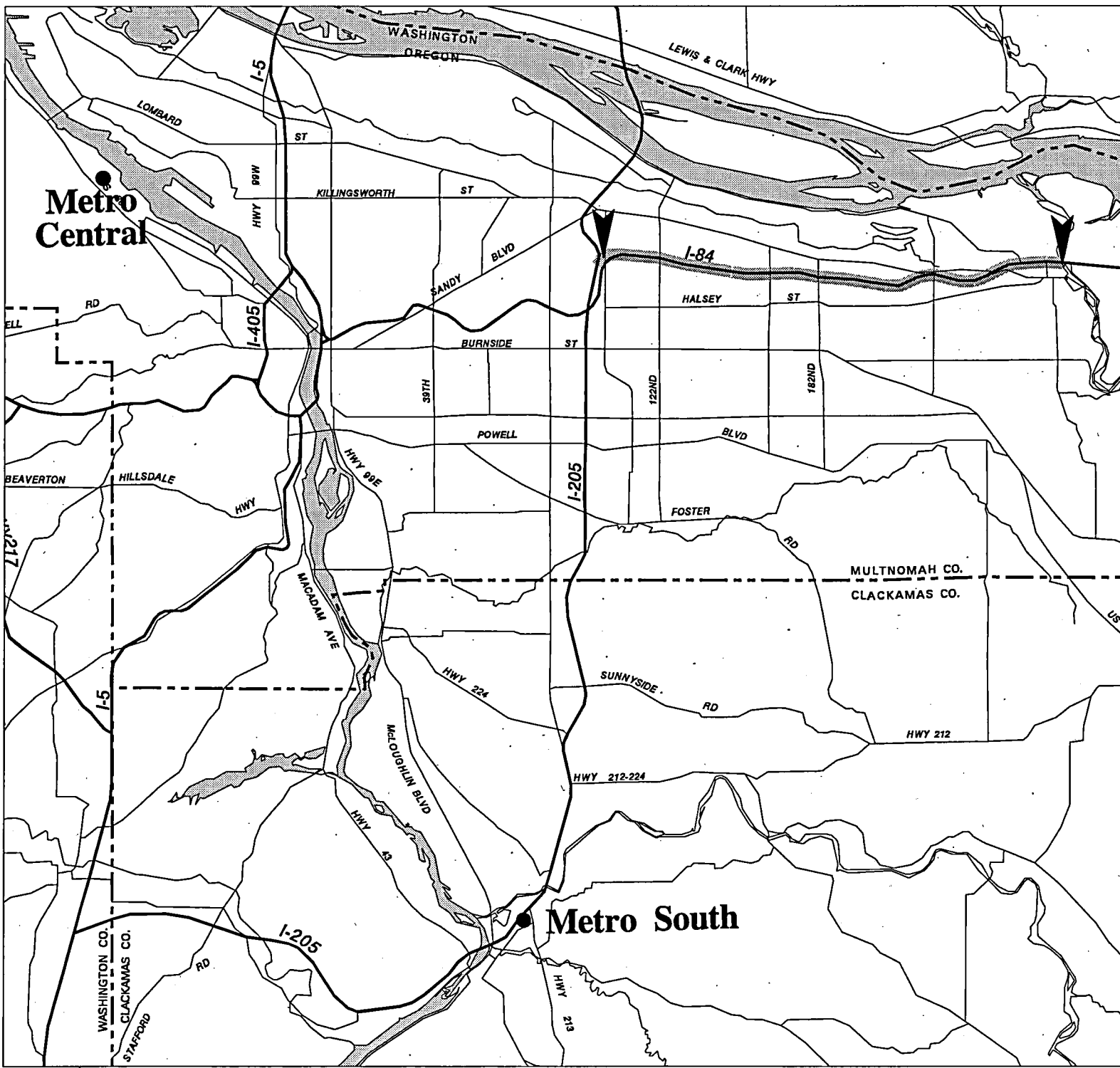
**SITE LOCATION MAP**



**SITE VICINITY MAP**



# Fueling Request



 Western Fueling Location

This map is plotted on recyclable paper. It can be recycled with mixed waste paper. If you recycle white and colored separately, please place in the colored bin due to the amount of colored ink.



600 NE Grand Ave  
 Portland, OR 97232-2736  
 (503) 797-1700



METRO

**MODIFICATION TO JGT/Metro CONTRACT**

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.

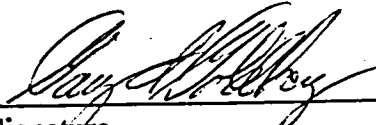
(a) From the date on which Metro begins supplying fuel to Contractor through September 30, 1994, the per load unit price paid to the Contractor shall be \$333.50.

(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.

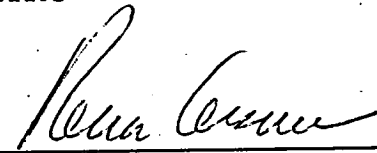
JACK GRAY TRANSPORT, INC.

  
\_\_\_\_\_  
Signature

*Gary L. 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

**DETAILED FUEL INFORMATION**

**1993 Fuel Consumption by Location**

<b>MONTH'93</b>	<b>EASTERN FUEL USED</b>	<b>WESTERN FUEL USED</b>	<b>TOTAL</b>
January	99,310	4,256	103,566
February	97,363	2,754	100,117
March	110,567	2,644	113,210
April	119,482	2,227	121,709
May	125,581	4,272	129,852
June	124,374	7,048	131,422
July	117,369	10,013	127,382
August	116,390	12,898	129,289
September	101,256	17,444	118,700
October	110,880	13,902	124,782
November	111,636	9,755	121,391
December	106,126	11,270	117,396
	1,340,333.700	98,481	1,438,815

**FUELING SCHEDULE FOR JACK GRAY TRANSPORT  
PORTLAND LONG-HAUL AND RUFUS SHUTTLE TRACTORS**

11:30 P.M.	2	TRACTORS
12:00 A.M.	2	"
12:30 A.M.	2	"
1:00 A.M.	2	"
1:30 A.M.	2	"
2:00 A.M.	2	"
2:30 A.M.	2	"
3:00 A.M.	2	"
3:30 A.M.	2	"
4:00 A.M.	4	"
4:30 A.M.	4	"
5:00 A.M.	4	"
5:30 A.M.	2	"
11:30 A.M.	2	"
12:00 P.M.	2	"
12:30 P.M.	2	"
1:00 P.M.	2	"
1:30 P.M.	2	"
2:00 P.M.	2	"
2:30 P.M.	2	"
3:00 P.M.	2	"
3:30 P.M.	2	"
4:00 P.M.	5	"
4:30 P.M.	5	"
5:00 P.M.	3	"
5:30 P.M.	1	"

\*Note: Goats from Portland fuel one at a time, usually on Thursday or Friday evenings.



**PRICE SHEET**

**PRICE SHEET FOR WESTERN LOCATION TO BE FILLED IN BY PROPOSERS**

a. Indicate index to be used for base cost. \_\_\_\_\_

b. Describe all cost components: i.e. base cost + freight cost + taxes (except excise) + markup + other (please specify)

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c. Western Fueling Location Price Sheet (Please attach backup)

<b>MONTH 1994</b>	<b>FUEL USED*</b>	<b>AVERAGE PRICE/GAL.</b>	<b>TOTAL MONTHLY COST</b>
July	10,013		
August	12,898		
September	17,444		
October	13,902		
November	9,755		
December	11,270		
	<b>75,282</b>		<b>TOTAL COST</b>

\* Assume normal winterization for Portland terminal

**PRICE SHEET FOR EASTERN LOCATION TO BE FILLED IN BY PROPOSERS**

a. Indicate index to be used for base cost. \_\_\_\_\_

b. Describe all cost components: i.e. base cost + freight cost + taxes (except excise) +  
markup + other (please specify)

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c. Eastern Fueling Location Price Sheet (Please attach backup)

<b>MONTH 1994</b>	<b>FUEL USED**</b>	<b>AVERAGE PRICE/GAL.</b>	<b>TOTAL MONTHLY COST</b>
January	99,310		
February	97,363		
March	110,567		
April	119,482		
May	125,581		
June	124,374		
July	117,369		
August	116,390		
September	101,256		
October	110,880		
November	111,636		
December	106,126		
	<b>1,340,334</b>		<b>TOTAL COST</b>

\*\* Assume that for the Eastern location, that for the months of December through February, that 30% of each gallon will consist of #1 diesel to achieve "non-gel" operation



**METRO**

**DATE:** February 14, 1995

**To:** Clerk of the Council  
Todd Sadlo, Senior Assistant Counsel

**FROM:** <sup>cl</sup> Craig Lewis, Solid Waste Contract Compliance Officer

**RE:** ADDENDUM 1 TO RFP # 94R-35-SW for PROVIDING DIESEL FUEL

Chuck Geyer is issuing the attached addendum 1 to the above RFP. Todd Sadlo has reviewed this addendum and indicated it is technical and does not materially alter the RFP. Pursuant to Metro code §2.04.032(e) we are filing the addendum with the Office of General Counsel and the Clerk of the Council.

**cc:** Chuck Geyer, Senior Planner  
John Houser, Council Analyst  
Rich Wiley, Procurement Officer

ADDENDUM #1  
to  
Request for Proposals for Providing Diesel Fuel  
(#94R-35-SW)

TO ALL PLANHOLDERS:

1. Item II, Last Paragraph, 1st Sentence:

Change "March 31, 1994" to "March 31, 1995"

2. Item m(A)(2):

Delete the 1st sentence. The item shall now read: "Any and all sites or systems must comply with applicable laws and regulations."

3. Item m(B)(1):

Change "50 yards" to "one quarter mile"

Dated on this 3rd day of February, 1995.

Metro

By:

  
Chuck Geyer, Project Manager

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING AN ) RESOLUTION NO. 95-2073  
EXEMPTION FROM THE COMPETITIVE BID )  
PROCESS AND AUTHORIZING ISSUANCE ) Introduced by  
RFP #94R-35-SW FOR PURCHASING ) Mike Burton, Executive Officer  
DIESEL FUEL )

WHEREAS, Metro has executed Change Order No. 15 to the Waste Transport Services Contract (EXHIBIT "A") which provides for a reduction in unit prices for solid waste transported to the Columbia Ridge Landfill; 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 March, 1995; and

WHEREAS, It is in Metro's best interest to continue to purchase fuel utilizing a request for proposal rather than the competitive bid process for the reasons stated in EXHIBIT "C"; and

WHEREAS, Metro Code Section 2.04.041(c) and ORS 279.015(2) authorize the Metro Contract Review Board to exempt a public contract from competitive bidding if it finds that the exemption will not encourage favoritism or substantially diminish competition for public contracts and that such an exemption will result in substantial cost savings; and

WHEREAS, EXHIBIT "C" to this resolution presents findings which satisfy the requirements for such an exemption; and

WHEREAS, This resolution was submitted to the Executive Officer for consideration and was forwarded to the Contract Review Board for approval; now therefore,

BE IT RESOLVED,

1. That the Metro Contract Review Board adopts as findings the information and reasoning contained in EXHIBIT "C", made part of this resolution by reference, and concludes that:
  - a) It is unlikely that exempting the purchase of diesel fuel from the competitive bid process will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts; and
  - b) The exemption will result in substantial cost savings to Metro; and

Therefore, exempts the contract to be solicited through Request for Proposals No. #94R-35-SW from competitive bid requirements.

2. That the Metro Council authorizes issuance of RFP #94R-35-SW attached as EXHIBIT "D".

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 1995.

\_\_\_\_\_  
Ruth McFarland, Presiding Officer