

A G E N D A

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METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING
DATE: May 26, 2005
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. CONSENT AGENDA

3.1 Consideration of Minutes for the May 19, 2005 Metro Council Regular Meeting.

4. ORDINANCES – FIRST READING

4.1 **Ordinance No. 05-1082**, Amending Metro Code Chapter 2.02, Regarding Personnel Rules, and Declaring an Emergency.

5. ORDINANCES - SECOND READING

5.1 **Ordinance No. 04-1063A**, For the Purpose of Denying a Solid Waste Facility Franchise Application of Columbia Environmental, LLC to Operate a Local Transfer Station Hosticka

6. RESOLUTIONS

6.1 **Resolution No. 05-3582**, For the Purpose of Amending the Unified Planning Work Program to Include the Development of a Regional Concept For Transportation Operations. Park

7. CONTRACT REVIEW BOARD

7.1 **Resolution No. 05-3558**, Authorizing Issuance of a Request For Proposals 05-11416-SWR for Competitive Sealed Proposals to Procure Hazardous Waste Disposal Services, and Authorizing Execution of the Resulting Multi-Year Contracts. Liberty

8. OREGON LEGISLATIVE UPDATE
9. CHIEF OPERATING OFFICER COMMUNICATION
10. COUNCILOR COMMUNICATION

ADJOURN

Television schedule for May 26, 2005 Metro Council meeting

Clackamas, Multnomah and Washington counties, Vancouver, Wash. Channel 11 -- Community Access Network www.yourtvvtv.org -- (503) 629-8534 2 p.m. Thursday, May 26 (live)	Washington County Channel 30 -- TVTV www.yourtvvtv.org -- (503) 629-8534 11 p.m. Saturday, May 28 11 p.m. Sunday, May 29 6 a.m. Tuesday, May 31 4 p.m. Wednesday, June 1
Oregon City, Gladstone Channel 28 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.	West Linn Channel 30 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.
Portland Channel 30 (CityNet 30) -- Portland Community Media www.pcatv.org -- (503) 288-1515 8:30 p.m. Sunday, May 29 2 p.m. Monday, May 30	

PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times.

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, (503) 797-1542. Public Hearings are held on all ordinances second read and on resolutions upon request of the public. Documents for the record must be submitted to the Clerk of the Council to be considered included in the decision record. Documents can be submitted by e-mail, fax or mail or in person to the Clerk of the Council. For additional information about testifying before the Metro Council please go to the Metro website www.metro-region.org and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

Agenda Item Number 3.1

Consideration of Minutes of the May 19, 2005 Regular Council meeting.

Metro Council Meeting
Thursday, May 26, 2005
Council Chamber

Agenda Item Number 4.1

Ordinance No. 05-1082, Amending Metro Code Chapter 2.02, Regarding
Personnel Rules; and Declaring an Emergency.

First Reading

Metro Council Meeting
Thursday, May 26, 2005
Council Chamber

BEFORE THE METRO COUNCIL

AMENDING METRO CODE CHAPTER 2.02,) ORDINANCE NO. 05-1082
REGARDING PERSONNEL RULES, AND)
DECLARING AN EMERGENCY.) Introduced by Chief Operating Office, Michael J.
) Jordan with the concurrence of Council President,
) David Bragdon

WHEREAS, pursuant to Metro Code 2.20.030, the Chief Operating Officer is responsible for the proper administration of all affairs of Metro, including the administration of personnel matters; and

WHEREAS, the Metro Council has directed the Chief Operating Officer to develop and implement improvements to Metro's system of personnel administration, including but not limited to reorganization of staffing to reduce costs, a performance evaluation program, and a merit pay system, which will require changes to Metro's personnel rules; and

WHEREAS, the efficient administration of Metro personnel matters regularly requires changes to Metro's personnel rules to meet budgetary goals, improve organizational efficiency, and to accommodate changes in the law; and

WHEREAS, it is appropriate to delegate to the Chief Operating Officer the full authority to implement Council directives and carry out his duties as Metro's chief administrative officer; and

WHEREAS, the Metro Council desires to delegate to the Chief Operating Office authority to develop, maintain, administer and enforce Metro's Personnel Policies and Procedure; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Section 2.02 is amended to read as shown on Exhibit "A."
2. This Ordinance being necessary for the health, safety, and welfare of the Metro area because changes to Metro's personnel administration and pay plans are necessary to implement the Metro budget for fiscal year 2005-06, this ordinance shall take effect July 1, 2005, pursuant to Metro Charter section 39(1).

ADOPTED by the Metro Council this ___ day of _____, 2005.

David Bragdon, Council President

Attest:

Approved as to form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

EXECUTIVE ORDER NO. XX
METRO PERSONNEL POLICIES

2.02.0051. PURPOSE

The purpose of ~~this chapter~~ these policies is:

- (~~a~~)**A.** To provide and maintain a system of personnel administration for all non-represented employees, seasonal employees, and temporary employees in which the appointment and retention of persons in Metro employment shall be achieved on the basis of promoting the public welfare and implementing Metro's responsibilities.
- (~~b~~)**B.** To establish and maintain a position classification plan which shall group all positions into classifications based upon their duties and responsibilities.
- (~~c~~)**C.** To provide for a compensation plan which shall include for each classification a minimum and/or maximum salary rate and such intermediate salary rates as the Council considers necessary and equitable.
- (~~d~~)**D.** To promote efficiency, economy and public responsiveness in the operation of Metro.
- (~~e~~)**E.** To provide that the employees covered by these rules shall be subject to proper employee conduct, the satisfactory performance of work and the availability of funds.
- (~~f~~)**F.** Nothing contained in this section or elsewhere in ~~the chapter~~ these policies shall be construed as any guarantee of hours worked per day or per week.

II. REPRESENTED EMPLOYEES

- (~~h~~)**A.** ~~This chapter~~ These policies shall apply to all ~~represented employees~~ represented employees who are in certified or recognized bargaining units shall have all aspects of their wages, hours, and working conditions determined by collective bargaining agreements, except with regard to the recruitment and selection of applicants for initial appointment to a position, and except as addressed in ~~this chapter~~ these policies. If a conflict exists between ~~this chapter~~ these policies and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.
- (~~i~~)**B.** Where a collective bargaining agreement contains any type of grievance resolution procedure, that procedure, including any procedural and/or substantive limitations placed upon it by the collective bargaining agreement, shall be the sole and exclusive remedy for employees in that bargaining unit.

(Ordinance No. 94-523B. Amended by Ordinance No. 02-965A, Sec. 1.)

C. Copies of proposed amendments to these policies shall be given to union(s) representative at least 30 days prior to the Council meeting in which date they are to be considered effective.

(Ordinance No. 94-523B; Amended by Ordinance No. 02-965A, Sec. 1.)

2.02.010-III. ADMINISTRATION OF THE RULES

The Chief Operating Officer shall be responsible for:

- (1)A. Administering or delegating the administration of all the provisions of this chapter these policies, and whenever a question arises as to the meaning or interpretation of provisions of this chapter these policies, the interpretation given by the Chief Operating Officer or his/her designee shall be final and binding.
- (2)B. Reviewing and recommending to the Council necessary changes to this chapter these policies.
- (3)C. Publishing a Personnel Procedures Manual to implement the provisions of this chapter these policies.

2.02.015-IV. AMENDMENT

~~This chapter~~ These policies shall be amended solely by the Council, however, administrative amendments which deal solely with correcting grammatical or typographical errors, or correcting position titles to reflect properly processed reclassifications and title changes may be approved by the Chief Operating Officer. All proposed amendments to this chapter and/or benefit changes will be required to be adopted by the Council.

(Ordinance No. 81-116, Sec. 3; Amended by Ordinance No. 94-523B; Ordinance No. 02-965A, Sec. 1.)

2.02.030-V. DEFINITIONS OF PERSONNEL TERMS

For the purposes of this chapter these policies unless the context requires otherwise, the following terms shall have the meanings indicated:

- (a)A. **“Auditor”** means the elected Auditor of Metro or his/her designee.
- (b)B. **“Chief Financial Officer”** means the person responsible for managing the financial affairs and budget of Metro and designated as such by the Chief Operating Officer.
- (c)C. **“Chief Operating Officer”** means the person holding the position of Chief Operating Officer established by Section 2.20.010 of the Metro Code.

- (d) **D.** “**Council**” means the elected governing body of Metro.
- (e) **E.** “**Department**” means a major functional unit of Metro as designated by the Chief Operating Officer.
- (f) **F.** “**Department Director**” means a person designated by the Chief Operating Officer to be responsible for the administration of a department or his/her designee.
- (g) **G.** “**Division**” means a major functional unit of a department.
- (h) **H.** “**Employee**” means an individual who is salaried or who receives wages for employment with Metro.
- (i) **I.** “**Exempt position**” means a position exempt from mandatory overtime compensation.
- (j) **J.** “**Fiscal year**” means a 12-month period beginning July 1 and ending June 30.
- (k) **K.** “**Flexible work schedule**” means an alternative work schedule other than the established normal work schedule, but which includes the same number of total hours per pay period as other full-time positions.
- (l) **L.** “**Full-time**” means a position in which the scheduled hours of work are 40 hours per week and which is provided for in the adopted budget.
- (m) **M.** “**Hourly rate**” means the rate of compensation for each hour of work performed.
- (n) **N.** “**Immediate family**” means the husband, wife, son, daughter, father, mother, brother, sister, father-in-law, mother-in-law, grandparents or any relative living in the employee’s household.
- (o) **O.** “**Layoff**” means a separation from employment because of organizational changes, lack of work, lack of funds, or for other reasons not reflecting discredit upon the employee.
- (p) **P.** “**Non-exempt**” position means a position that is eligible for overtime compensation.
- (q) **Q.** “**Non-represented employee**” means an employee who is not in a recognized or certified bargaining unit.
- (r) **R.** “**Part-time**” means a position in which the scheduled hours of work are less than 40 hours per week but at least 20 hours or more per week and which is provided for in the adopted budget.

- (s)S. **“Permanent employee”** means an employee who is appointed to fill a budgeted position and who is not temporary or seasonal. However, the term permanent does not confer any form of tenure or other expectation of continued employment.
- (t)T. **“Permanent position”** means a budgeted position which is not temporary or seasonal. However, the term permanent does not confer any form of tenure or other expectation of continued employment.
- (u)U. **“Personnel action”** means the written record of any action taken affecting the employee or the status of his/her employment.
- (v)V. **“~~Personnel~~Human Resources Director”** means the employee appointed by the Chief Operating Officer to administer the provisions of ~~this chapter~~ these policies regardless of whether the person is also a Department Director.
- (w)W. **“Personnel file”** means an employee’s official personnel file which is kept in the office of ~~personnel~~ human resources.
- (x)X. **“Personnel Procedures Manual”** means a manual developed by the office of ~~personnel~~ human resources and approved by the Chief Operating Officer to implement the policies and provisions of ~~this chapter~~ these policies.
- (y)Y. **“Probationary period”** means a continuation of the screening process during which an employee is required to demonstrate fitness for the position to which the employee is appointed or promoted. Successful completion of any probationary period is for Metro’s internal screening process only and does not confer any form of tenure or other expectation of continued employment.
- (z)Z. **“Probationary employee”** means an employee serving any period of probation.
- (aa)AA. **“Promotion”** means the change of an employee from a position in one classification to a position in another classification having a higher maximum salary rate.
- (bb)BB. **“Reclassification”** means a change in classification of a position by raising it to a class with a higher rate of pay, reducing it to a class with a lower rate of pay, or changing it to another class at the same rate of pay, based upon the duties currently assigned to an existing position or to be assigned for a vacant position. If the position is filled, the incumbent employee is reclassified along with the position.
- (cc)CC. **“Regular employee”** means an employee who has successfully completed the required initial probationary period occupying a permanent position.
- (dd)DD. **“Reinstatement”** means the return of an employee to a position following a separation of employment.

~~(ee)~~**EE.** “**Represented employee**” means an employee who is in a recognized or certified bargaining unit.

~~(ff)~~**FF.** “**Resignation**” means voluntary separation from employment.

~~(gg)~~**GG.** “**Seasonal employee**” means an employee who is employed during peak seasons of the year and who may be scheduled as needed during the remainder of the year.

~~(hh)~~**HH.** “**Separation**” is the cessation of employment with Metro not reflecting discredit upon the employee.

~~(ii)~~**II.** “**Status**” refers to the standing of an employee.

~~(jj)~~**JJ.** “**Temporary employee**” means a nonstatus employee appointed for the purpose of meeting emergency, nonrecurring or short-term workload needs, or to replace an employee during an approved leave period, for a period not to exceed 1,044 hours within a fiscal year, excluding interns, work-study students, and CETA employees, or similar federal and state employment programs.

~~(kk)~~**KK.** “**Termination**” means the cessation of employment with Metro.

~~(ll)~~**LL.** “**Volunteer**” means an individual serving in a non-paid voluntary status.

~~(mm)~~**MM.** “**Work schedule**” means the assignment of hours of work by a supervisor.

~~(Ordinance No. 81-116, Sec. 6. Amended by Ordinance No. 94-523B; Ordinance No. 95-602A, Sec. 1; Ordinance No. 02-965A, Sec. 1.)~~

~~2.02.035~~ **VI. POSITION CLASSIFICATION PLAN**

~~(a)~~**A.** The purpose of the classification plan is to provide an inventory of specifications for each classification. The plan shall be developed and maintained so that all positions substantially similar with respect to duties, responsibilities, authority and qualifications are included within the same class, and so that the same range of compensation will apply. Each permanent position shall be allocated to an appropriate classification on the basis of the duties and responsibilities of the position.

~~(b)~~**B.** Classification titles shall be used in all personnel, budget and financial records.

~~(c)~~**C.** The classification plan shall cover permanent full-time and permanent part-time positions, as adopted and amended by the Council.

~~(d)~~**D.** The Chief Operating Officer or his/her designee shall establish administrative procedures to implement the classification and pay plans. The Chief Operating

Officer may make administrative changes to classification specifications, title, and classification numbers. ~~Subject to Metro Council approval, t~~ The Chief Operating Officer may annually revise salary ranges to reflect a cost of living adjustment.

~~(Ordinance No. 81-116, Sec. 23. Amended by Ordinance No. 94-523B; Ordinance No. 97-707, Sec. 1; Ordinance No. 02-965A, Sec. 1.)~~

~~2.02.045~~ **VII. NEW CLASSIFICATIONS**

Any new classification added to the classification plan requires Council approval.

~~(Ordinance No. 81-116, Sec. 26. Amended by Ordinance No. 94-523B.)~~

~~2.02.050~~ **VIII. RECLASSIFICATION OF EXISTING POSITIONS**

Reclassification of an existing position from one existing classification to another existing classification may be approved by the Chief Operating Officer provided the reclassification can be accomplished with the limitations of the current budget.

~~(Ordinance No. 81-116, Sec. 27. Amended by Ordinance No. 94-523B; Ordinance No. 02-965A, Sec. 1.)~~

~~2.02.055~~ **IX. PAY PLANS**

- ~~(a)~~**A.** The Chief Operating Officer shall prepare pay plans for permanent positions and seasonal appointments which shall establish a salary range with a minimum and a maximum salary rate of pay appropriate for each class. ~~The pay plans shall be approved by the Council.~~ The pay plans shall establish the eligibility of each classification to receive overtime compensation as indicated by exempt or non-exempt status.
- ~~(b)~~**B.** The pay plans shall equitably reflect the difference in duties and responsibilities, and shall be related to compensation for comparable positions within the job market.
- ~~(c)~~**C.** The Chief Operating Officer shall review the pay plans annually and include recommended revisions within his/her proposed budget. Said review may cover such items as changes in the Consumer Price Index and in salaries and benefits received by employees in the labor market.
- ~~(d)~~**D.** The Chief Operating Officer shall administer the pay plans based on the need and expectations of Metro along with suitable employee performance.
- ~~(e)~~**E.** The Chief Operating Officer may propose an agency-wide classification/compensation study for non-represented employees to assess classifications and evaluate compensation. ~~The implementation of study recommendations require Council approval.~~

(Ordinance No. 81-116, Sec. 29. Amended by Ordinance No. 94-523B; Ordinance No. 02-965A, Sec. 1.)

~~2.02.060~~ **X. SALARY ADMINISTRATION**

~~(a)~~**A.** Current salary shall be used to calculate merit increases. Any annual revisions to the pay plans shall be added to the salary range of a classification, shall be cumulative, and shall be added to an employee's individual rate of pay. However, no employee's rate of pay shall be lower than the beginning rate of a salary range after a fiscal adjustment is made.

~~(b)~~**B. Administrative Policies**

- ~~(1)~~**1.** Upon initial appointment to a position, each employee should receive a salary at or 5 percent above the beginning salary rate of the salary range for the class to which the position is allocated. Appointment at or 5 percent above the beginning salary rate should be the general practice, with appointments above that level being the exception for outstanding qualifications and experience, and subject to departmental personal services budget resources and approval of the hiring Department Director with concurrent notification to the Chief Operating Officer.
- ~~(2)~~**2.** Employees hired at or promoted to the beginning salary rate of a salary range shall receive a 5 percent salary increase after successful completion of six continuous months of probationary service. The increase of 5 percent shall be initiated by the office of ~~personnel~~ human resources on the appropriate date. When an employee is appointed over the 5 percent above the beginning salary rate he/she is not eligible for a salary increase for one year, unless the Chief Operating Officer approves an extra meritorious salary increase based on outstanding performance after successful completion of six consecutive months of probationary service.
- ~~(3)~~**3.** After an employee has reached 5 percent above the beginning salary rate, he/she is eligible for annual merit increases in 1 percent increments, not to exceed a total of 8 percent in any evaluation year, up to and including the maximum salary rate shown for the assigned salary range based on satisfactory performance which shall be effective on his/her anniversary date only.
- ~~(4)~~**4.** All merit increases have to be authorized and approved by the Department Director and reviewed as to form by the ~~Personnel~~ Human Resources Director prior to implementation. A decision by the Department Director to grant or withhold a merit increase will be communicated to the employee in writing.

- ~~(5)~~5. Merit increases (except as noted in subsection (b)(2) of this section) must be submitted to the ~~Personnel~~ Human Resources Director with a performance evaluation. Department Directors shall make every effort to complete the employee's evaluation by the employee's anniversary date. If the evaluation is not completed by that date, any merit increase assigned shall be retroactive to the employee's anniversary date not to exceed one year of retroactivity.
- ~~(6)~~6. Criteria to be considered in recommending and granting merit increases should include but not be limited to:
- ~~(A)~~a. Planning and organizing work, and meeting deadlines.
 - ~~(B)~~b. Competency and judgment.
 - ~~(C)~~c. Growth in and ability to handle job responsibilities.
 - ~~(D)~~d. Attitude.
 - ~~(E)~~e. Specific actions toward self-improvement, as necessary.
 - ~~(F)~~f. Recognition of excellence.
 - ~~(G)~~g. Productivity increases of tangible quantities and/or qualities.
 - ~~(H)~~h. Creative and innovative contributions.
 - ~~(I)~~i. Cost and budgetary savings realized, if any.
 - ~~(J)~~j. Affirmative Action & EEO responsibilities.
 - ~~(K)~~k. Safety practices.
- ~~(7)~~7. The ~~Personnel~~ Human Resources Director shall review performance evaluations to assure that appropriate criteria are included.
- ~~(8)~~8. When an employee is promoted or reclassified to a position in a classification with a higher maximum salary rate, the employee shall be placed on the beginning salary rate of the salary range or receive an increase of 5 percent, whichever is greater.
- ~~(9)~~9. A promoted employee shall receive a 5 percent increase upon successful completion of his/her six-month probationary period. The anniversary date shall be changed to reflect the effective date of the completion of this probation.

~~(10)~~10. A reclassified employee shall not serve a probationary period. An employee reclassified to a position in a classification with a higher maximum salary rate shall not receive a salary increase after completion of six months in the new classification. The employee's anniversary date shall reflect the effective date of the reclassification.

~~(11)~~11. When an employee is reclassified to a position in a classification with a lower maximum salary rate, the employee's salary rate shall not be reduced as long as the employee's current salary rate is within the lower salary range. If the employee's salary rate is above the new salary range, the employee's rate of pay shall remain the same (red-circled) until annual adjustments to the pay plan bring the employee's rate within the new classification range. At that time, the employee will become eligible for merit increases.

~~(12)~~12. When an employee is voluntarily demoted to a position in a classification with a lower maximum salary rate, the employee's salary rate shall not be reduced as long as the employee's current salary rate is within the lower salary range. If the employee's salary rate is above the new salary range, the employee's salary will be reduced to the highest rate of the new range. In no case, shall an employee's current salary rate be increased upon voluntary demotion.

~~(c)~~C. A Department Director may assign an employee, in writing, to work "out of class." Whenever an employee is assigned to work temporarily in a higher classification for a period in excess of 10 consecutive work days, he/she shall be considered as working "out of class" in a higher position and shall be paid from the date of assignment at 5 percent above his/her current rate of pay or at the beginning salary rate in the range designated for the higher classification if the employee is at the top of his/her salary range. An employee shall not remain in an acting capacity for a period exceeding six months within a 12-month period. If a Department Director needs to extend the work out of class period beyond six months, extenuating circumstances must be given in writing to the Chief Operating Officer for approval and forwarded to the ~~Personnel~~ Human Resources Director. A work out of class assignment, for up to six months, shall not be considered as time served for purposes of the effective date for reclassification or promotion.

~~(d)~~D. When, as part of a classification/compensation study, the salary range for any classification is increased, individual employees shall be placed within the new range at their current rate of pay or on the beginning salary rate of the new salary range if the beginning salary rate is higher than his/her current rate of pay without a change in the employee's established anniversary date.

~~(e)~~E. When the salary range for an entire classification is decreased as a part of a classification/compensation study, the rates of the incumbents in the positions shall

be continued (red-circled) and no change in salary shall occur until the annual adjustments to the pay plan bring the employee's rates in the new class within the new range. At that time, incumbents will become eligible for salary adjustments.

(Ordinance No. 81-116, Sec. 32. Amended by Ordinance No. 94-523B; Ordinance No. 96-650A, Sec. 1; Ordinance No. 02-965A, Sec. 1.)

~~2.02.065~~ **XI. PAY POLICIES**

- (a) **A.** Permanent employees shall be paid according to the pay plan adopted by the Council and administered by the Chief Operating Officer.
- (b) **B.** Employees shall be paid twice monthly.
- (c) **C.** In the event the normal payday falls on a holiday, payday shall occur the workday before the holiday. If the normal payday falls on a Saturday or a Sunday, payday shall be the prior Friday.
- (d) **D.** Payroll procedures shall be established and implemented by the finance and management information department, accounting division.
- (e) **E.** Payroll deductions will be made for income tax withholding, Workers' Compensation insurance and employee contributions to employee benefits, and may be made for the United Way Fund, payments to the employee's credit union and other agencies as approved by the Chief Operating Officer at the request of the employee.

~~2.02.080~~ **XII. RECRUITMENT AND APPOINTMENT**

- (a) **A.** All promotions and appointments to vacancies shall be based on the requirements of the position and organizational and operational needs.
- (b) **B.** **Internal Recruitments.** A regular employee who has successfully completed his/her initial probationary period may apply for vacant positions and will be considered as an internal applicant. Temporary employees must have completed a competitive recruitment and selection process through the office of ~~personnel~~ human resources to be considered as an internal applicant. All applications will be considered without prejudice to their present positions. Regular, regular part-time and temporary employees who apply will be given first consideration in filling a vacant position. Notice of internal recruitment shall be posted not less than five working days to allow for receipt of applications.
- (c) **C.** **General Recruitment.** If the vacancy is not filled as a result of internal recruitment, recruitment outside the agency will commence. The period of general recruitment shall be not less than 10 working days to allow for receipt of applications.

~~(e) Effective January 6, 2003, all positions that were subject to appointment by the General Counsel, the Executive Officer or the Council Presiding Officer are abolished. The Metro Attorney or the Chief Operating Officer may thereafter create new positions and make appointments thereto as provided for in this section.~~

~~(Ordinance No. 81-116, Sec. 8. Amended by Ordinance No. 84-183, Sec. 1; Ordinance No. 87-218, Sec. 1; Ordinance No. 88-255, Sec. 1; Ordinance No. 91-378A, Sec. 5; Ordinance No. 94-523B; Ordinance No. 95-602A, Sec. 1; Ordinance No. 02-965A, Sec. 1.)~~

~~2.02.##~~ **XIII. NEPOTISM**

Notwithstanding Metro's affirmative action policy and program, no member of an employee's family (husband, wife, son, daughter, mother, father, brother, sister, in-laws of any kind, aunt, uncle, niece, nephew, stepparent, or stepchild) shall be employed in a position of exercising supervisory, appointment, or grievance adjustment authority over the other family member.

~~(Ordinance No. 81-116, Sec. 19. Amended by Ordinance No. 94-523B.)~~

~~2.02.085~~ **XIV. PROBATIONARY PERIOD**

The probationary period shall be a continuation of the screening process and shall provide the supervisor an opportunity to observe the employee's work, to instruct and aid the employee in adjustment to the position, and to reject any employee who does not demonstrate fitness for the position. The successful completion of probation is for Metro's internal screening process only, and does not confer any form of tenure or other expectation of continued employment.

~~(a)~~**A.** All initial appointments and all promotions to permanent full-time and permanent part-time positions shall be subject to a standard probationary period of six consecutive months of service.

~~(b)~~**B. Promotions.** Employees who do not successfully complete their promotional six-month probationary period may be demoted at any time during the promotional period and be reinstated into the position held prior to promotion if that position is vacant or if that position is filled by an employee in an initial probationary period. If that position is not filled by a person in his/her initial probationary period, the employee may be reinstated into any vacant position in the classification held prior to the promotion and the employee will serve a probationary period of three months in the new position. If no such positions are available, the employee shall be laid off.

~~(c)~~**C. Reclassifications.** No employee's position shall be reclassified until such time as he/she has successfully completed his/her initial six-month probationary period in the classification into which he/she was hired. Employees whose positions are reclassified, upon successful completion of the initial probationary period, shall not serve an additional probationary period.

~~(d)~~**D. Transfers.** Transfers to another position in the same classification with the similar duties do not require an additional probationary period. Transfers to a position in the same classification with significantly different duties shall require a three-month probationary period. Employees who do not successfully complete the three-month probationary period may be reinstated into the position held prior to transfer if the position is vacant or if the position is filled by an employee in an initial probationary period. If that position does not exist as described above, the employee may be reinstated into any vacant position in the classification held prior to the transfer. If no such positions are available, the employee shall be laid off. In cases where a probationary employee is involuntarily transferred prior to the end of the probationary period, the employee must complete his/her initial probationary period.

~~(e)~~**E. Demotions.** An employee must have completed his/her initial six-month probationary period prior to requesting a voluntary demotion and shall not serve a new probationary period upon demotion.

~~(f)~~**F.** Vacation leave credits based upon or earned in connection with time worked shall accumulate during an employee's initial probationary period. Upon successful completion of the initial probationary period, employee will be credited with vacation leave accumulated during the probationary period and will be eligible to take accrued vacation leave with pay as authorized. An employee who terminates for any reason during the initial probationary period shall not be entitled to vacation leave payment.

~~(g)~~**G.** Any authorized leave without pay during any probationary period will extend the probationary period by the amount of time the employee is on such leave.

~~(h)~~**H.** Employees serving the initial six-month probationary period may be disciplined or terminated without cause, with or without prior notice. Nothing in this section shall be construed as implying or requiring that cause must exist for the discipline or termination of a regular status employee.

~~(Ordinance No. 81-116, Sec. 9. Amended by Ordinance No. 94-523B.)~~

~~2.02.090~~ **XV. TEMPORARY EMPLOYEES**

~~(a)~~**A.** Temporary employees appointed prior to the effective date of this ~~ordinance~~ policy and who are still employed as temporary employees without a break in service after the effective date of this ordinance shall continue to receive all employee benefits granted to them since their current appointment as a temporary employee, not to exceed 1,044 hours.

~~(b)~~**B. Status of Temporary Employees.** Temporary employment shall be used for the purpose of meeting emergency, nonrecurring, or short-term workload needs, or to replace an employee during an approved leave of absence. A temporary employee

may be given a nonstatus appointment without open competition and consideration only for the purposes enumerated in this section. Temporary appointments shall not be used to defeat the open competitive recruitment and selection process. Temporary employment shall not be used as any portion of a required probationary period.

~~(c)~~**C. Term of Appointment.** The term of temporary employment may not exceed 1,044 hours within a fiscal year without approval of the Chief Operating Officer who may grant up to a 1,044 hour extension. A temporary employee shall not become a permanent employee upon working more than 1,044 hours.

~~(d)~~**D. Benefits.** Benefits required by law such as Workers' Compensation and Social Security will be paid for all temporary employees. No additional benefits will be paid or given to temporary employees.

~~(e)~~**E. Eligibility for Regular Employment.** Temporary employees may compete for regular positions on the same basis as applicants from outside the agency. Temporary employees who have gone through a competitive recruitment and selection process through the office of ~~personnel~~ human resources for the current temporary position will be considered as in-house applicants for vacant positions for which they apply through the internal recruitment process.

~~(Ordinance No. 81-116, Sec. 54. Amended by Ordinance No. 94-523B; Ordinance No. 02-965A, Sec. 1.)~~

~~2.02.095~~ **XVI. JOB SHARE**

Any full-time position may be designated as a job share position by the Chief Operating Officer at the request of a Department Director. A job share position is a full-time position which is shared by two employees. Benefits for such position shall be apportioned between the position occupants in proportion to time worked by each; however, such apportioning may be altered upon written agreement of position occupants and approval by the ~~Personnel~~ Human Resources Director. In no event, however, shall the benefits of a job share position exceed the benefits of any other full-time position.

~~(Ordinance No. 81-116, Sec. 11. Amended by Ordinance No. 94-523B; Ordinance No. 02-965A, Sec. 1.)~~

~~2.02.100~~ **XVII. ORIENTATION**

A. All new permanent employees shall be provided with a copy of ~~this chapter~~ these policies and insurance plans, and Metro shall periodically provide them with orientation sessions.

~~(Ordinance No. 81-116, Sec. 45. Amended by Ordinance No. 94-523B.)~~

~~(b)~~**B.** Permanent part-time employees who are budgeted at .50 FTE or more only shall receive insurance benefits on a prorated basis, as provided in the budget, on the first day of the month following their first full month of employment. The prorated amount an eligible part-time employee will receive shall be commensurate with the budgeted FTE of their part-time position. An eligible part-time employee may pick up the remaining FTE portion and remaining cost up to 100 percent of insurance benefits at his/her request.

~~(c)~~**C.** Metro will pay the required employer contribution for an eligible employee's PERS (Public Employee Retirement System) account and will also pick up the employee's 6 percent contribution. For only those current employees remaining in the former 11 percent plan, Metro will pay the employer 5 percent portion and pick up the employee 6 percent portion.

~~(Ordinance No. 81-116, Sec. 44. Amended by Ordinance No. 94-523B.)~~

~~2.02.115~~ **XVIII. TRANSFERS AND DEMOTIONS**

~~(a)~~**A.** **Transfers.** A lateral transfer is the voluntary or involuntary movement of an employee from one position to another position in the same classification, or the voluntary or involuntary movement of an incumbent employee's position. Lateral transfers within the same classification and with the same duties do not require a new probationary period. Lateral transfers within the same classification but with significantly different duties require a three-month probationary period. An employee's salary rate will remain the same for all lateral transfers.

~~(1)~~**1.** **Involuntary Transfer.** A lateral transfer of an incumbent employee without the consent of the incumbent employee may be made due to operational needs or as a result of disciplinary action, but the incumbent employee must be given 10 calendar days prior notice. The incumbent shall be transferred with the position.

~~(2)~~**2.** **Voluntary Transfer.** Regular employees may apply for a transfer to a vacant position by applying through the established internal recruitment process only.

~~(b)~~**B.** **Voluntary Demotion.** A regular employee may apply for a voluntary demotion by applying through the established internal recruitment process only.

~~(Ordinance No. 81-116, Sec. 13. Amended by Ordinance No. 94-523B.)~~

~~2.02.120~~ **XIX. WORK SCHEDULES**

~~(a)~~**A.** The normal work schedule shall be 40 hours, Monday through Friday, and the normal work day shall be 8:00 AM to 5:00 PM. Some departments have work schedules and hours which may vary. In order to provide the best service to the

public, Department Directors may establish operating schedules for departments which vary from the normal work schedule. Nothing contained in this section or elsewhere in ~~this chapter~~ these policies shall be construed as any guarantee of hours of work per day or per week.

~~(b)~~**B. Flexible Work Schedules.** Department Directors may establish employee work schedules which vary from the normal work schedule. All flexible work schedules must be approved by the Department Director.

~~(c)~~**C. Meals and Breaks.** Full-time employees shall be allowed at least a 30-minute, not more than an hour, meal break. Such meal breaks shall be scheduled in the middle of a workday as practicable. All employees are entitled to at least a 10-minute break period when working a continuous four-hour work period.

~~(Ordinance No. 81-116, Sec. 10. Amended by Ordinance No. 94-523B.)~~

~~2.02.125-~~**XX. OVERTIME COMPENSATION**

~~(a)~~**A.** When overtime is authorized, overtime compensation shall be paid only to employees who are not exempt from overtime as established in the pay plan.

~~(b)~~**B.** No overtime shall be paid to overtime exempt employees. Time worked on a holiday may be taken at a later date. It is understood that an overtime exempt employee may have to work on occasion beyond normal business hours, and that some extra work hours beyond a usual workday or workweek are part of the job expectations for an overtime exempt employee. At the Department Director's discretion, flexible work hours may be utilized to accommodate a reasonable balance of work hours. Recorded time off shall be consistent with administrative leave.

~~(c)~~**C.** For purposes of computing overtime, hours worked shall include only time actually worked by the employee and shall not include holiday pay, vacation pay, sick pay, or other compensable leaves.

~~(d)~~**D.** Compensation for authorized overtime shall be at the rate of time-and-one-half for time actually worked in excess of the 40 hours in a workweek or eight hours in a workday and may be paid in cash if budgeted funds are available or, if the employee agrees as compensatory time off, at the discretion of the Department Director. Compensatory time must be taken as leave within six months or paid in cash within the fiscal year that it is earned. Such payment shall be at the employee's rate of pay being earned at the time of payment. When a non-exempt employee is terminated, the employee shall be given cash compensation for the overtime the employee has accrued and not used.

~~(e)~~**E.** Overtime hours worked shall not be used to expand employee benefits or to shorten probationary or annual merit increase periods. Compensatory time off in lieu of

overtime pay will be counted as regular time worked in computing wages and toward earning employee benefits and to serve out probation and merit increase periods.

(Ordinance No. 81-116, Sec. 34. Amended by Ordinance No. 94-523B.)

~~2.02.##~~ **XXI. EMPLOYEE BENEFITS**

- ~~(a)~~**A.** All employees shall be covered for medical expenses and disability benefits for compensable injuries or illness resulting from employment.
- ~~(b)~~**B.** Payment of medical expenses and lost time disability benefits is determined by the Workers' Compensation Administration in accordance with ORS Chapter 656.
- ~~(c)~~**C.** The cost of Workers' Compensation insurance shall be paid by Metro with the exception of the employee contribution mandated by the Workers' Compensation Law of the State of Oregon.
- ~~(d)~~**D.** During an employee's absence due to an on-the-job injury or occupational illness, the employee may utilize sick leave or vacation credits to augment any benefits paid by the Workers' Compensation fund.

E. Permanent full-time employees shall receive insurance benefits, as provided in the budget, on the first day of the month following their first full month of employment. Co-payments by employees may be required. Job share positions are eligible for one set of benefits which are split between the two employees sharing the position.

(Ordinance No. 81-116, Sec. 43. Amended by Ordinance No. 94-523B.)

~~2.02.130~~ **XXII. HOLIDAYS**

~~(a)~~**A.** Probationary and regular employees of Metro shall be entitled to the following holidays listed with pay; however, floating holidays cannot be utilized by employees until they have successfully completed their initial probationary period:

- ~~(1)~~**1.** New Years Day
- ~~(2)~~**2.** Martin Luther King Jr. Birthday
- ~~(3)~~**3.** President's Day
- ~~(4)~~**4.** Memorial Day
- ~~(5)~~**5.** Independence Day
- ~~(6)~~**6.** Labor Day
- ~~(7)~~**7.** Veterans Day
- ~~(8)~~**8.** Thanksgiving Day
- ~~(9)~~**9.** Christmas Day

~~(10-11)~~ 10.-11. Two floating holidays are allowed each fiscal year on days of each employee's choice, subject to schedule approval of the supervisor. For purposes of this section, a floating holiday is any day chosen by the employee and approved by the supervisor which would otherwise be a regular scheduled workday. The floating holidays are non-cumulative from fiscal year to fiscal year and must be taken by the employee within the fiscal year in which they accrue. No payment for floating holidays accrued and not taken shall be provided for any employee upon termination of employment for any reason.

~~(b)~~ B. If any such holiday falls on a Sunday, the following Monday shall be given as that holiday. If any such holiday falls on a Saturday, the preceding Friday shall be given as a holiday.

~~(c)~~ C. Holidays which occur during vacation or sick leave shall not be charged against such leave.

~~(d)~~ D. Regular part-time employees shall receive holiday pay on a prorated basis, based on their hours of work.

~~(Ordinance No. 81-116, Sec. 35. Amended by Ordinance No. 94-523B.)~~

~~2.02.135~~ XXIII. VACATION

The following provisions are applicable to permanent employees only:

~~(a)~~ A. All regular and regular part-time employees shall be granted annual vacation leave with pay.

~~(b)~~ B. Upon successful completion of their initial probationary period, employees may be granted accrued vacation leave by approval of the Department Director. Department Director vacations shall be approved by the Chief Operating Officer.

~~(c)~~ C. Employees shall not accumulate more than 250 hours of vacation leave. If the operating needs of the department prohibit granting a vacation leave request, additional hours in excess of the 250-hour limit may be accrued or may be compensated at the discretion of the Department Director and with the written approval of the Chief Operating Officer. Such written Vacation accrual in excess of 250 hours requires written authorization and shall be filed in the finance and management information department, accounting division, with a copy to the office of personnel human resources.

~~(d)~~ D. Department Directors shall schedule vacation requests consistent with the operational needs of the department. Vacation schedules may be amended to allow the department to meet emergency situations.

- (e)E. An employee who has successfully completed his/her initial probationary period, and terminates for any reason, shall be entitled to payment for accrued unused vacation leave. In no case shall payment be more than the maximum allowable 250-hour accrual limit. An employee who terminates for any reason during the initial probationary period shall not be entitled to any accumulated vacation leave payment.

(Ordinance No. 81-116, Sec. 36. Amended by Ordinance No. 91-426, Sec. 1; Ordinance No. 94-523B; Ordinance No. 02-965A, Sec. 1.)

2.02.140-**XXIV. VACATION CREDIT AND ACCRUAL RATE**

The vacation credit and accrual schedules for permanent employees are as follows:

TOTAL YEARS OF CONTINUOUS SERVICE	EQUIVALENT ANNUAL HOURS FOR FULL- TIME EMPLOYEES	
	ACCRUAL RATE PER PAY PERIOD	
Date of hire through completion of 3 rd year	5.00 hours	120 hours
4 th year through completion of 7 th year	6.00 hours	144 hours
8 th year through completion of 11 th year	7.00 hours	168 hours
12 th year or more	8.00 hours	192 hours

Permanent part-time employees shall accrue vacation under the above schedule at a rate proportionate to the time worked per week.

(Ordinance No. 81-116, Sec. 37. Amended by Ordinance No. 82-139, Sec. 1; Ordinance No. 91-426, Sec. 2; Ordinance No. 94-523B.)

2.02.145-**XXV. SICK LEAVE**

- (a)A. Permanent employees shall earn sick leave with pay at a rate of 104 hours per year (.05 hours per hour worked); such sick leave shall accrue in an unlimited amount.
- (b)B. Permanent part-time employees shall earn sick leave with pay proportionate to the amount of FTE for the position in the budget; such sick leave shall accrue in an unlimited amount.
- (c)C. Employees may use accrued sick leave when temporarily unable to perform work duties by reason of personal illness, injury, disability, medical or dental care, or illness, injury, or disability of a person living in the employee's household. Sick leave is not to be used for personal time off or to extend holidays or vacation leave. No payment for accrued sick leave shall be provided for any employee upon termination of employment for any reason.

~~(d)~~D. Abuse of the sick leave privilege shall be cause for disciplinary action. An employee who is unable to report to work because of any of the reasons set forth in the above subsection of this section shall report the reason for his/her absence to his/her supervisor. Sick leave with pay may not be allowed unless such report has been made. The supervisor may require sick leave to be supported by a physician's statement attesting to the illness.

~~(e)~~E. Permanent full-time employees who use 24 hours or less of sick leave within one fiscal year period, and who are not at the 250-hour vacation accrual limit, shall accrue eight additional hours of vacation leave in exchange for eight hours of sick leave at the end of the fiscal year period. Permanent part-time employees who use 12 hours or less of sick leave within one fiscal year, and who are not at the 250-hour vacation accrual limit, shall accrue four additional hours of vacation leave in exchange for four hours of sick leave. Permanent employees must work a full fiscal year in order to be eligible for this exchange of accrued hours.

~~(f)~~F. **Transfer of Leave Credits.** Sick leave is provided as a benefit to each employee as insurance for period of illness. Under normal circumstances benefits are not transferable; however, upon written request of a regular employee to the Chief Operating Officer the voluntary transfer of sick leave hours may be authorized on a limited, carefully monitored basis as follows:

~~(1)~~1. Each request will be reviewed and approval granted or denied on a case-by-case basis by the Chief Operating Officer.

~~(2)~~2. Requests must be due to a catastrophic, long-term, or chronic illness of the requesting employee only.

~~(3)~~3. The requesting employee must have no more than 40 hours combined accrued sick leave hours and accrued vacation leave hours at the time of the request.

~~(4)~~4. Upon approval per (1) above, the requesting employee, or another employee he/she has designated, may initiate a request to Metro employees for the transfer of accrued sick leave hours.

~~(5)~~5. Employees wanting to voluntarily transfer accrued sick leave hours to the requesting employee may do so only as follows:

~~(A)~~a. The transferring employee's Department Director must authorize the transfer of hours by signature. Such authorization will indicate the transfer of hours can be accomplished within the departmental fiscal year budget.

~~(B)~~b. The transfer of accrued sick leave hours cannot exceed a total of 40 hours per transferring employee for each individual requesting employee for each fiscal year.

- ~~(c)~~c. Under no circumstances shall the transferring employee's sick leave balance be reduced to below 120 hours of accrued sick leave because of the voluntary transfer of sick leave hours to another employee.
- ~~(6)~~6. Normal leave accruals will not continue for requesting employees while they are on paid leave status as a result of transferred hours. However, health and welfare benefits provided for any other employee on paid leave status will continue for the requesting employee for as long as they remain on paid status.
- ~~(7)~~7. Any transferred sick leave hours unused by the requesting employee shall be returned to all transferring employees' sick leave accrual balances on a pro-rated basis.
- ~~(8)~~8. Copies of approved requests and approved transfers of hours must be sent to the finance and management information department, accounting division, for implementation and to the office of ~~personnel~~ human resources.

(Ordinance No. 81-116, Sec. 38. Amended by Ordinance No. 82-139, Sec. 2; Ordinance No. 94-523B; Ordinance No. 02-965A, Sec. 1.)

~~2.02.150~~ **XXVI. FAMILY MEDICAL LEAVE**

Metro provides family medical leave of up to 12 weeks within a one-year period for eligible employees when a serious health condition requires inpatient care or continuing treatment by a health care provider and makes the employee unable to work, and/or because of the birth of a child, or the placement of a child for adoption or foster care in the employee's home, and/or for the care of family members who suffer serious health conditions. For the purpose of this leave, family members are defined as a seriously-ill spouse, parent, parent-in-law, or child, or a sick minor child requiring home care. At the employee's discretion, the leave shall be paid from accrued personal leaves (including vacation leave, sick leave, compensatory time leave, personal holiday leave), or be unpaid. Except for limited circumstances, family medical leave runs concurrent with other leaves.

- ~~(a)~~**A.** The employee shall be entitled to take family medical leave without being penalized for taking such leave.
- ~~(b)~~**B.** An employee returning from family medical leave shall be reinstated with no greater or lesser right in employment than if the employee has not taken the leave.
- ~~(c)~~**C.** All full-time and part-time employees who have completed at least 180 calendar days of employment while averaging at least 25 hours of work per week are eligible to request the leave.

~~(d)~~D. Employees have the option of using their accumulated leave balances during the family medical leave. Health and welfare coverage will continue at the same level of benefits and contributions for employees on family medical leave as for other benefit-eligible employees. If employees fail to return from leave, except because of their own or a family member's serious health condition or another circumstance beyond their control, Metro can recover health premiums it paid during the leave. These monies may be recovered from the final paycheck if there is one or by a lawsuit.

~~(e)~~E. Eligible employees may take a maximum of 12 weeks of family medical leave within a one-year period. Each one-year period begins on the date of the first day of actual leave taken. Leave may be taken continuously or, under certain circumstances, on a reduced workweek schedule, or intermittently.

~~(f)~~F. When the employee can anticipate that the serious health situation is going to arise, the employee must submit a written request to the Department Director and the office of ~~personnel~~ human resources at least 15 days prior to taking the leave. When the employee cannot anticipate the serious health condition of the family member, an oral request can be made to the Department Director to be confirmed in writing to the Department Director and the office of ~~personnel~~ human resources within three working days.

The employee's written request must contain the following:

~~(1)~~1. The relationship of the employee to the person needing care.

~~(2)~~2. The health condition of the family member necessitating the leave, along with a doctor's certification stating such health condition.

~~(3)~~3. The anticipated length of absence, not to exceed 12 weeks.

~~(4)~~4. Other family members who are taking family medical leave and when they are taking it or are otherwise available to care for the family member.

~~(g)~~G. Metro is not required to grant this leave of absence during any period of time in which another family member is also taking a family medical leave of absence from their employer, or is otherwise available to care for the family member. If a husband and wife both work for Metro, they can have only 12 weeks of combined leave for birth, placement for adoption or foster care in the employee's home, or caring for a sick parent or parent-in-law, which they can split between them. However, both are entitled to the full 12 weeks for their own illness, or caring for a sick child or spouse.

~~(h)~~H. The employee who takes a family medical leave of absence has a duty to make a reasonable effort to schedule medical treatment or supervision so as to minimize disruption of Metro's operations, subject to the approval of the treating physician.

(+) I. The former position of an employee on family medical leave shall either remain vacant during the leave, or it may be filled on a temporary basis and considered vacant for reinstatement purposes.

(+) J. At the conclusion of a family medical leave the employee shall be reinstated to his/her former position unless it has been eliminated due to material changes in Metro's financial or business circumstances, or the circumstances have so changed that the employee cannot be reinstated to his/her former position, in which case the employee shall be reinstated to an equivalent position which is available and suitable. If the circumstances have so changed that the employee cannot be reinstated to the former or an equivalent position, then the employee shall be reinstated to an available suitable position.

(+) K. Employees who do not return by the date specified may be disciplined up to and including dismissal.

(Ordinance No. 94-523B. Amended by Ordinance No. 02-965A, Sec. 1.)

2.02.155- **XXVII. PREGNANCY LEAVE/TRANSFER**

Metro provides temporary transfer or pregnancy leave without pay to eligible employees who are physically unable to perform the duties of their regular position due to pregnancy, child birth, or related medical reasons, without significant risk to the health or safety of the employee or her pregnancy.

(a) A. The employee shall be entitled to take pregnancy leave or temporary transfer due to pregnancy without being penalized.

(b) B. The position of an employee on temporary transfer or pregnancy leave shall either remain vacant during the leave, or it may be filled on a temporary basis and considered vacant for reinstatement.

(c) C. An employee returning from pregnancy leave or temporary transfer shall be reinstated with no greater or lesser rights in employment than if the employee had not taken the leave.

(d) D. Subject to these policies, and upon written request, all pregnant employees of Metro are eligible.

(e) E. **Temporary Transfer**

(+) 1. Metro shall provide a temporary transfer for the employee if there is an available job which is suitable for the employee and to which the transfer can be reasonably accommodated.

~~(2)~~2. To initiate a transfer, the employee must submit a written request to the Department Director and the office of ~~personnel~~ human resources. The employee's written request must contain the following:

~~(A)~~a. The specific duties affected by the pregnancy.

~~(B)~~b. The reasons why the employee is unable to perform her duties without significant risk to the health or safety of the employee or her pregnancy.

~~(C)~~c. A statement that the employee is physically able to perform available work.

~~(D)~~d. A doctor's opinion/certificate confirming (A), (B) and (C) above to determine whether a transfer is reasonably necessary.

~~(3)~~3. The Department Director or the office of ~~personnel~~ human resources may request an additional independent medical opinion, at Metro expense, within three working days after receipt of the initial medical opinion.

~~(F)~~F. **Pregnancy Leave**

~~(1)~~1. Metro shall provide a pregnancy leave of absence if no suitable work is available for temporary transfer, and if the leave can be reasonably accommodated.

~~(2)~~2. The period of leave shall be the reasonable period of time during which the employee is disabled from performing any available positions. To initiate a leave of absence, the employee must make the request in writing to her Department Director and the office of ~~personnel~~ human resources. The leave request must include the period of time for which the leave is requested. The leave request must also address the employee's disability from performing other available work:

~~(A)~~a. If the employee previously requested a temporary pregnancy transfer, she must state whether a transfer was offered to her, and if a transfer was offered, the employee must explain why she is disabled from performing those job duties;

~~(B)~~b. If the employee did not request temporary pregnancy transfer, she must explain why she is disabled from performing any available job duties known to her; and

~~(C)~~c. A doctor's opinion/certificate confirming (A) or (B) above.

- ~~(3)~~3. The Department Director or the office of ~~personnel~~ human resources may request an additional independent opinion, at Metro expense, within three working days after receipt of the initial medical opinion.
- ~~(4)~~4. Employees have the option of using their accumulated leave balances during pregnancy leave. If the employee chooses to utilize accumulated balances, benefits will be continued as long as the leave is continued on paid status. If the employee chooses to take leave without pay, health and welfare coverage will continue at the same level of benefits and contributions as for other benefit-eligible employees to the extent the employee qualifies for family medical leave, otherwise, benefits only continue as long as the leave is continued on paid status. If employees fail to return from leave, except because of their own or a family member's serious health condition or another circumstance beyond their control, Metro can recover health premiums it paid during the leave. These monies may be recovered from the final paycheck if there is one or by a lawsuit. If the employee chooses to take leave without pay, benefits will be paid through the last day of the month following the month in which the leave without pay commences.
- ~~(5)~~5. If, during the course of the leave, another position which the employee is qualified to perform becomes available, Metro will within three working days offer the available position to the employee, unless a physician has determined that the employee must remain on leave for a fixed or minimum period of time and the job becomes available during that period of time, or unless a physician has determined that the employee is disabled from performing any job duties for an indefinite period of time.
- ~~(g)~~G. If, during the course of pregnancy leave or transfer, the employee regains the ability to perform the duties of her former position she shall within three working days of her knowledge of her regained ability notify Metro. Metro shall restore the employee to her former position within 10 working days of notification by the employee, unless the position has been eliminated due to changed circumstances, in which case the employee will be reinstated to an available equivalent position. If no equivalent positions are available, the employee shall be reinstated to an available and suitable position.
- ~~(h)~~H. If, at any time during the course of pregnancy leave or transfer, the employee is released by her treating physician to perform the duties of her regular position, she must provide the written release to her Department Director and the office of ~~personnel~~ human resources within three working days of the release. Metro will, within 10 working days of receipt of notice of release, restore the employee to her former position unless, the position has been eliminated due to changed circumstances, in which case the employee will be reinstated to an available equivalent position. If no equivalent positions are available, the employee shall be reinstated to an available and suitable position.

- (+) I. Employees who do not follow timelines established in this policy or do not return by the date specified may be disciplined up to and including dismissal.

(Ordinance No. 94-523B. Amended by Ordinance No. 02-965A, Sec. 1.)

~~2.02.160~~ **XXVIII. PARENTAL LEAVE**

Metro provides parental leave of up to 12 weeks for eligible employees who have become parents. At the employee's discretion, the leave shall be paid from accrued vacation time or accrued sick leave, or be unpaid.

- (+) A. The employee shall be entitled to take parental leave without being penalized for taking leave.
- (+) B. When the employee returns from the leave, he or she must be restored to the former or an equivalent job, without loss of seniority, service credits, etc. If the employee cannot be reinstated to the former or equivalent job because the employer's circumstances have changed, the employee must be reinstated to any other position that is available and suitable.
- (+) C. All employees who have completed 90 days of service are eligible to request the leave. If the period of leave occurs during any probationary period, the probationary period shall be extended for the period of the leave.
- (+) D. Employees have the option of using their accumulated leave balances during pregnancy leave. If the employee chooses to utilize accumulated balances, benefits will be continued as long as the leave is continued on paid status. If the employee chooses to take leave without pay, health and welfare coverage will continue at the same level of benefits and contributions as for other benefit-eligible employees to the extent the employee qualifies for family medical leave, otherwise, benefits only continue as long as the leave is continued on paid status. If employees fail to return from leave, except because of their own or a family member's serious health condition or another circumstance beyond their control, Metro can recover health premiums it paid during the leave. These monies may be recovered from the final paycheck if there is one or by a lawsuit. If the employee chooses to take leave without pay, benefits will be paid through the last day of the month following the month in which the leave without pay commences.
- (+) E. Employees are entitled to a maximum of 12 weeks unpaid parental leave. Such entitlement begins on the date of birth of the child, or on the date of the taking of physical custody of a newly adopted child.
- (+) F. A request shall be submitted simultaneously to the Department Director and the office of ~~personnel~~ human resources 30 calendar days before the occurrence of the event. The request must be in writing and contain the following information:

- ~~(1)~~1. The employee's intent to take parental leave beginning on a date certain more than 30 days from the date of the request.
- ~~(2)~~2. The anticipated date of birth of the parent's child; or
- ~~(3)~~3. The anticipated date that the parent will obtain physical custody of a newly adopted child under six years of age.
- ~~(4)~~4. The dates when the parent or if both parents request parental leave the dates which each parent will commence and terminate his or her portion of the parental leave.
- ~~(5)~~5. Failure to submit a written request in accordance with (1) above may result in a reduction of leave time by three weeks as a penalty for untimely notice of leave.

~~(g)~~**G.** Employees who return from parental leave by the date listed in the written request on file will be restored to their former position without loss of seniority or vacation credits. If circumstances change so that the employee's former job is no longer available, that worker will be reinstated to an equivalent position or any other position that is available and suitable. Employees who do not return may be disciplined.

~~(Ordinance No. 94-523B.)~~

~~2.02.165~~ **XXIX. LEAVE OF ABSENCE WITHOUT PAY**

All regular employees may be granted leave of absence without pay and without employee benefits for a period not to exceed six months provided such leave can be scheduled without adversely affecting the operations of Metro. Such leave may be extended in writing by the Chief Operating Officer once up to an additional six months. Requests for leave of absence without pay shall be in writing, shall be directed to the Department Director and shall contain reasonable justification for approval. Requests of 10 days or more shall require the approval of the Chief Operating Officer or his/her designee. The approved request shall be filed in the office of ~~personnel~~ human resources. The employee may elect to continue employee benefits, and upon such election, premiums for such extended coverage shall be paid by the employee. Such coverage shall be subject to any restriction which may exist in each applicable benefit policy or plan.

~~(Ordinance No. 81-116, Sec. 39. Amended by Ordinance No. 94-523B; Ordinance No. 02-965A, Sec. 1.)~~

~~2.02.170~~ **XXX. OTHER LEAVES OF ABSENCE WITH PAY**

~~(a)~~**A. Funeral Leave.** A maximum of three days leave with pay shall be allowed a permanent, regular status employee to attend the funeral of the employee's immediate family member.

~~(1)~~1. If travel is required, up to four additional days (chargeable to sick leave) may be allowed upon request to the employee's Department Director.

~~(2)~~2. Under special circumstances and upon the death of a person other than the employee's immediate family member, paid leave as described in (a) above to attend a funeral may be granted at the sole discretion of a Department Director at the request of the employee.

~~(3)~~3. When an employee participates in a funeral service he/she will be granted four hours time off with pay and chargeable to any accrued leave balance, or without pay if the employee has no accrued leave balances, to attend such funeral service subject to the approval of the Department Director.

~~(b)~~**B. Witness or Jury Duty.** Any permanent, regular status employee shall be granted leave with pay and without loss of any benefits when called for jury duty or subpoenaed as a witness, subject to the following provisions:

~~(1)~~1. The employee granted such leave shall pay all money, except travel allowance, received for his/her service as a juror or witness to Metro.

~~(2)~~2. An employee serving as a juror or witness who does not serve for an entire day must return to work as otherwise scheduled.

~~(3)~~3. Where an employee is required to serve as juror or witness on a scheduled day off or vacation day, and such day cannot reasonably be rescheduled, he/she may retain the fee paid for service as a juror or witness on his/her day off or vacation day.

~~(4)~~4. Attendance in court as assigned including the time required going to the court and returning to the work site.

~~(c)~~**C. Military Leave.** Employees shall be granted military leave and right to reinstatement as required by applicable federal or state law.

~~(1)~~1. Employees who fail to return to duty and/or request reinstatement with Metro within the time period allowed by applicable law shall be deemed to have resigned.

~~(2)~~2. Employees who take military leave during a probationary period must serve out the remainder of their probationary period upon reinstatement in order to become regular employees.

~~(d)~~**D. Alternative Duty.** Any permanent, regular status employee who serves as a volunteer in the Peace Corps or U.S. Public Health Service, or other recognized federal volunteer programs as approved by the Department Director and the Chief Operating Officer, shall be granted approved unpaid leave during the service period.

~~(1)~~1. Upon returning the employee shall have the right to be reinstated to the position held before the leave was granted.

~~(2)~~2. Failure of the employee to return to work within 90 days of the termination of the service shall be cause for dismissal.

~~(e)~~**E. Administrative Leave.** Administrative leave is authorized paid leave for non-represented employees who work in classifications which are exempt from overtime pay. A Department Director may be granted administrative leave in recognition of his/her overtime exempt status upon approval by the Chief Operating Officer. Other non-represented regular status employees who work in classifications which are exempt from overtime pay may also be granted such leave at the discretion of their Department Director. Such leave shall not be cumulative from year to year, shall be compensable only in the form of leave time, and shall not exceed 40 hours in a fiscal year. Time not worked because of such leave shall not affect accrual of vacation or sick leave.

~~(Ordinance No. 81-116, Sec. 40. Amended by Ordinance No. 91-426, Sec. 3; Ordinance No. 94-523B; Ordinance No. 02-965A, Sec. 1.)~~

~~2.02.175~~ **XXXI. PREAMBLE--CONDUCT, DISCIPLINE, TERMINATION AND APPEAL**

Nothing contained in ~~this chapter~~ these policies precludes a supervisor from establishing work rules not inconsistent with ~~this chapter~~ these policies for efficient operation and administration of the job site, or precludes a supervisor from having private discussions with employees. These discussions may be in the form of assignment, instruction or any other job-related communication. Any disciplinary action may be grieved by non-represented employees under the grievance procedure established in ~~this chapter~~ these policies.

~~(Ordinance No. 81-116, Sec. 20. Amended by Ordinance No. 94-523B.)~~

~~2.02.180~~ **XXXII. DISCIPLINARY ACTIONS**

~~(a)~~**A.** Disciplinary actions shall include only the following:

~~(1)~~1. Oral or written reprimand;

~~(2)~~2. Suspension;

~~(3)~~3. Reduction in pay;

~~(4)~~4. Transfer;

~~(5)~~5. Demotion; and

~~(6)~~6. Termination from employment.

Any of these disciplinary actions may be utilized. It may not be necessary in every circumstance that the discipline be taken progressively. Disciplinary actions shall occur in a manner that is least likely to embarrass employees before other employees or the public, although it is recognized that this may not always be possible depending on the circumstances.

~~(b)~~B. Metro reserves the right to discipline or terminate an employee whenever:

- ~~(1)~~1. The employee's performance is unsatisfactory; or
- ~~(2)~~2. Metro feels discipline or termination is appropriate for other reasons; or
- ~~(3)~~3. Whenever it is determined that such action is in the best interests of Metro.

~~(c)~~C. The following are some examples (but not all) of the types of conduct which will result in disciplinary action. The listing of these examples is for illustrative purposes and in no way limits Metro's authority and discretion to discipline or terminate employees pursuant to paragraph (a) of this section:

- ~~(1)~~1. Abandonment of position.
- ~~(2)~~2. Absence from duty without leave.
- ~~(3)~~3. Abuse of leave privileges.
- ~~(4)~~4. Below standard work performance.
- ~~(5)~~5. Discourteous treatment of the public or other employees, including but not limited to intentional tortious conduct.
- ~~(6)~~6. Possessing, using, transferring, offering or being under the influence of any intoxicants or narcotics during working hours.
- ~~(7)~~7. Fraud in securing appointment or promotion.
- ~~(8)~~8. Insubordination, including but not limited to, refusal or failure to follow the directive of a supervisor or other designated management staff, failure to comply with an established work rule or procedure, or discourteous behavior toward members of management.
- ~~(9)~~9. Misuse of Metro property, funds or records.
- ~~(10)~~10. Neglect of duty.
- ~~(11)~~11. Willful deceit.

~~(12)~~ 12. Any conviction by a court of law which demonstrates an impaired ability to properly perform work for Metro, or which would cause embarrassment or inconvenience for Metro.

~~(13)~~ 13. Violation of Metro ordinances, regulations and directives.

~~(14)~~ 14. Willful violation of established safety policies.

~~(15)~~ 15. Inability to get along with fellow employees.

~~(16)~~ 16. Any falsification of information during the employment application or employment appointment process, regardless of when discovered.

~~(17)~~ 17. Unlawful harassment or discrimination.

~~(18)~~ 18. Theft, including personal or public property.

~~(19)~~ 19. Sleeping on the job.

~~(20)~~ 20. Gambling on Metro premises, including but not limited to card games, dice games.

~~(21)~~ 22. Violation of ~~this chapter~~ these policies, established work rules, or other management directives.

~~(d)~~ D. **Procedure for Suspension, Reduction in Pay, Transfer, Demotion or Termination.** The supervisor will review information gathered with the office of ~~personnel~~ human resources prior to the supervisor taking any suspension without pay, reduction in pay, transfer, demotion or termination action. If a basis for discipline exists:

~~(1)~~ 1. An employee may be suspended with pay, by the Department Director, pending disciplinary action.

~~(2)~~ 2. A written notice of contemplated disciplinary action (suspension, reduction in pay, transfer, demotion, or dismissal) shall be delivered to the affected employee in person or by mail. This notice shall state the reasons for the proposed action and will include:

~~(A)~~ a. The alleged conduct by the affected employee.

~~(B)~~ b. The violation(s).

~~(C)~~ c. A date, time, and place for the affected employee to have an opportunity to address the violation(s) at a pre-disciplinary meeting. Employees may, at their expense, be represented by an attorney or other person of their choice in a pre-disciplinary meeting.

~~(3)~~3. Upon completion of the pre-disciplinary meeting, a written notice of the actual disciplinary action taken, if any, shall be delivered to the affected employee in person or by mail. This notice shall state the disciplinary action taken, the violation(s), and the effective date of the disciplinary action. This notice shall be a permanent part of the affected employee's personnel record.

~~(4)~~4. No failure by Metro to follow any of the procedures described herein shall be grounds for invalidating disciplinary action, including termination, which is otherwise deserved on the merits. Additionally, the ~~Personnel~~ Human Resources Director may, in his/her discretion, dispense with all or part of these procedures, with or without notice to the employee.

~~(e)~~E. The affected employee may grieve the final disciplinary action pursuant to the grievance procedure established in this policy. In the case of a termination action the grievance shall be filed at Step 2 of the Grievance Procedure in ~~this chapter~~ these policies with the Department Director, with a copy to the ~~Personnel~~ Human Resources Director.

~~(Ordinance No. 81-116, Sec. 21. Amended by Ordinance No. 94-523B.)~~

~~2.02.185-~~**XXXIII. LAYOFF**

~~(a)~~A. If there is a reorganization, changes in the organization, lack of work or lack of funds, or other reasons not reflecting discredit on employees, the Chief Operating Officer may lay off employees. When layoffs occur, temporary employees in affected classes shall be terminated first, with or without prior notice; then employees in their initial probationary period in affected classes shall be terminated, with or without prior notice; and finally regular employees in affected classes not in their initial probation shall be given a minimum of two weeks written notice of their layoff from Metro employment.

~~(b)~~B. Laid off employees shall be placed on a layoff list and may be recalled from the layoff list to a vacant position within the classification from which they were laid off for one year following layoff and prior to internal recruitment for the vacant position. It is the employee's obligation to keep the office of ~~personnel~~ human resources informed of any change of address. If the office of ~~personnel~~ human resources attempts to contact the employee by mail and the letter is returned, the employee's name will be removed from the layoff list.

~~(c)~~C. When an employee on the layoff list rejects an offered appointment to a vacant position in the same classification from which they were laid off, the employee's name will be removed from the layoff list.

~~(Ordinance No. 81-116, Sec. 14. Amended by Ordinance No. 94-523B; Ordinance No. 02-965A, Sec. 1.)~~

~~2.02.190~~ **XXXIV. RESIGNATION**

Any employee may resign from Metro by presenting an oral or written resignation to the supervisor, manager, or Department Director. An oral resignation shall be confirmed in writing by the supervisor to the resigning employee. To resign in good standing, an employee must give a minimum of two weeks notice of resignation, unless because of extenuating circumstances the supervisor, manager, or Department Director agrees to permit a shorter period of notice. The resignation shall provide an effective date which shall be the last day actually worked and shall be forwarded to the office of ~~personnel~~ human resources by the supervisor. If an employee who has resigned seeks to rescind the resignation, such rescission only may be granted by the affected Department Director at his/her sole discretion. All compensatory time for non-exempt employees only, and vacation leave credits earned and not used, up to the 250-hour limit, shall be paid.

(Ordinance No. 81-116, Sec. 15. Amended by Ordinance No. 94-523B.)

~~2.02.195~~ **XXXV. PERSONNEL RECORDS**

- (a)~~A~~. An official personnel file will be maintained by the office of ~~personnel~~ human resources for each employee of Metro. The personnel file will constitute the official record of an individual's employment with Metro.
- (b)~~B~~. No information that reflects critically upon an employee shall be placed in an employee's personnel record without giving a copy to the employee.
- (c)~~C~~. Access to the personnel file shall be limited to the employee, management staff, and the staff of the office of ~~personnel~~ human resources. Management staff must have job-related reasons to have access to job-related information in an employee's file upon request to the ~~Personnel~~ Human Resources Director. Employees may review their personnel files in the office of ~~personnel~~ human resources during regular business hours. Employees may authorize in writing a person(s) to review their personnel files. Employees have the right to copies of material in their personnel files upon request. Personnel records will leave the office of ~~personnel~~ human resources only under the procedures established by the office of ~~personnel~~ human resources.
- (d)~~D~~. Information in personnel files will be treated as exempt from public disclosure to the extent provided by the Oregon Public Records Law.

(Ordinance No. 81-116, Sec. 12. Amended by Ordinance No. 94-523B.)

~~2.02.200~~ **XXXVI. GRIEVANCE PROCEDURE**

It is the policy of Metro to provide for an orderly process whereby non-represented permanent employees may have their dissatisfactions considered fairly and rapidly without fear of reprisal. Every effort should be made to first find an acceptable solution by informal means with the first-line supervisor.

~~(a)~~**A. Definition.** A grievance is defined as a written expression of an alleged violation of ~~this chapter~~ these policies of the Code, submitted by an employee(s) for the purpose of obtaining adjustment.

~~(b)~~**B. Procedure**

~~(1)~~**1.** An employee who believes a grievance exists which has not been resolved by informal means must reduce the grievance to writing. The written grievance must contain:

~~(A)~~**a.** A clear and complete account of the action or inaction which adversely affected or affects the employee.

~~(B)~~**b.** The specific provision(s) of ~~this chapter~~ these policies believed to have been violated or misapplied to the employee.

~~(C)~~**c.** The date of the circumstances giving rise to the grievance and the date of the employee's first knowledge of those circumstances, if later.

~~(D)~~**d.** The remedy sought by the employee to resolve the grievance.

~~(2)~~**2.** The employee must present the written grievance to his/her supervisor within 15 calendar days of the occurrence of the circumstances giving rise to the grievance or the employee's first knowledge of those circumstances. The supervisor shall discuss the grievance with the employee and attempt to resolve it. If the written grievance is not resolved within five calendar days from the date of submission of the written grievance to the supervisor, it may be submitted within another five calendar days to the employee's Department Director.

~~(3)~~**3.** The Department Director and the employee will attempt to resolve the grievance within five calendar days from the date of submission of the written grievance to the Department Director. If the grievance remains unresolved after the five calendar day period, the employee may submit it within another five calendar days to the Chief Operating Officer.

~~(4)~~**4.** The Chief Operating Officer will review and investigate the grievance, as necessary. The Chief Operating Officer will respond to the grievant within 15 calendar days from the date the grievance was submitted to the Chief Operating Officer. The decision of the Chief Operating Officer shall be final and binding.

~~(e)~~**C.** Any or all time limits specified in these rules may be waived by mutual consent of all parties. Likewise, any step in the procedure may be waived by mutual consent of all parties. Mutual consent shall be confirmed in writing.

- ~~(d)~~**D.** Any grievance not taken to the next step by the grievant within the prescribed number of days after receipt of a response shall be deemed resolved.

~~(Ordinance No. 81-116, Sec. 22. Amended by Ordinance No. 94-523B; Ordinance No. 02-965A, Sec. 1.)~~

~~2.02.205~~ **XXXVII. SERVICE AWARDS**

The Chief Operating Officer shall provide a service award program for permanent Metro employees.

~~(Ordinance No. 81-116, Sec. 50. Amended by Ordinance No. 94-523B; Ordinance No. 02-965A, Sec. 1.)~~

~~2.02.210~~ **XXXVIII. EDUCATION, TRAINING AND DEVELOPMENT POLICY**

- ~~(a)~~**A. Education and Development.** All regular full-time employees, upon successful completion of the six-month probationary period, are encouraged to pursue educational opportunities or development programs which are directly related to the employee's work and which will enhance the employee's job-related skill level.

- ~~(1)~~**1.** A full-time employee who registers for courses which are judged to be of direct and significant benefit to Metro may receive some reimbursement for expenses incurred by the employee while taking approved courses provided that:

- ~~(A)~~**a.** The course is submitted to the employee's Department Director for approval at least 30 days prior to proposed enrollment, and the course is approved by the Department Director.

- ~~(B)~~**b.** The course is taken on the employee's own time.

- ~~(C)~~**c.** The amount of reimbursement is at the Department Director's discretion and is subject to departmental budgetary limitations and priorities.

- ~~(D)~~**d.** The employee receives a grade of "C" or better or a "pass" grade if the class is graded on a "Pass-Fail" basis. Metro will make reimbursement within 30 days after proof of satisfactory completion of the course.

- ~~(E)~~**e.** The employee is not receiving reimbursement for tuition from other sources.

- ~~(F)~~**f.** The tuition reimbursement per course shall not exceed the tuition rate for a similar course at Portland State University.

- ~~(G)~~g. The tuition reimbursement for any single course shall not exceed the tuition rate for a three-hour graduate level course at Portland State University.
- ~~(H)~~h. The total tuition reimbursement to an employee shall not exceed \$1,000 in any fiscal year.
- ~~(2)~~2. In lieu of tuition reimbursement, the Department Director may approve time off with pay so an employee may attend courses or development programs which are directly related to the employee's current position and will result in improved job performance or skills.
- ~~(3)~~3. Normally, the cost of textbooks and technical publications required for such courses or development programs shall be the responsibility of the employee. However, the Department Director may elect to reimburse the employee for textbooks and publications for such courses. If the employee is reimbursed, the textbooks and publications shall be the property of Metro and shall be returned to the Department Director upon completion of the educational courses or development programs.
- ~~(b)~~**B. Training.** Metro may develop and implement its own training and development programs or may obtain and implement training and development programs to be conducted by person(s) other than Metro employees.
- ~~(1)~~1. The Department Director may temporarily change an employee's work assignment for a period not to exceed 90 work days, without posting, so that such employee can participate in training and development provided.
- ~~(2)~~2. If an employee is required to participate in any training and development program, it shall be considered time worked for pay purposes. All tuition, texts, training materials, and other expenses incident to such required participation shall be assumed by the department.
- ~~(3)~~3. If an employee desires to participate in any training and development program in which their participation is not required, time off to attend must be approved by the Department Director. All tuition, texts, training materials, and other expenses incident to such non-required participation shall be assumed by the employee, however, the Department Director may elect to reimburse the employee for textbooks and publications for such courses. If the employee is reimbursed, textbooks and publications shall be the property of Metro and shall be returned to the Department Director upon completion of the training or development program.
- ~~(4)~~4. Metro shall notify employees of available training and development programs provided by Metro.

(Ordinance No. 81-116, Sec. 42. Amended by Ordinance No. 94-523B; Ordinance No. 95-594A, Sec. 1.)

~~2.02.225~~ **XXXVIX. CONFERENCES, MEMBERSHIPS AND CONVENTIONS**

Attendance at conferences, conventions or other meetings at Metro's expense shall be authorized by the Chief Operating Officer. Authorization shall be granted on the basis of an employee's participation in or the direct relation of his/her work to the subject matter of the meeting. Members of professional societies may be permitted to attend meetings of their society when such attendance is considered to be in the best interest of Metro. Metro shall pay for professional or trade memberships for employees when deemed appropriate by the Chief Operating Officer or his/her designee limited, however, to the availability of budgeted funds.

(Ordinance No. 81-116, Sec. 41. Amended by Ordinance No. 94-523B; Ordinance No. 02-965A, Sec. 1.)

~~2.02.245~~ **XL. ZOO VISITOR SERVICES EMPLOYEES**

~~(a)~~ **A. Purpose.** The purpose of this section is to establish personnel policies pertaining to the conditions of employment of Zoo visitor services worker employees; to promote efficiency, economy, and public responsiveness in the operation of the Zoo visitor services division; and to provide that the employees covered by this section shall be subject to proper conduct, the satisfactory performance of work, and the availability of funds. Other sections of ~~this chapter~~ these policies apply to visitor services employees; however, in the event of a conflict between this section and other sections of ~~this chapter~~ these policies, this section shall govern.

~~(b)~~ **B. Definitions**

~~(1)~~ **1.** The visitor services worker classification is divided into two definitions and nothing contained in this section shall be construed as any guarantee of hours worked per day or per week:

~~(A)~~ **a.** Seasonal Visitor Services Worker employee: Employees who are employed on a seasonal basis. They will be scheduled regularly during the peak seasons and scheduled as needed and as available during the remainder of the year.

The probationary period for seasonal visitor services employees is the initial 30 workdays of employment, and an additional probationary period shall not be required at a subsequent reinstatement, if the reinstatement is within one year of termination in good standing. Visitor services employees serving their initial probationary period may be disciplined or terminated without cause, with or without prior notice. However, nothing in this paragraph

shall be construed as implying or requiring that cause must exist for the discipline or termination of a seasonal status employee who has completed the initial probationary period.

~~(B)~~b. Regular Visitor Services Worker employee: Employees who are employed on a year-round basis in the visitor services division of the Oregon Zoo and regularly scheduled to work 20 or more hours each week, as provided by the current adopted budget.

~~(2)~~2. "Director" means director of the Oregon Zoo.

~~(3)~~3. Seasons are defined as April through the first week in September (Labor Day) and the second week in September through March.

~~(e)~~C. **Application of Personnel Policies.** All visitor services worker employees shall be subject to this section and to all other Zoo personnel policies and regulations not inconsistent with this section.

~~(d)~~D. **Recruitment and Appointment for Seasonal Visitor Services Worker Employees**

~~(1)~~1. In-house recruitment to fill seasonal visitor services vacancies is not required and is at the discretion of the visitor services manager.

~~(2)~~2. Recruitment to fill vacancies shall include appropriate forms of announcements to attract qualified applicants and to comply with Affirmative Action goals.

~~(3)~~3. At the beginning of each season a general recruitment will be initiated. The recruitment will remain open until the beginning of the following season. A list of qualified applicants will be developed by the visitor services manager pursuant to these visitor services worker rules, from which visitor services workers will be appointed. Applicants will be appointed from this list on an as-needed basis only. If the seasonal list is not exhausted, those not hired but remaining on the list must go through the next season's selection process to be considered for hiring. The visitor services manager will maintain the list and will determine who will be appointed.

~~(4)~~4. Employees who leave in good standing may, within one year of termination, be reinstated without going through a recruitment process.

~~(e)~~E. **Recruitment and Appointment for Regular Visitor Services Worker Employees**

~~(1)~~1. In-house recruitments to fill regular visitor services worker vacancies are open only to current seasonal visitor services worker employees which will

be the first means used. If no one applies, then the position may be filled with a current seasonal employee who shall be appointed by the visitor services manager.

~~(2)~~2. In-house recruitments to fill vacancies as described in (1) above, shall include posting of such vacancies for at least five calendar days within the visitor services division.

~~(3)~~3. Regular visitor services worker employees will be eligible to apply in-house for all vacant regular (non-visitor services worker) positions within Metro.

~~(+)~~F. **Status of Seasonal Visitor Services Worker Employee.** Seasonal visitor services worker employees will be eligible to compete for in-house recruitments of a regular, non-visitor services worker position, if they have worked 40 hours per week for three consecutive months and were hired through a competitive process for or had been reinstated to the position they currently hold.

~~(+)~~G. **Benefits**

~~(+)~~1. Benefits required by law such as Workers' Compensation and Social Security will be paid for all visitor services employees. Seasonal visitor services worker employees will not receive any other benefits.

~~(2)~~2. Seasonal visitor services worker employees will not be paid for holidays not worked. Designated holidays shall be considered as normal workdays.

~~(3)~~3. Regular visitor services worker employees appointed to one of the regular visitor services worker positions will receive a full benefit package when working a minimum of 20 hours per week.

~~(+)~~H. **Performance Evaluation.** Performance evaluations will be performed at least once during the initial 30 workday probationary period.

~~(+)~~I. **Disciplinary Action**

~~(+)~~1. Nothing contained in this section precludes the visitor services manager or Zoo Director from establishing work rules not inconsistent with this section for efficient operations and administration of the job site, or precludes the manager from having private discussions with employees. These discussions may be in the form of assignment, instruction, or any other job-related communication.

~~(2)~~2. It is appropriate, though not always necessary in every circumstance, that disciplinary actions be taken progressively. Disciplinary actions will take into consideration the degree, severity, and frequency of the offense and/or circumstances surrounding the incident. Any disciplinary action shall be

done in a manner that is least likely to embarrass the employee before other employees or the public. Copies of disciplinary actions shall be placed in the employee's personnel file. Any disciplinary action may be grieved under the grievance procedure established in Chapter 2.02 of the Code.

~~(3)~~3. The following are some examples (but not all) of the types of conduct which will result in disciplinary action. The listing of these examples is for illustrative purposes:

~~(A)~~a. Abandonment of position.

~~(B)~~b. Absence from duty without leave.

~~(C)~~c. Abuse of leave privileges.

~~(D)~~d. Below standard work performance.

~~(E)~~e. Discourteous treatment of the public or other employees.

~~(F)~~f. Intoxication during working hours.

~~(G)~~g. Fraud in securing appointment or promotion.

~~(H)~~h. Insubordination.

~~(I)~~i. Misuse of Metro property, funds or records.

~~(J)~~j. Neglect of duty.

~~(K)~~k. Willful deceit.

~~(L)~~l. Any conviction by a court of law which demonstrates an impaired ability to properly perform work for the division.

~~(M)~~m. Violation of Metro Code, ordinances and regulations, established work rules and directives, including those directives defined in the Visitor Services Worker Handbook.

~~(4)~~4. Dismissal. Should the actions of an employee indicate the dismissal of the employee may be necessary, the visitor services manager will review the proposed termination with the ~~Personnel~~ Human Resources Director, including a review of any response or explanation by the employee. If the dismissal action is appropriate, the visitor services manager will seek authorization from the Zoo Director to proceed with the dismissal. The employee shall be notified in writing of the dismissal action. The notice will become a permanent part of the employee's personnel file. Payroll shall be notified to prepare the final check.

~~(j)~~**J. Promotion.** Eligibility for assignment to visitor services worker 2 and 3 classifications shall be established by the visitor services manager and shall be subject to in-house recruitment established in (f)(1-3) above upon determination that an employee has acquired or possesses the knowledge, skill and ability required for the position.

~~(k)~~**K. Wage Rates**

~~(1)~~**1.** Visitor services worker employees will be paid at a rate in the pay plan recommended by the visitor services manager and the ~~Personnel~~ Human Resources Director, and approved by the Chief Operating Officer and the Council.

~~(2)~~**2.** The step range for each employee shall be established on the basis of individual qualifications and work assignment. It will be the general practice to appoint new visitor services worker employees at the beginning step of the visitor services worker 1 salary range. Exceptions approved by the Chief Operating Officer may be made to allow hiring above the beginning step. Total hours of previous work experience with the Zoo and the quality of that work will be considered in determining the step for previous employees reemployed at the Zoo in subsequent seasons.

~~(3)~~**3.** Eligibility for a wage increase shall be at the discretion of the visitor services manager and after successful completion of the initial probationary period.

~~(4)~~**4.** Section 2.02.160 of the Metro Code (Salary Administration Guidelines) shall not apply to any visitor services worker employees.

~~(l)~~**L. Reporting and Hours of Work**

~~(1)~~**1.** Because the number of seasonal visitor services worker employees needed at a given time depends upon weather conditions, such employees may be relieved from duty prior to the end of a scheduled workday or may be directed to not report for duty on a scheduled workday. The Director or his/her designee shall establish appropriate procedures for regulating reporting during inclement weather.

~~(2)~~**2.** Work schedules will be posted, and will be subject to subsection (1) above. No employee will be called to work for less than three hours in one day.

~~(m)~~**M. Rest and Meal Period**

~~(1)~~**1.** A rest period of 10 minutes with pay will be provided during each work period of four hours.

(2)2. A non-paid lunch period of 30 minutes shall be provided. Whenever possible, such meal period shall be scheduled in the middle of the shift.

(Ordinance No. 81-123, Sec. 1 and 2. Amended by Ordinance No. 87-221, Sec. 1 and 2; Ordinance No. 89-269, Sec. 1; Ordinance No. 89-269; Ordinance No. 92-467A, Sec. 1; Ordinance No. 94-523B; Ordinance No. 02-965A, Sec. 1.)

2.02.250 **XLI. VOLUNTEERS**

A volunteer is an individual serving in a non-paid voluntary status. Volunteers are not considered employees of Metro and are not subject to the provisions of ~~this chapter~~ these policies, except as otherwise provided by law.

(Ordinance No. 94-523B.)

2.02.255 **XLII. ACKNOWLEDGMENT OF RECEIPT OF PERSONNEL POLICIES**

All permanent employees shall be given a copy of ~~this chapter~~ these policies of the Code and shall acknowledge receipt by signing the following statement:

“I acknowledge that I have received a copy of the Metro Code, Chapter 2.02, which outlines my working conditions, privileges and obligations as an employee.—~~This chapter~~ These policies constitutes the general policies of Metro and may be supplemented by more specific policies. Further, I understand that ~~this chapter~~ these policies is necessarily subject to change. I understand that no contract of employment can be created, nor can an employee’s status be modified by any oral or written agreement (except a valid collective bargaining agreement), representation, or course of conduct. Lastly, I understand that these policies do not in any way constitute a contract of employment, either express or implied.”

Print Employee Name

Employee Signature

Date

Social Security Number

Exhibit A to
Ordinance No. 05-1082

CHAPTER 2.02

PERSONNEL RULES CODE

SECTIONS — TITLE

2.02.001	Personnel Rules for Non-Represented Employees
2.02.005	Purpose
2.02.010	Administration of the Rules
2.02.015	Amendment
2.02.020	Separability (repealed Ord. 02-965A §1)
2.02.025	Exemptions
2.02.030	Definitions of Personnel Terms
2.02.035	Position Classification Plan
2.02.040	New Positions
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2.02.050	Reclassification of Existing Positions
2.02.055	Pay Plans
2.02.060	Salary Administration
2.02.065	Pay Policies
2.02.070	Affirmative Action Policy
2.02.075	Nepotism
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 2.02.001 Personnel Rules For Non-Represented Employees Code
 Sections 2.02.001 to 2.02.299 of this Metro Code shall be known as and may be cited as the “Metro Personnel Code.”

Rules for Non-Represented Employees." As used in Sections 2.02.001 to 2.02.299, references to "rules" or "chapter" shall be deemed to be references to these Metro Personnel Rules for Non-Represented Employees.

(Ordinance No. 94-523B, Amended by Ordinance No. 02-965A, Sec. 1.)

2.02.005 Purpose

The purpose of this chapter is:

———— (a) ——— To provide and maintain a system of personnel administration for all non-represented employees, seasonal employees, and temporary employees in which the appointment and retention of persons in Metro employment shall be achieved on the basis of promoting the public welfare and implementing Metro's responsibilities.

———— (b) ——— To establish and maintain a position classification plan which shall group all positions into classifications based upon their duties and responsibilities.

———— (c) ——— To provide for a compensation plan which shall include for each classification a minimum and/or maximum salary rate and such intermediate salary rates as the Council considers necessary and equitable.

———— (d) ——— To promote efficiency, economy and public responsiveness in the operation of Metro.

———— (e) ——— To provide that the employees covered by these rules shall be subject to proper employee conduct, the satisfactory performance of work and the availability of funds.

———— (f) ——— The provisions in this chapter do not constitute a contract of employment. Moreover, in order to meet future challenges, the Council retains the flexibility to change, substitute, and discontinue the policies and benefits described herein, at any time, with or without notice to employees. No person shall be deemed to have a vested interest in, or legitimate expectation of, continued employment with Metro, or any policy or benefit described herein or otherwise generally followed by Metro. No contract of employment can be created, nor can an employee's status be modified, by any oral or written agreement, or course of conduct, except by a written agreement signed by the Council President or Chief Operating Officer and the employee, and subject to the approval of the Council.

———— (g) ——— Nothing contained in this section or elsewhere in the chapter shall be construed as any guarantee of hours worked per day or per week.

2.02.010 Administration of the Rules

———— (a) ——— The Chief Operating Officer shall be responsible for:

———— (1) ——— Administering or delegating the administration of all the provisions of this chapter, and whenever a question arises as to the meaning or interpretation of provisions of this chapter, the interpretation given by the Chief Operating Officer or his/her designee shall be final and binding.

———— (2) ——— Reviewing and recommending to the Council necessary changes to this chapter.

———— (3) ——— Publishing a Personnel Procedures Manual to implement the provisions of this chapter.

(a) Duties of Chief Operating Officer

Administration and enforcement of the personnel code shall be the responsibility of the Chief Operating Officer. The Chief Operating Officer, or his or her delegee, shall:

(1) Establish and maintain

(A) a record of all employees in Metro service

(B) the Metro employee classification plan

(C) the salary plan and salary administration policies, including employee benefits, including employee benefits

(2) Prepare such rules, policies, and procedures as are necessary to carry out the duties, functions and powers of this personnel code, and to effectively administer Metro personnel.

(3) Establish a system of personnel administration, based on merit, governing recruitment, appointment, tenure, transfer, layoff, separation, discipline of employees.

(4) Devise and employee training programs, for the purpose of improving the quality of service rendered by Metro personnel.

(5) Conduct labor negotiations with the authorized collective bargaining representatives of Metro employees

(6) Serve as the final grievance adjustment officer in personnel matters.

(7) Make quarterly reports to the Council regarding the personnel administration of Metro

(b) The Metropolitan Exposition-Recreation Commission shall adopt personnel rules consistent with and subject to Sections 6.01.040(h) and (m) of the Code notwithstanding any provision of this chapter to the contrary. For this purpose, the authority and duties of the Chief Operating Officer to employ, manage and terminate employees referred to in this chapter shall reside with the commission for employees of the commission.

~~2.02.015 Amendment~~

~~This chapter shall be amended solely by the Council, however, administrative amendments which deal solely with correcting grammatical or typographical errors, or correcting position titles to reflect properly processed reclassifications and title changes may be approved by the Chief Operating Officer. All proposed amendments to this chapter and/or benefit changes will be required to be adopted by the Council.~~

~~(Ordinance No. 81-116, Sec. 3. Amended by Ordinance No. 94-523B; Ordinance No. 02-965A, Sec. 1.)~~

~~2.02.025 ##~~ Exemptions

(a) Notwithstanding any provision of this chapter, individual positions in the Office of Chief Operating Officer assigned to provide services to the Council may be designated as exempt from and not

subject to this chapter provided that the Council President has given written approval of the exemption after 10 days prior notice has been given to members of the Council.

(b) Notwithstanding any provision of this chapter, employees in the Office of Auditor shall be exempt from and shall not be subject to this chapter except as expressly determined in writing by the Auditor, limited however to budgeted funds allocated to the Office of Auditor.

(Ordinance No. 81-116, Sec. 46. Amended by Ordinance No. 94-523B; Ordinance No. 02-965A, Sec. 1.)

2.02.030 Definitions of Personnel Terms

For the purposes of this chapter unless the context requires otherwise, the following terms shall have the meanings indicated:

- (a) "Auditor" means the elected Auditor of Metro or his/her designee.
- (b) "Chief Financial Officer" means the person responsible for managing the financial affairs and budget of Metro and designated as such by the Chief Operating Officer.
- (c) "Chief Operating Officer" means the person holding the position of Chief Operating Officer established by Section 2.20.010 of the Metro Code.
- (d) "Council" means the elected governing body of Metro.
- (e) "Department" means a major functional unit of Metro as designated by the Chief Operating Officer.
- (f) "Department Director" means a person designated by the Chief Operating Officer to be responsible for the administration of a department or his/her designee.
- ~~(g) "Division" means a major functional unit of a department.~~
- ~~(h) "Employee" means an individual who is salaried or who receives wages for employment with Metro.~~
- ~~(i) "Exempt position" means a position exempt from mandatory overtime compensation.~~
- ~~(j) "Fiscal year" means a 12-month period beginning July 1 and ending June 30.~~
- ~~(k) "Flexible work schedule" means an alternative work schedule other than the established normal work schedule, but which includes the same number of total hours per pay period as other full-time positions.~~
- ~~(l) "Full-time" means a position in which the scheduled hours of work are 40 hours per week and which is provided for in the adopted budget.~~
- ~~(m) "Hourly rate" means the rate of compensation for each hour of work performed.~~
- ~~(n) "Immediate family" means the husband, wife, son, daughter, father, mother, brother, sister, father-in-law, mother-in-law, grandparents or any relative living in the employee's household.~~

(ei) "Layoff" means a separation from employment because of organizational changes, lack of work, lack of funds, or for other reasons not reflecting discredit upon the employee.

—— (p) —— "Non-exempt" position means a position that is eligible for overtime compensation.

—— (q) —— "Non-represented employee" means an employee who is not in a recognized or certified bargaining unit.

(fj) "Part-time" means a position in which the scheduled hours of work are less than 40 hours per week but at least 20 hours or more per week and which is provided for in the adopted budget.

—— (s) —— "Permanent employee" means an employee who is appointed to fill a budgeted position and who is not temporary or seasonal. However, the term permanent does not confer any form of tenure or other expectation of continued employment.

—— (t) —— "Permanent position" means a budgeted position which is not temporary or seasonal. However, the term permanent does not confer any form of tenure or other expectation of continued employment.

—— (u) —— "Personnel action" means the written record of any action taken affecting the employee or the status of his/her employment.

(vk) "Personnel Human Resources Director" means the employee appointed by the Chief Operating Officer to administer the provisions of this chapter regardless of whether the person is also a Department Director.

—— (w) —— "Personnel file" means an employee's official personnel file which is kept in the office of personnel.

—— (x) —— "Personnel Procedures Manual" means a manual developed by the office of personnel and approved by the Chief Operating Officer to implement the policies and provisions of this chapter.

—— (y) —— "Probationary period" means a continuation of the screening process during which an employee is required to demonstrate fitness for the position to which the employee is appointed or promoted. Successful completion of any probationary period is for Metro's internal screening process only and does not confer any form of tenure or other expectation of continued employment.

—— (z) —— "Probationary employee" means an employee serving any period of probation.

—— (aa) —— "Promotion" means the change of an employee from a position in one classification to a position in another classification having a higher maximum salary rate.

—— (bb) —— "Reclassification" means a change in classification of a position by raising it to a class with a higher rate of pay, reducing it to a class with a lower rate of pay, or changing it to another class at the same rate of pay, based upon the duties currently assigned to an existing position or to be assigned for a vacant position. If the position is filled, the incumbent employee is reclassified along with the position.

—— (cc) —— "Regular employee" means an employee who has successfully completed the required initial probationary period occupying a permanent position.

~~———— (dd) ——"Reinstatement" means the return of an employee to a position following a separation of employment.~~

~~(ee) ——"Represented employee" means an employee who is in a recognized or certified bargaining unit.~~

~~———— (ff) ——"Resignation" means voluntary separation from employment.~~

~~———— (gg) ——"Seasonal employee" means an employee who is employed during peak seasons of the year and who may be scheduled as needed during the remainder of the year.~~

~~(hh) ——"Separation" is the cessation of employment with Metro not reflecting discredit upon the employee.~~

~~(ii) ——"Status" refers to the standing of an employee.~~

~~———— (jj) ——"Temporary employee" means a nonstatus employee appointed for the purpose of meeting emergency, nonrecurring or short-term workload needs, or to replace an employee during an approved leave period, for a period not to exceed 1,044 hours within a fiscal year, excluding interns, work-study students, and CETA employees, or similar federal and state employment programs.~~

~~(kk) ——"Termination" means the cessation of employment with Metro.~~

~~———— (ll) ——"Volunteer" means an individual serving in a non-paid voluntary status.~~

~~———— (mm) ——"Work schedule" means the assignment of hours of work by a supervisor.~~

~~2.02.035 Position Classification Plan~~

~~———— (a) ——"The purpose of the classification plan is to provide an inventory of specifications for each classification. The plan shall be developed and maintained so that all positions substantially similar with respect to duties, responsibilities, authority and qualifications are included within the same class, and so that the same range of compensation will apply. Each permanent position shall be allocated to an appropriate classification on the basis of the duties and responsibilities of the position.~~

~~———— (b) ——"Classification titles shall be used in all personnel, budget and financial records.~~

~~———— (c) ——"The classification plan shall cover permanent full-time and permanent part-time positions, as adopted and amended by the Council.~~

~~———— (d) ——"The Chief Operating Officer or his/her designee shall establish administrative procedures to implement the classification and pay plans. The Chief Operating Officer may make administrative changes to classification specifications, title, and classification numbers. Subject to Metro Council approval, the Chief Operating Officer may annually revise salary ranges to reflect a cost-of-living adjustment.~~

~~2.02.040 ## New Positions~~

~~Any new positions added to the budget require Council approval.~~

~~2.02.045 New Classifications~~

~~Any new classification added to the classification plan requires Council approval.~~

~~2.02.050 – Reclassification of Existing Positions~~

~~Reclassification of an existing position from one existing classification to another existing classification may be approved by the Chief Operating Officer provided the reclassification can be accomplished with the limitations of the current budget.~~

~~2.02.055 – Pay Plans~~

~~———— (a) ——— The Chief Operating Officer shall prepare pay plans for permanent positions and seasonal appointments which shall establish a salary range with a minimum and a maximum salary rate of pay appropriate for each class. The pay plans shall be approved by the Council. The pay plans shall establish the eligibility of each classification to receive overtime compensation as indicated by exempt or non-exempt status.~~

~~———— (b) ——— The pay plans shall equitably reflect the difference in duties and responsibilities, and shall be related to compensation for comparable positions within the job market.~~

~~———— (c) ——— The Chief Operating Officer shall review the pay plans annually and include recommended revisions within his/her proposed budget. Said review may cover such items as changes in the Consumer Price Index and in salaries and benefits received by employees in the labor market.~~

~~———— (d) ——— The Chief Operating Officer shall administer the pay plans based on the need and expectations of Metro along with suitable employee performance.~~

~~———— (e) ——— The Chief Operating Officer may propose an agency-wide classification/compensation study for non-represented employees to assess classifications and evaluate compensation. The implementation of study recommendations require Council approval.~~

~~2.02.060 – Salary Administration~~

~~———— (a) ——— Current salary shall be used to calculate merit increases. Any annual revisions to the pay plans shall be added to the salary range of a classification, shall be cumulative, and shall be added to an employee's individual rate of pay. However, no employee's rate of pay shall be lower than the beginning rate of a salary range after a fiscal adjustment is made.~~

~~———— (b) ——— Administrative Policies~~

~~———— (1) ——— Upon initial appointment to a position, each employee should receive a salary at or 5 percent above the beginning salary rate of the salary range for the class to which the position is allocated. Appointment at or 5 percent above the beginning salary rate should be the general practice, with appointments above that level being the exception for outstanding qualifications and experience, and subject to departmental personal services budget resources and approval of the hiring Department Director with concurrent notification to the Chief Operating Officer.~~

~~———— (2) ——— Employees hired at or promoted to the beginning salary rate of a salary range shall receive a 5 percent salary increase after successful completion of six continuous months of probationary service. The increase of 5 percent shall be initiated by the office of personnel on the appropriate date. When an employee is appointed over the 5 percent above the beginning salary rate he/she is not eligible for a salary increase for one year, unless the Chief Operating Officer approves an extra meritorious salary increase based on outstanding performance after successful completion of six consecutive months of probationary service.~~

_____ (3) _____ After an employee has reached 5 percent above the beginning salary rate, he/she is eligible for annual merit increases in 1 percent increments, not to exceed a total of 8 percent in any evaluation year, up to and including the maximum salary rate shown for the assigned salary range based on satisfactory performance which shall be effective on his/her anniversary date only.

_____ (4) _____ All merit increases have to be authorized and approved by the Department Director and reviewed as to form by the Personnel Director prior to implementation. A decision by the Department Director to grant or withhold a merit increase will be communicated to the employee in writing.

_____ (5) _____ Merit increases (except as noted in subsection (b)(2) of this section) must be submitted to the Personnel Director with a performance evaluation. Department Directors shall make every effort to complete the employee's evaluation by the employee's anniversary date. If the evaluation is not completed by that date, any merit increase assigned shall be retroactive to the employee's anniversary date not to exceed one year of retroactivity.

_____ (6) _____ Criteria to be considered in recommending and granting merit increases should include but not be limited to:

_____ (A) _____ Planning and organizing work, and meeting deadlines.

_____ (B) _____ Competency and judgment.

_____ (C) _____ Growth in and ability to handle job responsibilities.

_____ (D) _____ Attitude.

_____ (E) _____ Specific actions toward self-improvement, as necessary.

_____ (F) _____ Recognition of excellence.

_____ (G) _____ Productivity increases of tangible quantities and/or qualities.

_____ (H) _____ Creative and innovative contributions.

_____ (I) _____ Cost and budgetary savings realized, if any.

_____ (J) _____ Affirmative Action & EEO responsibilities.

_____ (K) _____ Safety practices.

_____ (7) _____ The Personnel Director shall review performance evaluations to assure that appropriate criteria are included.

_____ (8) _____ When an employee is promoted or reclassified to a position in a classification with a higher maximum salary rate, the employee shall be placed on the beginning salary rate of the salary range or receive an increase of 5 percent, whichever is greater.

_____ (9) — A promoted employee shall receive a 5 percent increase upon successful completion of his/her six-month probationary period. The anniversary date shall be changed to reflect the effective date of the completion of this probation.

_____ (10) — A reclassified employee shall not serve a probationary period. An employee reclassified to a position in a classification with a higher maximum salary rate shall not receive a salary increase after completion of six months in the new classification. The employee's anniversary date shall reflect the effective date of the reclassification.

_____ (11) — When an employee is reclassified to a position in a classification with a lower maximum salary rate, the employee's salary rate shall not be reduced as long as the employee's current salary rate is within the lower salary range. If the employee's salary rate is above the new salary range, the employee's rate of pay shall remain the same (red-circled) until annual adjustments to the pay plan bring the employee's rate within the new classification range. At that time, the employee will become eligible for merit increases.

_____ (12) — When an employee is voluntarily demoted to a position in a classification with a lower maximum salary rate, the employee's salary rate shall not be reduced as long as the employee's current salary rate is within the lower salary range. If the employee's salary rate is above the new salary range, the employee's salary will be reduced to the highest rate of the new range. In no case, shall an employee's current salary rate be increased upon voluntary demotion.

_____ (c) — A Department Director may assign an employee, in writing, to work "out of class." Whenever an employee is assigned to work temporarily in a higher classification for a period in excess of 10 consecutive work days, he/she shall be considered as working "out of class" in a higher position and shall be paid from the date of assignment at 5 percent above his/her current rate of pay or at the beginning salary rate in the range designated for the higher classification if the employee is at the top of his/her salary range. An employee shall not remain in an acting capacity for a period exceeding six months within a 12-month period. If a Department Director needs to extend the work out of class period beyond six months, extenuating circumstances must be given in writing to the Chief Operating Officer for approval and forwarded to the Personnel Director. A work out of class assignment, for up to six months, shall not be considered as time served for purposes of the effective date for reclassification or promotion.

_____ (d) — When, as part of a classification/compensation study, the salary range for any classification is increased, individual employees shall be placed within the new range at their current rate of pay or on the beginning salary rate of the new salary range if the beginning salary rate is higher than his/her current rate of pay without a change in the employee's established anniversary date.

_____ (e) — When the salary range for an entire classification is decreased as a part of a classification/compensation study, the rates of the incumbents in the positions shall be continued (red-circled) and no change in salary shall occur until the annual adjustments to the pay plan bring the employee's rates in the new class within the new range. At that time, incumbents will become eligible for salary adjustments.

2.02.065 Pay Policies

_____ (a) — Permanent employees shall be paid according to the pay plan adopted by the Council and administered by the Chief Operating Officer.

_____ (b) — Employees shall be paid twice monthly.

~~———— (c) ——— In the event the normal payday falls on a holiday, payday shall occur the workday before the holiday. If the normal payday falls on a Saturday or a Sunday, payday shall be the prior Friday.~~

~~———— (d) ——— Payroll procedures shall be established and implemented by the finance and management information department, accounting division.~~

~~———— (e) ——— Payroll deductions will be made for income tax withholding, Workers' Compensation insurance and employee contributions to employee benefits, and may be made for the United Way Fund, payments to the employee's credit union and other agencies as approved by the Chief Operating Officer at the request of the employee.~~

2.02. ## Charitable Solicitations

(1) Charitable solicitations of Metro employees while on the job during working hours shall be conducted in compliance with this section. No other solicitations of Metro employees while on the job during working hours by a charitable organization shall be permitted.

(2) The Chief Operating Officer with consultation of Metro employees shall by executive order establish rules and procedures to implement this section, including procedures for applications, time and length of solicitation campaigns and payroll deductions. The procedures shall specify that all solicitations shall be made during a single campaign period lasting no longer than 30 days and that employees may sign payroll deduction cards for charitable donations only during a two-week period following the end of the solicitation campaign period. The Chief Operating Officer once each year shall certify all charitable organizations recognized by Metro for the purpose of conducting a fund drive among the employees of Metro. The Chief Operating Officer's action shall be based on the criteria stated in subsection (3) of this section.

(3) Charitable organizations recognized to conduct a fund drive among Metro employees while on the job during working hours shall:

(A) Be a fund-raising organization which raised funds for 10 or more charitable agencies.

(B) Disburse funds only to agencies whose charitable activities are primarily in the geographical areas of Metro and which have an office located within Metro.

(C) Be exempt from taxation under Internal Revenue Service Code Section 501(c)(3).

(D) Be in compliance with the Charitable Trust and Corporation Act and the Oregon Solicitation Act (ORS 128.618 through 128.898). All charitable organizations who have made the required filings under such laws and have no enforcement action pending against them shall be presumed to be in compliance with such laws.

(E) Have a policy prohibiting discrimination in employment and fund distribution with regards to race, color, religion, national origin, handicap, age, sex and sexual preference in the charitable organization and all its grantee agencies.

(F) Provide an audited annual financial report to Metro for distribution to its employees 60 days prior to the charitable campaign.

(4) Payroll deductions for employee charitable contributions shall be allowed only for charitable organizations in compliance with this section.

~~2.02.070~~ ## Affirmative Action Policy

(a) Policy Statement. Metro states as its policy a commitment to provide equal employment opportunities without regard to race, color, religion, national origin, sex, age, disability, sexual orientation, or marital or familial status, except where a bona fide occupational qualification exists.

(b) Affirmative Action Program. The Chief Operating Officer or his/her designee will adopt an affirmative action policy and program, as well as appropriate anti-discrimination and harassment policies, which will be set forth in separate documents. Such policies and programs will be distributed to employees at hire and be made available throughout Metro facilities. All employees are expected to familiarize themselves with these policies.

(c) Recruitment Efforts. Recruitment efforts will be coordinated by the office of human resources in cooperation with the hiring department. Recruiting publicity will be distributed through appropriate media and/or other organizations to meet affirmative action guidelines. Such publicity will indicate that Metro is an affirmative action, equal opportunity employer and will be designed to attract a sufficient number of qualified applicants.

~~2.02.075~~ Nepotism

Notwithstanding Metro's affirmative action policy and program, no member of an employee's family (husband, wife, son, daughter, mother, father, brother, sister, in-laws of any kind, aunt, uncle, niece, nephew, stepparent, or stepchild) shall be employed in a position of exercising supervisory, appointment, or grievance adjustment authority over the other family member.

~~2.02.080~~ ## Recruitment and Appointment

~~(a)~~ All promotions and appointments to vacancies shall be based on the requirements of the position and organizational and operational needs.

~~(b)~~ Recruitment efforts will be coordinated by the office of personnel in cooperation with the hiring department. Recruiting publicity will be distributed through appropriate media and/or other organizations to meet affirmative action guidelines. Such publicity will indicate that Metro is an affirmative action, equal opportunity employer and will be designed to attract a sufficient number of qualified applicants.

~~(c)~~ Internal Recruitments. A regular employee who has successfully completed his/her initial probationary period may apply for vacant positions and will be considered as an internal applicant. Temporary employees must have completed a competitive recruitment and selection process through the office of personnel to be considered as an internal applicant. All applications will be considered without prejudice to their present positions. Regular, regular part-time and temporary employees who apply will be given first consideration in filling a vacant position. Notice of internal recruitment shall be posted not less than five working days to allow for receipt of applications.

~~(d)~~ General Recruitment. If the vacancy is not filled as a result of internal recruitment, recruitment outside the agency will commence. The period of general recruitment shall be not less than 10 working days to allow for receipt of applications.

(ea) Except as otherwise provided for in this Code, all appointments of employees shall be the sole responsibility of the Chief Operating Officer, subject to the provisions of this chapter.

(fb) All appointments of employees to the Office of the Metro Attorney shall be the sole responsibility of the Metro Attorney.

(gc) All appointments of employees to the Office of Auditor shall be the sole responsibility of the Auditor.

(hd) Appointments of Department Directors, the Chief Financial Officer, the ~~Personnel~~ Human Resources Director, the Metro Attorney, staff in the Office of the Chief Operating Officer, and staff in the Office of the Auditor, may be made without going through the normal recruitment and selection process. The ~~Personnel~~ Human Resources Director, the Chief Financial Officer, all Department Directors, and all appointed staff in the Office of the Chief Operating Officer shall serve at the pleasure of the Chief Operating Officer. Staff in the Office of Auditor shall serve at the pleasure of the Auditor.

~~———— (i) ——— Effective January 6, 2003, all positions that were subject to appointment by the General Counsel, the Executive Officer or the Council Presiding Officer are abolished. The Metro Attorney or the Chief Operating Officer may thereafter create new positions and make appointments thereto as provided for in this section.~~

~~2.02.085 Probationary Period~~

~~The probationary period shall be a continuation of the screening process and shall provide the supervisor an opportunity to observe the employee's work, to instruct and aid the employee in adjustment to the position, and to reject any employee who does not demonstrate fitness for the position. The successful completion of probation is for Metro's internal screening process only, and does not confer any form of tenure or other expectation of continued employment.~~

~~———— (a) ——— All initial appointments and all promotions to permanent full-time and permanent part-time positions shall be subject to a standard probationary period of six consecutive months of service.~~

~~———— (b) ——— Promotions. Employees who do not successfully complete their promotional six-month probationary period may be demoted at any time during the promotional period and be reinstated into the position held prior to promotion if that position is vacant or if that position is filled by an employee in an initial probationary period. If that position is not filled by a person in his/her initial probationary period, the employee may be reinstated into any vacant position in the classification held prior to the promotion and the employee will serve a probationary period of three months in the new position. If no such positions are available, the employee shall be laid off.~~

~~———— (c) ——— Reclassifications. No employee's position shall be reclassified until such time as he/she has successfully completed his/her initial six-month probationary period in the classification into which he/she was hired. Employees whose positions are reclassified, upon successful completion of the initial probationary period, shall not serve an additional probationary period.~~

~~———— (d) ——— Transfers. Transfers to another position in the same classification with the similar duties do not require an additional probationary period. Transfers to a position in the same classification with significantly different duties shall require a three-month probationary period. Employees who do not successfully complete the three-month probationary period may be reinstated into the position held prior to transfer if the position is vacant or if the position is filled by an employee in an initial probationary period. If that position does not exist as described above, the employee may be reinstated into any vacant~~

position in the classification held prior to the transfer. If no such positions are available, the employee shall be laid off. In cases where a probationary employee is involuntarily transferred prior to the end of the probationary period, the employee must complete his/her initial probationary period.

———— (e) ——— Demotions. An employee must have completed his/her initial six-month probationary period prior to requesting a voluntary demotion and shall not serve a new probationary period upon demotion.

———— (f) ——— Vacation leave credits based upon or earned in connection with time worked shall accumulate during an employee's initial probationary period. Upon successful completion of the initial probationary period, employee will be credited with vacation leave accumulated during the probationary period and will be eligible to take accrued vacation leave with pay as authorized. An employee who terminates for any reason during the initial probationary period shall not be entitled to vacation leave payment.

———— (g) ——— Any authorized leave without pay during any probationary period will extend the probationary period by the amount of time the employee is on such leave.

———— (h) ——— Employees serving the initial six-month probationary period may be disciplined or terminated without cause, with or without prior notice. Nothing in this section shall be construed as implying or requiring that cause must exist for the discipline or termination of a regular status employee.

2.02.090 Temporary Employees

———— (a) ——— Temporary employees appointed prior to the effective date of this ordinance and who are still employed as temporary employees without a break in service after the effective date of this ordinance shall continue to receive all employee benefits granted to them since their current appointment as a temporary employee, not to exceed 1,044 hours.

———— (b) ——— Status of Temporary Employees. Temporary employment shall be used for the purpose of meeting emergency, nonrecurring, or short-term workload needs, or to replace an employee during an approved leave of absence. A temporary employee may be given a nonstatus appointment without open competition and consideration only for the purposes enumerated in this section. Temporary appointments shall not be used to defeat the open competitive recruitment and selection process. Temporary employment shall not be used as any portion of a required probationary period.

———— (c) ——— Term of Appointment. The term of temporary employment may not exceed 1,044 hours within a fiscal year without approval of the Chief Operating Officer who may grant up to a 1,044 hour extension. A temporary employee shall not become a permanent employee upon working more than 1,044 hours.

———— (d) ——— Benefits. Benefits required by law such as Workers' Compensation and Social Security will be paid for all temporary employees. No additional benefits will be paid or given to temporary employees.

———— (e) ——— Eligibility for Regular Employment. Temporary employees may compete for regular positions on the same basis as applicants from outside the agency. Temporary employees who have gone through a competitive recruitment and selection process through the office of personnel for the current temporary position will be considered as in-house applicants for vacant positions for which they apply through the internal recruitment process.

~~2.02.095 Job Share~~

~~Any full-time position may be designated as a job share position by the Chief Operating Officer at the request of a Department Director. A job share position is a full-time position which is shared by two employees. Benefits for such position shall be apportioned between the position occupants in proportion to time worked by each; however, such apportioning may be altered upon written agreement of position occupants and approval by the Personnel Director. In no event, however, shall the benefits of a job share position exceed the benefits of any other full-time position.~~

~~2.02.100 Orientation~~

~~All new permanent employees shall be provided with a copy of this chapter and insurance plans, and Metro shall periodically provide them with orientation sessions.~~

~~2.02.105 Workers' Compensation Insurance~~

~~—— (a) —— All employees shall be covered for medical expenses and disability benefits for compensable injuries or illness resulting from employment.~~

~~—— (b) —— Payment of medical expenses and lost time disability benefits is determined by the Workers' Compensation Administration in accordance with ORS Chapter 656.~~

~~—— (c) —— The cost of Workers' Compensation insurance shall be paid by Metro with the exception of the employee contribution mandated by the Workers' Compensation Law of the State of Oregon.~~

~~—— (d) —— During an employee's absence due to an on-the-job injury or occupational illness, the employee may utilize sick leave or vacation credits to augment any benefits paid by the Workers' Compensation fund.~~

~~2.02.110 Insurance and Retirement~~

~~—— (a) —— Permanent full-time employees shall receive insurance benefits, as provided in the budget, on the first day of the month following their first full month of employment. Co-payments by employees may be required. Job share positions are eligible for one set of benefits which are split between the two employees sharing the position.~~

~~—— (b) —— Permanent part-time employees who are budgeted at .50 FTE or more only shall receive insurance benefits on a prorated basis, as provided in the budget, on the first day of the month following their first full month of employment. The prorated amount an eligible part-time employee will receive shall be commensurate with the budgeted FTE of their part-time position. An eligible part-time employee may pick up the remaining FTE portion and remaining cost up to 100 percent of insurance benefits at his/her request.~~

~~—— (c) —— Metro will pay the required employer contribution for an eligible employee's PERS (Public Employee Retirement System) account and will also pick up the employee's 6 percent contribution. For only those current employees remaining in the former 11 percent plan, Metro will pay the employer 5 percent portion and pick up the employee 6 percent portion.~~

~~2.02.115 Transfers and Demotions~~

~~—— (a) —— Transfers. A lateral transfer is the voluntary or involuntary movement of an employee from one position to another position in the same classification, or the voluntary or involuntary movement of an incumbent employee's position. Lateral transfers within the same classification and with the same duties do not require a new probationary period. Lateral transfers within the same classification but with significantly different duties require a three-month probationary period. An employee's salary rate will remain the same for all lateral transfers.~~

————— (1) ——— Involuntary Transfer. A lateral transfer of an incumbent employee without the consent of the incumbent employee may be made due to operational needs or as a result of disciplinary action, but the incumbent employee must be given 10 calendar days prior notice. The incumbent shall be transferred with the position.

————— (2) ——— Voluntary Transfer. Regular employees may apply for a transfer to a vacant position by applying through the established internal recruitment process only.

————— (b) ——— Voluntary Demotion. A regular employee may apply for a voluntary demotion by applying through the established internal recruitment process only.

2.02.120 Work Schedules

————— (a) ——— The normal work schedule shall be 40 hours, Monday through Friday, and the normal work day shall be 8:00 a.m. to 5:00 p.m. Some departments have work schedules and hours which may vary. In order to provide the best service to the public, Department Directors may establish operating schedules for departments which vary from the normal work schedule. Nothing contained in this section or elsewhere in this chapter shall be construed as any guarantee of hours of work per day or per week.

————— (b) ——— Flexible Work Schedules. Department Directors may establish employee work schedules which vary from the normal work schedule. All flexible work schedules must be approved by the Department Director.

————— (c) ——— Meals and Breaks. Full-time employees shall be allowed at least a 30-minute, not more than an hour, meal break. Such meal breaks shall be scheduled in the middle of a workday as practicable. All employees are entitled to at least a 10-minute break period when working a continuous four-hour work period.

2.02.125 Overtime Compensation

————— (a) ——— When overtime is authorized, overtime compensation shall be paid only to employees who are not exempt from overtime as established in the pay plan.

————— (b) ——— No overtime shall be paid to overtime exempt employees. Time worked on a holiday may be taken at a later date. It is understood that an overtime exempt employee may have to work on occasion beyond normal business hours, and that some extra work hours beyond a usual workday or workweek are part of the job expectations for an overtime exempt employee. At the Department Director's discretion, flexible work hours may be utilized to accommodate a reasonable balance of work hours. Recorded time off shall be consistent with administrative leave.

————— (c) ——— For purposes of computing overtime, hours worked shall include only time actually worked by the employee and shall not include holiday pay, vacation pay, sick pay, or other compensable leaves.

————— (d) ——— Compensation for authorized overtime shall be at the rate of time-and-one-half for time actually worked in excess of the 40 hours in a workweek or eight hours in a workday and may be paid in cash if budgeted funds are available or, if the employee agrees as compensatory time off, at the discretion of the Department Director. Compensatory time must be taken as leave within six months or paid in cash within the fiscal year that it is earned. Such payment shall be at the employee's rate of pay being earned at the time of payment. When a non-exempt employee is terminated, the employee shall be given cash compensation for the overtime the employee has accrued and not used.

~~———— (e) ——— Overtime hours worked shall not be used to expand employee benefits or to shorten probationary or annual merit increase periods. Compensatory time off in lieu of overtime pay will be counted as regular time worked in computing wages and toward earning employee benefits and to serve out probation and merit increase periods.~~

~~2.02.130 Holidays~~

~~———— (a) ——— Probationary and regular employees of Metro shall be entitled to the following holidays listed with pay; however, floating holidays cannot be utilized by employees until they have successfully completed their initial probationary period:~~

- ~~———— (1) ——— New Years Day~~
- ~~———— (2) ——— Martin Luther King Jr. Birthday~~
- ~~———— (3) ——— President's Day~~
- ~~———— (4) ——— Memorial Day~~
- ~~———— (5) ——— Independence Day~~
- ~~———— (6) ——— Labor Day~~
- ~~———— (7) ——— Veterans Day~~
- ~~———— (8) ——— Thanksgiving Day~~
- ~~———— (9) ——— Christmas Day~~
- ~~———— (10-11) ——— Two floating holidays are allowed each fiscal year on days of each employee's~~

~~choice, subject to schedule approval of the supervisor. For purposes of this section, a floating holiday is any day chosen by the employee and approved by the supervisor which would otherwise be a regular scheduled workday. The floating holidays are non-cumulative from fiscal year to fiscal year and must be taken by the employee within the fiscal year in which they accrue. No payment for floating holidays accrued and not taken shall be provided for any employee upon termination of employment for any reason.~~

~~———— (b) ——— If any such holiday falls on a Sunday, the following Monday shall be given as that holiday. If any such holiday falls on a Saturday, the preceding Friday shall be given as a holiday.~~

~~———— (c) ——— Holidays which occur during vacation or sick leave shall not be charged against such leave.~~

~~———— (d) ——— Regular part-time employees shall receive holiday pay on a prorated basis, based on their hours of work.~~

~~2.02.135 Vacation~~

~~The following provisions are applicable to permanent employees only:~~

~~———— (a) ——— All regular and regular part-time employees shall be granted annual vacation leave with pay.~~

~~———— (b) ——— Upon successful completion of their initial probationary period, employees may be granted accrued vacation leave by approval of the Department Director. Department Director vacations shall be approved by the Chief Operating Officer.~~

~~———— (c) ——— Employees shall not accumulate more than 250 hours of vacation leave. If the operating needs of the department prohibit granting a vacation leave request, additional hours in excess of the 250-hour limit may be accrued or may be compensated at the discretion of the Department Director and with~~

the written approval of the Chief Operating Officer. Such written authorization shall be filed in the finance and management information department, accounting division, with a copy to the office of personnel.

— (d) — Department Directors shall schedule vacation requests consistent with the operational needs of the department. Vacation schedules may be amended to allow the department to meet emergency situations.

— (e) — An employee who has successfully completed his/her initial probationary period, and terminates for any reason, shall be entitled to payment for accrued unused vacation leave. In no case shall payment be more than the maximum allowable 250-hour accrual limit. An employee who terminates for any reason during the initial probationary period shall not be entitled to any accumulated vacation leave payment.

2.02.140 Vacation Credit and Accrual Rate

The vacation credit and accrual schedules for permanent employees are as follows:

		Equivalent
Total Years of	Accrual Rate	Annual Hours
Continuous Service	Per Pay Period	for Full-Time Employees

Date of Hire through
completion of 3rd year 5.00 hours 120 hours

4th year through
completion of 7th year 6.00 hours 144 hours

8th year through
completion of 11th year 7.00 hours 168 hours

12th year or more 8.00 hours 192 hours

Permanent part-time employees shall accrue vacation under the above schedule at a rate proportionate to the time worked per week.

2.02.145 Sick Leave

— (a) — Permanent employees shall earn sick leave with pay at a rate of 104 hours per year (.05 hours per hour worked); such sick leave shall accrue in an unlimited amount.

— (b) — Permanent part-time employees shall earn sick leave with pay proportionate to the amount of FTE for the position in the budget; such sick leave shall accrue in an unlimited amount.

— (c) — Employees may use accrued sick leave when temporarily unable to perform work duties by reason of personal illness, injury, disability, medical or dental care, or illness, injury, or disability of a person living in the employee's household. Sick leave is not to be used for personal time off or to extend holidays or vacation leave. No payment for accrued sick leave shall be provided for any employee upon termination of employment for any reason.

— (d) — Abuse of the sick leave privilege shall be cause for disciplinary action. An employee who is unable to report to work because of any of the reasons set forth in the above subsection of this

section shall report the reason for his/her absence to his/her supervisor. Sick leave with pay may not be allowed unless such report has been made. The supervisor may require sick leave to be supported by a physician's statement attesting to the illness.

——— (e) ——— Permanent full-time employees who use 24 hours or less of sick leave within one fiscal year period, and who are not at the 250-hour vacation accrual limit, shall accrue eight additional hours of vacation leave in exchange for eight hours of sick leave at the end of the fiscal year period. Permanent part-time employees who use 12 hours or less of sick leave within one fiscal year, and who are not at the 250-hour vacation accrual limit, shall accrue four additional hours of vacation leave in exchange for four hours of sick leave. Permanent employees must work a full fiscal year in order to be eligible for this exchange of accrued hours.

——— (f) ——— ~~Transfer of Leave Credits.~~ Sick leave is provided as a benefit to each employee as insurance for period of illness. Under normal circumstances benefits are not transferable; however, upon written request of a regular employee to the Chief Operating Officer the voluntary transfer of sick leave hours may be authorized on a limited, carefully monitored basis as follows:

——— (1) ——— Each request will be reviewed and approval granted or denied on a case-by-case basis by the Chief Operating Officer.

——— (2) ——— Requests must be due to a catastrophic, long-term, or chronic illness of the requesting employee only.

——— (3) ——— The requesting employee must have no more than 40 hours combined accrued sick leave hours and accrued vacation leave hours at the time of the request.

——— (4) ——— Upon approval per (1) above, the requesting employee, or another employee he/she has designated, may initiate a request to Metro employees for the transfer of accrued sick leave hours.

——— (5) ——— Employees wanting to voluntarily transfer accrued sick leave hours to the requesting employee may do so only as follows:

——— (A) ——— The transferring employee's Department Director must authorize the transfer of hours by signature. Such authorization will indicate the transfer of hours can be accomplished within the departmental fiscal year budget.

——— (B) ——— The transfer of accrued sick leave hours cannot exceed a total of 40 hours per transferring employee for each individual requesting employee for each fiscal year.

——— (C) ——— Under no circumstances shall the transferring employee's sick leave balance be reduced to below 120 hours of accrued sick leave because of the voluntary transfer of sick leave hours to another employee.

——— (6) ——— Normal leave accruals will not continue for requesting employees while they are on paid leave status as a result of transferred hours. However, health and welfare benefits provided for any other employee on paid leave status will continue for the requesting employee for as long as they remain on paid status.

_____ (7) _____ Any transferred sick leave hours unused by the requesting employee shall be returned to all transferring employees' sick leave accrual balances on a pro-rated basis.

_____ (8) _____ Copies of approved requests and approved transfers of hours must be sent to the finance and management information department, accounting division, for implementation and to the office of personnel.

2.02.150 Family Medical Leave

Metro provides family medical leave of up to 12 weeks within a one-year period for eligible employees when a serious health condition requires inpatient care or continuing treatment by a health care provider and makes the employee unable to work, and/or because of the birth of a child, or the placement of a child for adoption or foster care in the employee's home, and/or for the care of family members who suffer serious health conditions. For the purpose of this leave, family members are defined as a seriously ill spouse, parent, parent-in-law, or child, or a sick minor child requiring home care. At the employee's discretion, the leave shall be paid from accrued personal leaves (including vacation leave, sick leave, compensatory time leave, personal holiday leave), or be unpaid. Except for limited circumstances, family medical leave runs concurrent with other leaves.

_____ (a) _____ The employee shall be entitled to take family medical leave without being penalized for taking such leave.

_____ (b) _____ An employee returning from family medical leave shall be reinstated with no greater or lesser right in employment than if the employee has not taken the leave.

_____ (c) _____ All full-time and part-time employees who have completed at least 180 calendar days of employment while averaging at least 25 hours of work per week are eligible to request the leave.

_____ (d) _____ Employees have the option of using their accumulated leave balances during the family medical leave. Health and welfare coverage will continue at the same level of benefits and contributions for employees on family medical leave as for other benefit-eligible employees. If employees fail to return from leave, except because of their own or a family member's serious health condition or another circumstance beyond their control, Metro can recover health premiums it paid during the leave. These monies may be recovered from the final paycheck if there is one or by a lawsuit.

_____ (e) _____ Eligible employees may take a maximum of 12 weeks of family medical leave within a one-year period. Each one-year period begins on the date of the first day of actual leave taken. Leave may be taken continuously or, under certain circumstances, on a reduced workweek schedule, or intermittently.

_____ (f) _____ When the employee can anticipate that the serious health situation is going to arise, the employee must submit a written request to the Department Director and the office of personnel at least 15 days prior to taking the leave. When the employee cannot anticipate the serious health condition of the family member, an oral request can be made to the Department Director to be confirmed in writing to the Department Director and the office of personnel within three working days.

_____ The employee's written request must contain the following:

_____ (1) _____ The relationship of the employee to the person needing care.

_____ (2) _____ The health condition of the family member necessitating the leave, along with a doctor's certification stating such health condition.

_____ (3) _____ The anticipated length of absence, not to exceed 12 weeks.

_____ (4) _____ Other family members who are taking family medical leave and when they are taking it or are otherwise available to care for the family member.

_____ (g) _____ Metro is not required to grant this leave of absence during any period of time in which another family member is also taking a family medical leave of absence from their employer, or is otherwise available to care for the family member. If a husband and wife both work for Metro, they can have only 12 weeks of combined leave for birth, placement for adoption or foster care in the employee's home, or caring for a sick parent or parent-in-law, which they can split between them. However, both are entitled to the full 12 weeks for their own illness, or caring for a sick child or spouse.

_____ (h) _____ The employee who takes a family medical leave of absence has a duty to make a reasonable effort to schedule medical treatment or supervision so as to minimize disruption of Metro's operations, subject to the approval of the treating physician.

_____ (i) _____ The former position of an employee on family medical leave shall either remain vacant during the leave, or it may be filled on a temporary basis and considered vacant for reinstatement purposes.

_____ (j) _____ At the conclusion of a family medical leave the employee shall be reinstated to his/her former position unless it has been eliminated due to material changes in Metro's financial or business circumstances, or the circumstances have so changed that the employee cannot be reinstated to his/her former position, in which case the employee shall be reinstated to an equivalent position which is available and suitable. If the circumstances have so changed that the employee cannot be reinstated to the former or an equivalent position, then the employee shall be reinstated to an available suitable position.

_____ (k) _____ Employees who do not return by the date specified may be disciplined up to and including dismissal.

2.02.155 Pregnancy Leave/Transfer

Metro provides temporary transfer or pregnancy leave without pay to eligible employees who are physically unable to perform the duties of their regular position due to pregnancy, child birth, or related medical reasons, without significant risk to the health or safety of the employee or her pregnancy.

_____ (a) _____ The employee shall be entitled to take pregnancy leave or temporary transfer due to pregnancy without being penalized.

_____ (b) _____ The position of an employee on temporary transfer or pregnancy leave shall either remain vacant during the leave, or it may be filled on a temporary basis and considered vacant for reinstatement.

_____ (c) _____ An employee returning from pregnancy leave or temporary transfer shall be reinstated with no greater or lesser rights in employment than if the employee had not taken the leave.

_____ (d) _____ Subject to these policies, and upon written request, all pregnant employees of Metro are eligible.

_____ (e) _____ Temporary Transfer

_____ (1) _____ Metro shall provide a temporary transfer for the employee if there is an available job which is suitable for the employee and to which the transfer can be reasonably accommodated.

_____ (2) _____ To initiate a transfer, the employee must submit a written request to the Department Director and the office of personnel. The employee's written request must contain the following:

_____ (A) _____ The specific duties affected by the pregnancy.

_____ (B) _____ The reasons why the employee is unable to perform her duties without significant risk to the health or safety of the employee or her pregnancy.

_____ (C) _____ A statement that the employee is physically able to perform available work.

_____ (D) _____ A doctor's opinion/certificate confirming (A), (B) and (C) above to determine whether a transfer is reasonably necessary.

_____ (3) _____ The Department Director or the office of personnel may request an additional independent medical opinion, at Metro expense, within three working days after receipt of the initial medical opinion.

_____ (f) _____ Pregnancy Leave

_____ (1) _____ Metro shall provide a pregnancy leave of absence if no suitable work is available for temporary transfer, and if the leave can be reasonably accommodated.

_____ (2) _____ The period of leave shall be the reasonable period of time during which the employee is disabled from performing any available positions. To initiate a leave of absence, the employee must make the request in writing to her Department Director and the office of personnel. The leave request must include the period of time for which the leave is requested. The leave request must also address the employee's disability from performing other available work:

_____ (A) _____ If the employee previously requested a temporary pregnancy transfer, she must state whether a transfer was offered to her, and if a transfer was offered, the employee must explain why she is disabled from performing those job duties;

_____ (B) _____ If the employee did not request temporary pregnancy transfer, she must explain why she is disabled from performing any available job duties known to her; and

_____ (C) _____ A doctor's opinion/certificate confirming (A) or (B) above.

_____ (3) _____ The Department Director or the office of personnel may request an additional independent opinion, at Metro expense, within three working days after receipt of the initial medical opinion.

_____ (4) _____ Employees have the option of using their accumulated leave balances during pregnancy leave. If the employee chooses to utilize accumulated balances, benefits will be continued as

long as the leave is continued on paid status. If the employee chooses to take leave without pay, health and welfare coverage will continue at the same level of benefits and contributions as for other benefit-eligible employees to the extent the employee qualifies for family medical leave; otherwise, benefits only continue as long as the leave is continued on paid status. If employees fail to return from leave, except because of their own or a family member's serious health condition or another circumstance beyond their control, Metro can recover health premiums it paid during the leave. These monies may be recovered from the final paycheck if there is one or by a lawsuit. If the employee chooses to take leave without pay, benefits will be paid through the last day of the month following the month in which the leave without pay commences.

————— (5) ——— If, during the course of the leave, another position which the employee is qualified to perform becomes available, Metro will within three working days offer the available position to the employee, unless a physician has determined that the employee must remain on leave for a fixed or minimum period of time and the job becomes available during that period of time, or unless a physician has determined that the employee is disabled from performing any job duties for an indefinite period of time.

————— (g) ——— If, during the course of pregnancy leave or transfer, the employee regains the ability to perform the duties of her former position she shall within three working days of her knowledge of her regained ability notify Metro. Metro shall restore the employee to her former position within 10 working days of notification by the employee, unless the position has been eliminated due to changed circumstances, in which case the employee will be reinstated to an available equivalent position. If no equivalent positions are available, the employee shall be reinstated to an available and suitable position.

————— (h) ——— If, at any time during the course of pregnancy leave or transfer, the employee is released by her treating physician to perform the duties of her regular position, she must provide the written release to her Department Director and the office of personnel within three working days of the release. Metro will, within 10 working days of receipt of notice of release, restore the employee to her former position unless, the position has been eliminated due to changed circumstances, in which case the employee will be reinstated to an available equivalent position. If no equivalent positions are available, the employee shall be reinstated to an available and suitable position.

————— (i) ——— Employees who do not follow timelines established in this policy or do not return by the date specified may be disciplined up to and including dismissal.

(Ordinance No. 94-523B, Amended by Ordinance No. 02-965A, Sec. 1.)

2.02.160 Parental Leave

Metro provides parental leave of up to 12 weeks for eligible employees who have become parents. At the employee's discretion, the leave shall be paid from accrued vacation time or accrued sick leave, or be unpaid.

————— (a) ——— The employee shall be entitled to take parental leave without being penalized for taking leave.

————— (b) ——— When the employee returns from the leave, he or she must be restored to the former or an equivalent job, without loss of seniority, service credits, etc. If the employee cannot be reinstated to the former or equivalent job because the employer's circumstances have changed, the employee must be reinstated to any other position that is available and suitable.

——— (c) ——— All employees who have completed 90 days of service are eligible to request the leave. If the period of leave occurs during any probationary period, the probationary period shall be extended for the period of the leave.

——— (d) ——— Employees have the option of using their accumulated leave balances during pregnancy leave. If the employee chooses to utilize accumulated balances, benefits will be continued as long as the leave is continued on paid status. If the employee chooses to take leave without pay, health and welfare coverage will continue at the same level of benefits and contributions as for other benefit-eligible employees to the extent the employee qualifies for family medical leave; otherwise, benefits only continue as long as the leave is continued on paid status. If employees fail to return from leave, except because of their own or a family member's serious health condition or another circumstance beyond their control, Metro can recover health premiums it paid during the leave. These monies may be recovered from the final paycheck if there is one or by a lawsuit. If the employee chooses to take leave without pay, benefits will be paid through the last day of the month following the month in which the leave without pay commences.

——— (e) ——— Employees are entitled to a maximum of 12 weeks unpaid parental leave. Such entitlement begins on the date of birth of the child, or on the date of the taking of physical custody of a newly adopted child.

——— (f) ——— A request shall be submitted simultaneously to the Department Director and the office of personnel 30 calendar days before the occurrence of the event. The request must be in writing and contain the following information:

——— (1) ——— The employee's intent to take parental leave beginning on a date certain more than 30 days from the date of the request.

——— (2) ——— The anticipated date of birth of the parent's child; or

——— (3) ——— The anticipated date that the parent will obtain physical custody of a newly adopted child under six years of age.

——— (4) ——— The dates when the parent or if both parents request parental leave the dates which each parent will commence and terminate his or her portion of the parental leave.

——— (5) ——— Failure to submit a written request in accordance with (1) above may result in a reduction of leave time by three weeks as a penalty for untimely notice of leave.

——— (g) ——— Employees who return from parental leave by the date listed in the written request on file will be restored to their former position without loss of seniority or vacation credits. If circumstances change so that the employee's former job is no longer available, that worker will be reinstated to an equivalent position or any other position that is available and suitable. Employees who do not return may be disciplined.

2.02.165 Leave of Absence Without Pay

All regular employees may be granted leave of absence without pay and without employee benefits for a period not to exceed six months provided such leave can be scheduled without adversely affecting the operations of Metro. Such leave may be extended in writing by the Chief Operating Officer once up to an additional six months. Requests for leave of absence without pay shall be in writing, shall be directed to the Department Director and shall contain reasonable justification for approval. Requests of 10 days or

more shall require the approval of the Chief Operating Officer or his/her designee. The approved request shall be filed in the office of personnel. The employee may elect to continue employee benefits, and upon such election, premiums for such extended coverage shall be paid by the employee. Such coverage shall be subject to any restriction which may exist in each applicable benefit policy or plan.

~~2.02.170 Other Leaves of Absence With Pay~~

~~———— (a) ——— Funeral Leave. A maximum of three days leave with pay shall be allowed a permanent, regular status employee to attend the funeral of the employee's immediate family member.~~

~~———— (1) ——— If travel is required, up to four additional days (chargeable to sick leave) may be allowed upon request to the employee's Department Director.~~

~~———— (2) ——— Under special circumstances and upon the death of a person other than the employee's immediate family member, paid leave as described in (a) above to attend a funeral may be granted at the sole discretion of a Department Director at the request of the employee.~~

~~———— (3) ——— When an employee participates in a funeral service he/she will be granted four hours time off with pay and chargeable to any accrued leave balance, or without pay if the employee has no accrued leave balances, to attend such funeral service subject to the approval of the Department Director.~~

~~———— (b) ——— Witness or Jury Duty. Any permanent, regular status employee shall be granted leave with pay and without loss of any benefits when called for jury duty or subpoenaed as a witness, subject to the following provisions:~~

~~———— (1) ——— The employee granted such leave shall pay all money, except travel allowance, received for his/her service as a juror or witness to Metro.~~

~~———— (2) ——— An employee serving as a juror or witness who does not serve for an entire day must return to work as otherwise scheduled.~~

~~———— (3) ——— Where an employee is required to serve as juror or witness on a scheduled day off or vacation day, and such day cannot reasonably be rescheduled, he/she may retain the fee paid for service as a juror or witness on his/her day off or vacation day.~~

~~———— (4) ——— Attendance in court as assigned including the time required going to the court and returning to the work site.~~

~~———— (c) ——— Military Leave. Employees shall be granted military leave and right to reinstatement as required by applicable federal or state law.~~

~~———— (1) ——— Employees who fail to return to duty and/or request reinstatement with Metro within the time period allowed by applicable law shall be deemed to have resigned.~~

~~———— (2) ——— Employees who take military leave during a probationary period must serve out the remainder of their probationary period upon reinstatement in order to become regular employees.~~

~~———— (d) ——— Alternative Duty. Any permanent, regular status employee who serves as a volunteer in the Peace Corps or U.S. Public Health Service, or other recognized federal volunteer programs as~~

approved by the Department Director and the Chief Operating Officer, shall be granted approved unpaid leave during the service period.

_____ (1) _____ Upon returning the employee shall have the right to be reinstated to the position held before the leave was granted.

_____ (2) _____ Failure of the employee to return to work within 90 days of the termination of the service shall be cause for dismissal.

_____ (e) _____ ~~Administrative Leave.~~ Administrative leave is authorized paid leave for non-represented employees who work in classifications which are exempt from overtime pay. A Department Director may be granted administrative leave in recognition of his/her overtime exempt status upon approval by the Chief Operating Officer. Other non-represented regular status employees who work in classifications which are exempt from overtime pay may also be granted such leave at the discretion of their Department Director. Such leave shall not be cumulative from year to year, shall be compensable only in the form of leave time, and shall not exceed 40 hours in a fiscal year. Time not worked because of such leave shall not affect accrual of vacation or sick leave.

~~2.02.175 Preamble—Conduct, Discipline, Termination and Appeal~~

Nothing contained in this chapter precludes a supervisor from establishing work rules not inconsistent with this chapter for efficient operation and administration of the job site, or precludes a supervisor from having private discussions with employees. These discussions may be in the form of assignment, instruction or any other job-related communication. Any disciplinary action may be grieved by non-represented employees under the grievance procedure established in this chapter.

~~2.02.180 Disciplinary Actions~~

_____ (a) _____ Disciplinary actions shall include only the following:

_____ (1) _____ Oral or written reprimand;

_____ (2) _____ Suspension;

_____ (3) _____ Reduction in pay;

_____ (4) _____ Transfer;

_____ (5) _____ Demotion; and

_____ (6) _____ Termination from employment.

_____ Any of these disciplinary actions may be utilized. It may not be necessary in every circumstance that the discipline be taken progressively. Disciplinary actions shall occur in a manner that is least likely to embarrass employees before other employees or the public, although it is recognized that this may not always be possible depending on the circumstances.

_____ (b) _____ Metro reserves the right to discipline or terminate an employee whenever:

_____ (1) _____ The employee's performance is unsatisfactory; or

_____ (2) _____ Metro feels discipline or termination is appropriate for other reasons; or

_____ (3) _____ Whenever it is determined that such action is in the best interests of Metro.

_____ (e) _____ The following are some examples (but not all) of the types of conduct which will result in disciplinary action. The listing of these examples is for illustrative purposes and in no way limits Metro's authority and discretion to discipline or terminate employees pursuant to paragraph (a) of this section:

_____ (1) _____ Abandonment of position.

_____ (2) _____ Absence from duty without leave.

_____ (3) _____ Abuse of leave privileges.

_____ (4) _____ Below standard work performance.

_____ (5) _____ Discourteous treatment of the public or other employees, including but not limited to intentional tortious conduct.

_____ (6) _____ Possessing, using, transferring, offering or being under the influence of any intoxicants or narcotics during working hours.

_____ (7) _____ Fraud in securing appointment or promotion.

_____ (8) _____ Insubordination, including but not limited to, refusal or failure to follow the directive of a supervisor or other designated management staff, failure to comply with an established work rule or procedure, or discourteous behavior toward members of management.

_____ (9) _____ Misuse of Metro property, funds or records.

_____ (10) _____ Neglect of duty.

_____ (11) _____ Willful deceit.

_____ (12) _____ Any conviction by a court of law which demonstrates an impaired ability to properly perform work for Metro, or which would cause embarrassment or inconvenience for Metro.

_____ (13) _____ Violation of Metro ordinances, regulations and directives.

_____ (14) _____ Willful violation of established safety policies.

_____ (15) _____ Inability to get along with fellow employees.

_____ (16) _____ Any falsification of information during the employment application or employment appointment process, regardless of when discovered.

_____ (17) _____ Unlawful harassment or discrimination.

_____ (18) _____ Theft, including personal or public property.

_____ (19) _____ Sleeping on the job.

_____ (20) ~~Gambling on Metro premises, including but not limited to card games, dice games.~~

_____ (21) ~~Violation of this chapter, established work rules, or other management directives.~~

_____ (d) ~~Procedure for Suspension, Reduction in Pay, Transfer, Demotion or Termination. The supervisor will review information gathered with the office of personnel prior to the supervisor taking any suspension without pay, reduction in pay, transfer, demotion or termination action. If a basis for discipline exists:~~

_____ (1) ~~An employee may be suspended with pay, by the Department Director, pending disciplinary action.~~

_____ (2) ~~A written notice of contemplated disciplinary action (suspension, reduction in pay, transfer, demotion, or dismissal) shall be delivered to the affected employee in person or by mail. This notice shall state the reasons for the proposed action and will include:~~

_____ (A) ~~The alleged conduct by the affected employee.~~

_____ (B) ~~The violation(s).~~

_____ (C) ~~A date, time, and place for the affected employee to have an opportunity to address the violation(s) at a pre-disciplinary meeting. Employees may, at their expense, be represented by an attorney or other person of their choice in a pre-disciplinary meeting.~~

_____ (3) ~~Upon completion of the pre-disciplinary meeting, a written notice of the actual disciplinary action taken, if any, shall be delivered to the affected employee in person or by mail. This notice shall state the disciplinary action taken, the violation(s), and the effective date of the disciplinary action. This notice shall be a permanent part of the affected employee's personnel record.~~

_____ (4) ~~No failure by Metro to follow any of the procedures described herein shall be grounds for invalidating disciplinary action, including termination, which is otherwise deserved on the merits. Additionally, the Personnel Director may, in his/her discretion, dispense with all or part of these procedures, with or without notice to the employee.~~

_____ (e) ~~The affected employee may grieve the final disciplinary action pursuant to the grievance procedure established in this policy. In the case of a termination action the grievance shall be filed at Step 2 of the Grievance Procedure in this chapter with the Department Director, with a copy to the Personnel Director.~~

~~2.02.185 Layoff~~

_____ (a) ~~If there is a reorganization, changes in the organization, lack of work or lack of funds, or other reasons not reflecting discredit on employees, the Chief Operating Officer may lay off employees. When layoffs occur, temporary employees in affected classes shall be terminated first, with or without prior notice; then employees in their initial probationary period in affected classes shall be terminated, with or without prior notice; and finally regular employees in affected classes not in their initial probation shall be given a minimum of two weeks written notice of their layoff from Metro employment.~~

—— (b) —— Laid-off employees shall be placed on a layoff list and may be recalled from the layoff list to a vacant position within the classification from which they were laid off for one year following layoff and prior to internal recruitment for the vacant position. It is the employee's obligation to keep the office of personnel informed of any change of address. If the office of personnel attempts to contact the employee by mail and the letter is returned, the employee's name will be removed from the layoff list.

—— (c) —— When an employee on the layoff list rejects an offered appointment to a vacant position in the same classification from which they were laid off, the employee's name will be removed from the layoff list.

2.02.190 Resignation

Any employee may resign from Metro by presenting an oral or written resignation to the supervisor, manager, or Department Director. An oral resignation shall be confirmed in writing by the supervisor to the resigning employee. To resign in good standing, an employee must give a minimum of two weeks notice of resignation, unless because of extenuating circumstances the supervisor, manager, or Department Director agrees to permit a shorter period of notice. The resignation shall provide an effective date which shall be the last day actually worked and shall be forwarded to the office of personnel by the supervisor. If an employee who has resigned seeks to rescind the resignation, such rescission only may be granted by the affected Department Director at his/her sole discretion. All compensatory time for non-exempt employees only, and vacation leave credits earned and not used, up to the 250-hour limit, shall be paid.

2.02.195 Personnel Records

—— (a) —— An official personnel file will be maintained by the office of personnel for each employee of Metro. The personnel file will constitute the official record of an individual's employment with Metro.

—— (b) —— No information that reflects critically upon an employee shall be placed in an employee's personnel record without giving a copy to the employee.

—— (c) —— Access to the personnel file shall be limited to the employee, management staff, and the staff of the office of personnel. Management staff must have job-related reasons to have access to job-related information in an employee's file upon request to the Personnel Director. Employees may review their personnel files in the office of personnel during regular business hours. Employees may authorize in writing a person(s) to review their personnel files. Employees have the right to copies of material in their personnel files upon request. Personnel records will leave the office of personnel only under the procedures established by the office of personnel.

—— (d) —— Information in personnel files will be treated as exempt from public disclosure to the extent provided by the Oregon Public Records Law.

2.02.200 Grievance Procedure

It is the policy of Metro to provide for an orderly process whereby non-represented permanent employees may have their dissatisfactions considered fairly and rapidly without fear of reprisal. Every effort should be made to first find an acceptable solution by informal means with the first-line supervisor.

—— (a) —— Definition. A grievance is defined as a written expression of an alleged violation of this chapter of the Code, submitted by an employee(s) for the purpose of obtaining adjustment.

—— (b) —— Procedure

_____ (1) _____ An employee who believes a grievance exists which has not been resolved by informal means must reduce the grievance to writing. The written grievance must contain:

_____ (A) _____ A clear and complete account of the action or inaction which adversely affected or affects the employee.

_____ (B) _____ The specific provision(s) of this chapter believed to have been violated or misapplied to the employee.

_____ (C) _____ The date of the circumstances giving rise to the grievance and the date of the employee's first knowledge of those circumstances, if later.

_____ (D) _____ The remedy sought by the employee to resolve the grievance.

_____ (2) _____ The employee must present the written grievance to his/her supervisor within 15 calendar days of the occurrence of the circumstances giving rise to the grievance or the employee's first knowledge of those circumstances. The supervisor shall discuss the grievance with the employee and attempt to resolve it. If the written grievance is not resolved within five calendar days from the date of submission of the written grievance to the supervisor, it may be submitted within another five calendar days to the employee's Department Director.

_____ (3) _____ The Department Director and the employee will attempt to resolve the grievance within five calendar days from the date of submission of the written grievance to the Department Director. If the grievance remains unresolved after the five calendar day period, the employee may submit it within another five calendar days to the Chief Operating Officer.

_____ (4) _____ The Chief Operating Officer will review and investigate the grievance, as necessary. The Chief Operating Officer will respond to the grievant within 15 calendar days from the date the grievance was submitted to the Chief Operating Officer. The decision of the Chief Operating Officer shall be final and binding.

_____ (c) _____ Any or all time limits specified in these rules may be waived by mutual consent of all parties. Likewise, any step in the procedure may be waived by mutual consent of all parties. Mutual consent shall be confirmed in writing.

_____ (d) _____ Any grievance not taken to the next step by the grievant within the prescribed number of days after receipt of a response shall be deemed resolved.

2.02.205 Service Awards

The Chief Operating Officer shall provide a service award program for permanent Metro employees.

2.02.210 Education, Training and Development Policy

_____ (a) _____ Education and Development. All regular full-time employees, upon successful completion of the six-month probationary period, are encouraged to pursue educational opportunities or development programs which are directly related to the employee's work and which will enhance the employee's job-related skill level.

_____ (1) _____ A full-time employee who registers for courses which are judged to be of direct and significant benefit to Metro may receive some reimbursement for expenses incurred by the employee while taking approved courses provided that:

_____ (A) _____ The course is submitted to the employee's Department Director for approval at least 30 days prior to proposed enrollment, and the course is approved by the Department Director.

_____ (B) _____ The course is taken on the employee's own time.

_____ (C) _____ The amount of reimbursement is at the Department Director's discretion and is subject to departmental budgetary limitations and priorities.

_____ (D) _____ The employee receives a grade of "C" or better or a "pass" grade if the class is graded on a "Pass-Fail" basis. Metro will make reimbursement within 30 days after proof of satisfactory completion of the course.

_____ (E) _____ The employee is not receiving reimbursement for tuition from other sources.

_____ (F) _____ The tuition reimbursement per course shall not exceed the tuition rate for a similar course at Portland State University.

_____ (G) _____ The tuition reimbursement for any single course shall not exceed the tuition rate for a three-hour graduate-level course at Portland State University.

_____ (H) _____ The total tuition reimbursement to an employee shall not exceed \$1,000 in any fiscal year.

_____ (2) _____ In lieu of tuition reimbursement, the Department Director may approve time off with pay so an employee may attend courses or development programs which are directly related to the employee's current position and will result in improved job performance or skills.

_____ (3) _____ Normally, the cost of textbooks and technical publications required for such courses or development programs shall be the responsibility of the employee. However, the Department Director may elect to reimburse the employee for textbooks and publications for such courses. If the employee is reimbursed, the textbooks and publications shall be the property of Metro and shall be returned to the Department Director upon completion of the educational courses or development programs.

_____ (b) _____ Training. Metro may develop and implement its own training and development programs or may obtain and implement training and development programs to be conducted by person(s) other than Metro employees.

_____ (1) _____ The Department Director may temporarily change an employee's work assignment for a period not to exceed 90 work days, without posting, so that such employee can participate in training and development provided.

_____ (2) _____ If an employee is required to participate in any training and development program, it shall be considered time worked for pay purposes. All tuition, texts, training materials, and other expenses incident to such required participation shall be assumed by the department.

~~_____ (3) If an employee desires to participate in any training and development program in which their participation is not required, time off to attend must be approved by the Department Director. All tuition, texts, training materials, and other expenses incident to such non-required participation shall be assumed by the employee, however, the Department Director may elect to reimburse the employee for textbooks and publications for such courses. If the employee is reimbursed, textbooks and publications shall be the property of Metro and shall be returned to the Department Director upon completion of the training or development program.~~

~~_____ (4) Metro shall notify employees of available training and development programs provided by Metro.~~

2.02.215 ~~##~~ Drug and Alcohol Policy

(a) Purpose

The purpose of the Drug and Alcohol Policy is to assist Metro in providing and maintaining a safe, healthy, and productive work environment for employees. The Metro Drug and Alcohol Policy is applicable to all Metro employees. This policy authorizes drug and alcohol testing if there is reasonable suspicion of drug or alcohol impairment, as well as return-to-duty and follow-up testing. Drug testing shall be conducted in accordance with procedures established and administered by the ~~Personnel~~ Human Resources Director.

(b) Employee Conduct

(1) All employees are prohibited from engaging in the unlawful possession, dispensation, distribution, manufacture or use of alcohol or any controlled substance at any time while on duty, or in a Metro owned or operated vehicle(s).

(2) It is the responsibility of any employee with a substance abuse problem to seek assistance, including any resources which may be required from Metro or Metro's employee assistance program, before drug and alcohol problems adversely affect the ability to perform his or her job or lead to violations of this policy.

(3) All employees shall report to work in an appropriate mental and physical condition to work safely and effectively. No employee shall report to work or engage in work while under the influence of alcohol, or having the presence of illegal drugs, or any other disabling or controlled substance in his or her system.

(4) Any employee who observes or has knowledge of another employee on duty in violation of this policy, and in a condition which poses a hazard to the safety or welfare of others, shall report the information to his or her immediate supervisor, the employee's supervisor, or the ~~Personnel~~ Human Resources Director.

(5) This policy is not violated when an employee possesses and uses a physician-prescribed medication in accordance with the prescription.

(c) Drug and Alcohol Testing

Metro may require a current employee to undergo drug and alcohol testing if there is reasonable suspicion that the employee is under the influence of drugs or alcohol during work hours. "Reasonable

suspicion” means an articulable belief based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of drugs or alcohol. Testing shall be conducted pursuant to standards and procedures administered by the ~~Personnel~~ Human Resources Director.

(d) Definitions

For the purposes of this policy:

(1) An employee has a controlled substance “in his or her system” when the employee tests “positive” in any blood or urine test administered if the result of such test meets or exceeds the level set forth in 49 CFR Part 40.

(2) An employee is “under the influence” of alcohol when the employee has an alcohol test with the result showing an alcohol concentration level of 0.02 or greater.

(3) The term “controlled substance” means marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP), as specified in Schedule I or Schedule II of the Controlled Substances Act (21 USC § 812).

(e) Drug Related Convictions

As required by the Drug Free Workplace Act of 1998, Metro employees shall notify Metro of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction.

(f) Refusal to Consent; Employees

An employee who refuses to consent to drug and alcohol testing when reasonable suspicion of drug or alcohol use has been identified is subject to disciplinary action up to and including termination. The reasons for the refusal shall be considered in determining the appropriate disciplinary action.

(g) Program Administration

The Drug and Alcohol Policy and program are administered by the ~~Personnel~~ Human Resources Director.

~~2.02.220 ##~~ Smoking Policy

Smoking (cigarettes, pipes and cigars) is prohibited inside all Metro facilities. Notwithstanding the provisions of this section, smoking is prohibited in any public meeting as defined in ORS 192.710.

~~2.02.225~~ Conferences, Memberships and Conventions

~~Attendance at conferences, conventions or other meetings at Metro's expense shall be authorized by the Chief Operating Officer. Authorization shall be granted on the basis of an employee's participation in or the direct relation of his/her work to the subject matter of the meeting. Members of professional societies may be permitted to attend meetings of their society when such attendance is considered to be in the best interest of Metro. Metro shall pay for professional or trade memberships for employees when deemed appropriate by the Chief Operating Officer or his/her designee limited, however, to the availability of budgeted funds.~~

~~2.02.230 ##~~ Employee Organizations and Representation

(a) Employees of Metro have the right to form, join and participate in the activities of labor organizations of their own choosing for the purpose of representation and collective bargaining on matters relating to wages, hours and working conditions in accordance with the Oregon Revised Statutes and Regulations of the State Employment Relations Board.

 (b) Pay plans for represented employees are developed through collective bargaining and are subject to ratification by the Council.

2.02.235 ~~##~~ Political Activity

(a) Nothing contained within this chapter shall affect the right of the employee to hold membership in and to support a political party, to vote as they choose, to privately express their opinions on all political subjects and candidates, to maintain political neutrality and to attend political meetings. An employee must exercise all due caution in such activities to prevent public misunderstanding of such actions as representing Metro, or to bring discredit to Metro, the Council, or his/her supervisor.

(b) No official, employee or any other person shall attempt to coerce, command or require any Metro employee to influence or give money, service or other thing of value to aid or promote any political committee or to aid or promote the nomination or election of any person to public office.

(c) No public employee shall solicit any money, influence, service or other thing of value or otherwise promote or oppose any political committee or promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office-holder while on the job during working hours. However, nothing in this section is intended to restrict the right of a public employee to express personal political views.
(ORS 260.432)

2.02.240 Ethical Requirements for Employees, Officers, Elected and Appointed Officials

(a) The purpose of this section is to establish a Code of Ethics for Metro public officials which is consistent with current public policy established by the Oregon Legislative Assembly. Failure to comply with the provisions of this Code shall be grounds for disciplinary action for employees of Metro.

(b) "Public official" means any employee, officer, elected official or appointed member of a board, commission or committee of Metro.

(c) All public officials of Metro shall strictly comply with the following requirements:

(1) No public official shall use official position or office to obtain financial gain for the public official, other than official salary, honoraria or reimbursement of expenses, or for any member of the household of the public official, or for any business with which the public official is associated.

(2) No public official or candidate for office or a member of the household of the public official or candidate shall solicit or receive, whether directly or indirectly, during any calendar year, any gift or gifts with an aggregate value in excess of \$100 from any single source who could reasonably be known to have a legislative or administrative interest in any governmental agency in which the official has or the candidate if elected would have any official position or over which the official exercises or the candidate, if elected, would exercise any authority.

(3) No public official shall solicit or receive, either directly or indirectly, and no person shall offer or give to any public official any pledge or promise of future employment, based on

any understanding that such public official's vote, official action or judgment would be influenced thereby.

(4) No public official shall further the personal gain of the public official through the use of confidential information gained in the course of or by reason of the official position or activities of the public official in any way.

(5) No person shall offer during any calendar year any gifts with an aggregate value in excess of \$100 to any public official or candidate therefor or a member of the household of the public official or candidate if the person has a legislative or administrative interest in a governmental agency in which the official has or the candidate if elected would have any official position or over which the official exercises or the candidate if elected would exercise any authority.

(d) The Auditor and every member of the Council of Metro shall be required to comply with the reporting requirements established by ORS 244.060, including the filing of a Statement of Economic Interest on an annual basis as required by state law. A copy of the Statement of Economic Interest shall be filed with the Council Clerk at the time of filing with the appropriate state agency.

(e) The Chief Operating Officer, the Metro Attorney, the Chief Financial Officer, and all members of the Metropolitan Exposition-Recreation Commission and all Department Directors shall file annually with the Council Clerk a Statement of Economic Interest which is substantially consistent with that required by ORS 244.060.

(f) Public officials shall comply with the following requirements regarding the declaration of potential conflicts of interest and recording the notice of a potential conflict:

(1) If the public official is an elected public official or an appointed public official serving on a board or commission, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official.

(2) If the public official is any other appointed official subject to this chapter, notify in writing the person who appointed the public official to office of the nature of the potential conflict, and request that the appointing authority dispose of the matter giving rise to the potential conflict. Upon receipt of the request, the appointing authority shall designate within a reasonable time an alternate to dispose of the matter, or shall direct the official to dispose of the matter in a manner specified by the appointing authority.

(3) Nothing in subsection (1) of this section requires any public official to announce a potential conflict of interest more than once on the occasion which the matter out of which the potential conflict arises is discussed or debated.

(4) Nothing in this section authorizes a public official to vote if the official is otherwise prohibited from doing so.

(5) When a public official gives notice of a potential conflict of interest, the potential conflict shall be recorded in the official records of the public body.

(Ordinance No. 89-305A, Sec. 3. Amended by Ordinance No. 94-523B; Ordinance No. 02-965A, Sec. 1.)

~~2.02.245 Zoo Visitor Services Employees~~

———— (a) ——— Purpose. The purpose of this section is to establish personnel policies pertaining to the conditions of employment of Zoo visitor services worker employees; to promote efficiency, economy, and public responsiveness in the operation of the Zoo visitor services division; and to provide that the employees covered by this section shall be subject to proper conduct, the satisfactory performance of work, and the availability of funds. Other sections of this chapter apply to visitor services employees; however, in the event of a conflict between this section and other sections of this chapter, this section shall govern.

———— (b) ——— Definitions

———— (1) ——— The visitor services worker classification is divided into two definitions and nothing contained in this section shall be construed as any guarantee of hours worked per day or per week:

———— (A) ——— Seasonal Visitor Services Worker employee: Employees who are employed on a seasonal basis. They will be scheduled regularly during the peak seasons and scheduled as needed and as available during the remainder of the year.

———— The probationary period for seasonal visitor services employees is the initial 30 workdays of employment, and an additional probationary period shall not be required at a subsequent reinstatement, if the reinstatement is within one year of termination in good standing. Visitor services employees serving their initial probationary period may be disciplined or terminated without cause, with or without prior notice. However, nothing in this paragraph shall be construed as implying or requiring that cause must exist for the discipline or termination of a seasonal status employee who has completed the initial probationary period.

———— (B) ——— Regular Visitor Services Worker employee: Employees who are employed on a year-round basis in the visitor services division of the Oregon Zoo and regularly scheduled to work 20 or more hours each week, as provided by the current adopted budget.

———— (2) ——— "Director" means director of the Oregon Zoo.

———— (3) ——— Seasons are defined as April through the first week in September (Labor Day) and the second week in September through March.

———— (c) ——— Application of Personnel Policies. All visitor services worker employees shall be subject to this section and to all other Zoo personnel policies and regulations not inconsistent with this section.

———— (d) ——— Recruitment and Appointment for Seasonal Visitor Services Worker Employees

———— (1) ——— In-house recruitment to fill seasonal visitor services vacancies is not required and is at the discretion of the visitor services manager.

———— (2) ——— Recruitment to fill vacancies shall include appropriate forms of announcements to attract qualified applicants and to comply with Affirmative Action goals.

———— (3) ——— At the beginning of each season a general recruitment will be initiated. The recruitment will remain open until the beginning of the following season. A list of qualified applicants will be developed by the visitor services manager pursuant to these visitor services worker rules, from which visitor services workers will be appointed. Applicants will be appointed from this list on an

as-needed basis only. If the seasonal list is not exhausted, those not hired but remaining on the list must go through the next season's selection process to be considered for hiring. The visitor services manager will maintain the list and will determine who will be appointed.

————— (4) ——— Employees who leave in good standing may, within one year of termination, be reinstated without going through a recruitment process.

————— (e) ——— Recruitment and Appointment for Regular Visitor Services Worker Employees

————— (1) ——— In-house recruitments to fill regular visitor services worker vacancies are open only to current seasonal visitor services worker employees which will be the first means used. If no one applies, then the position may be filled with a current seasonal employee who shall be appointed by the visitor services manager.

————— (2) ——— In-house recruitments to fill vacancies as described in (1) above, shall include posting of such vacancies for at least five calendar days within the visitor services division.

————— (3) ——— Regular visitor services worker employees will be eligible to apply in-house for all vacant regular (non-visitor services worker) positions within Metro.

————— (f) ——— Status of Seasonal Visitor Services Worker Employee Seasonal visitor services worker employees will be eligible to compete for in-house recruitments of a regular, non-visitor services worker position, if they have worked 40 hours per week for three consecutive months and were hired through a competitive process for or had been reinstated to the position they currently hold.

————— (g) ——— Benefits

————— (1) ——— Benefits required by law such as Workers' Compensation and Social Security will be paid for all visitor services employees. Seasonal visitor services worker employees will not receive any other benefits.

————— (2) ——— Seasonal visitor services worker employees will not be paid for holidays not worked. Designated holidays shall be considered as normal workdays.

————— (3) ——— Regular visitor services worker employees appointed to one of the regular visitor services worker positions will receive a full benefit package when working a minimum of 20 hours per week.

————— (h) ——— Performance Evaluation Performance evaluations will be performed at least once during the initial 30 workday probationary period.

————— (i) ——— Disciplinary Action

————— (1) ——— Nothing contained in this section precludes the visitor services manager or Zoo Director from establishing work rules not inconsistent with this section for efficient operations and administration of the job site, or precludes the manager from having private discussions with employees. These discussions may be in the form of assignment, instruction, or any other job-related communication.

————— (2) ——— It is appropriate, though not always necessary in every circumstance, that disciplinary actions be taken progressively. Disciplinary actions will take into consideration the degree,

severity, and frequency of the offense and/or circumstances surrounding the incident. Any disciplinary action shall be done in a manner that is least likely to embarrass the employee before other employees or the public. Copies of disciplinary actions shall be placed in the employee's personnel file. Any disciplinary action may be grieved under the grievance procedure established in Chapter 2.02 of the Code.

_____ (3) — The following are some examples (but not all) of the types of conduct which will result in disciplinary action. The listing of these examples is for illustrative purposes:

_____ (A) — Abandonment of position.

_____ (B) — Absence from duty without leave.

_____ (C) — Abuse of leave privileges.

_____ (D) — Below standard work performance.

_____ (E) — Discourteous treatment of the public or other employees.

_____ (F) — Intoxication during working hours.

_____ (G) — Fraud in securing appointment or promotion.

_____ (H) — Insubordination.

_____ (I) — Misuse of Metro property, funds or records.

_____ (J) — Neglect of duty.

_____ (K) — Willful deceit.

_____ (L) — Any conviction by a court of law which demonstrates an impaired ability to properly perform work for the division.

_____ (M) — Violation of Metro Code, ordinances and regulations, established work rules and directives, including those directives defined in the Visitor Services Worker Handbook.

_____ (4) — Dismissal. Should the actions of an employee indicate the dismissal of the employee may be necessary, the visitor services manager will review the proposed termination with the Personnel Director, including a review of any response or explanation by the employee. If the dismissal action is appropriate, the visitor services manager will seek authorization from the Zoo Director to proceed with the dismissal. The employee shall be notified in writing of the dismissal action. The notice will become a permanent part of the employee's personnel file. Payroll shall be notified to prepare the final check.

_____ (j) — Promotion. Eligibility for assignment to visitor services worker 2 and 3 classifications shall be established by the visitor services manager and shall be subject to in-house recruitment established in (f)(1-3) above upon determination that an employee has acquired or possesses the knowledge, skill and ability required for the position.

_____ (k) — Wage Rates

————— (1) ——— Visitor services worker employees will be paid at a rate in the pay plan recommended by the visitor services manager and the Personnel Director, and approved by the Chief Operating Officer and the Council.

————— (2) ——— The step range for each employee shall be established on the basis of individual qualifications and work assignment. It will be the general practice to appoint new visitor services worker employees at the beginning step of the visitor services worker 1 salary range. Exceptions approved by the Chief Operating Officer may be made to allow hiring above the beginning step. Total hours of previous work experience with the Zoo and the quality of that work will be considered in determining the step for previous employees reemployed at the Zoo in subsequent seasons.

————— (3) ——— Eligibility for a wage increase shall be at the discretion of the visitor services manager and after successful completion of the initial probationary period.

————— (4) ——— Section 2.02.160 of the Metro Code (Salary Administration Guidelines) shall not apply to any visitor services worker employees.

————— (1) ——— Reporting and Hours of Work

————— (1) ——— Because the number of seasonal visitor services worker employees needed at a given time depends upon weather conditions, such employees may be relieved from duty prior to the end of a scheduled workday or may be directed to not report for duty on a scheduled workday. The Director or his/her designee shall establish appropriate procedures for regulating reporting during inclement weather.

————— (2) ——— Work schedules will be posted, and will be subject to subsection (1) above. No employee will be called to work for less than three hours in one day.

————— (m) ——— Rest and Meal Period

————— (1) ——— A rest period of 10 minutes with pay will be provided during each work period of four hours.

————— (2) ——— A non-paid lunch period of 30 minutes shall be provided. Whenever possible, such meal period shall be scheduled in the middle of the shift.

2.02.250 Volunteers

A volunteer is an individual serving in a non-paid voluntary status. Volunteers are not considered employees of Metro and are not subject to the provisions of this chapter, except as otherwise provided by law.

2.02.255 Acknowledgment of Receipt of Personnel Policies

All permanent employees shall be given a copy of this chapter of the Code and shall acknowledge receipt by signing the following statement:

————— "I acknowledge that I have received a copy of the Metro Code, Chapter 2.02, which outlines my working conditions, privileges and obligations as an employee. This chapter constitutes the general policies of Metro and may be supplemented by more specific policies. Further, I understand that this chapter is necessarily subject to change. I understand that no contract of employment can be created, nor

can an employee's status be modified by any oral or written agreement (except a valid collective bargaining agreement), representation, or course of conduct. Lastly, I understand that these policies do not in any way constitute a contract of employment, either express or implied."

Print Employee Name

Employee Signature

Date

Social Security Number

2.02.300 Personnel Rules for Represented Employees

Sections 2.02.300 to 2.02.499 of this Metro Code shall be known as and may be cited as the "Metro Personnel Rules for Represented Employees". As used in Sections 2.02.300 to 2.02.499, references to "rules" or "chapter" shall be deemed to be references to these Metro Personnel Rules for Represented Employees.

2.02.305 Purpose

The purpose of this chapter is:

_____ (a) _____ To provide and maintain a system of personnel administration for all represented employees in which the appointment and retention of persons in Metro employment shall be achieved on the basis of promoting the public welfare and implementing Metro's responsibilities;

_____ (b) _____ To establish and maintain a position classification plan which shall group all positions into classifications based upon their duties and responsibilities;

_____ (c) _____ To provide for a compensation plan which shall include for each classification a minimum and/or maximum salary rate and such intermediate salary rates as the Council considers necessary and equitable;

_____ (d) _____ To promote efficiency, economy, and public responsiveness in the operation of Metro;
and

_____ (e) _____ To provide that the employees covered by these rules shall be subject to proper employee conduct, the satisfactory performance of work, and the availability of funds.

_____ (f) _____ The provisions in this chapter do not constitute a contract of employment. Moreover, in order to meet future challenges, the Council retains the flexibility to change, substitute, and discontinue the policies and benefits described herein. No person shall be deemed to have a vested interest in, or legitimate expectation of, continued employment with Metro, or any policy or benefit described herein or otherwise generally followed by Metro. No contract of employment can be created, nor can an employee's status be modified, by any oral or written agreement, or course of conduct, except by a written agreement signed by the Chief Operating Officer and the employee, and subject to the approval by the Metro Council.

_____ (g) _____ Nothing contained in this section or elsewhere in the chapter shall be construed as any guarantee of hours worked per day or per week.

—— (h) — This chapter shall apply to all represented employees. Employees who are in certified or recognized bargaining units shall have all aspects of their wages, hours, and working conditions determined by collective bargaining agreements, except with regard to the recruitment and selection of applicants for initial appointment to a position, and except as addressed in this chapter. If a conflict exists between this chapter and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

—— (i) — Where a collective bargaining agreement contains any type of grievance resolution procedure, that procedure, including any procedural and/or substantive limitations placed upon it by the collective bargaining agreement, shall be the sole and exclusive remedy for employees in that bargaining unit.

2.02.310 Administration of the Rules

The Chief Operating Officer shall be responsible for:

- (a) — Administering or delegating the administration of all the provisions of this chapter.
- (b) — Reviewing and recommending to the Council necessary changes to this chapter.
- (c) — Publishing a Personnel Procedures Manual to implement the provisions of this chapter.

2.02.315 Amendment

Administrative amendments which deal solely with correcting grammatical or typographical errors, or correcting position titles to reflect properly processed reclassification and title changes, or correcting departmental name changes to accurately reflect current organizational structure may be approved by the Chief Operating Officer. All proposed amendments to this chapter and/or benefit changes will be required to be adopted by the Council. Copies of proposed amendments shall be given to union(s) representative at least 30 days prior to the Council meeting in which they are to be considered.

2.02.320 Separability

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter.

2.02.325 Definitions of Personnel Terms

For the purposes of this chapter unless the context requires otherwise the following terms shall have the meanings indicated:

- (a) — "Chief Operating Officer" means the person holding the position of Chief Operating Officer established by Section 2.20.010 of the Metro Code.
- (b) — "Council" means the elected governing body of Metro.
- (c) — "Department" means a major functional unit of Metro as designated by the Chief Operating Officer.
- (d) — "Department Director" means a person designated by the Chief Operating Officer to be responsible for the administration of a department or his/her designee.

- (e) —— "Dismissal" means the termination of employment for cause (see Termination).
- (f) —— "Division" means a major functional unit of a department.
- (g) —— "Employee" means an individual who is salaried or who receives wages for employment with Metro.
- (h) —— "Exempt position" means a position exempt from mandatory overtime compensation.
- (i) —— "Fiscal year" means a 12-month period beginning July 1, and ending June 30.
- (j) —— "Full-time" means a position in which the scheduled hours of work are 40 hours per week and which is provided for in the adopted budget.
- (k) —— "Non-exempt" position means a position that is eligible for overtime compensation.
- (l) —— "Part time" means a position in which the scheduled hours of work are less than 40 hours per week but at least 20 hours or more per week and which is provided for in the adopted budget.
- (m) —— "Permanent employee" means an employee who is appointed to fill a budgeted position and who is not temporary or seasonal. However, the term permanent does not confer any form of tenure or other expectation of continued employment.
- (n) —— "Permanent position" means a budgeted position which is not temporary or seasonal. However, the term permanent does not confer any form of tenure or other expectation of continued employment.
- (o) —— "Personnel action" means the written record of any action taken affecting the employee or the status of his/her employment.
- (p) —— "Personnel Director" means the employee appointed by the Chief Operating Officer to administer the provisions of this chapter regardless of whether the person is also a Department Director.
- (q) —— "Personnel file" means an employee's official personnel file which is kept in the office of personnel.
- (r) —— "Probationary period" means a continuation of the screening process during which an employee is required to demonstrate fitness for the position to which the employee is appointed or promoted. Successful completion of any probationary period is for Metro's internal screening process only and does not confer any form of tenure or other expectation of continued employment.
- (s) —— "Reclassification" means a change in classification of a position by raising it to a class with a higher rate of pay, reducing it to a class with a lower rate of pay, or changing it to another class at the same rate of pay, based upon the duties currently assigned to an existing position or to be assigned for a vacant position. If the position is filled, the incumbent employee is reclassified along with the position.
- (t) —— "Regular employee" means an employee who has successfully completed the required initial probationary period occupying a permanent position.

—— (u) —— "Represented employee" means an employee who is in a recognized or certified bargaining unit.

—— (v) —— "Resignation" means voluntary separation from employment.

—— (w) —— "Status" refers to the standing of an employee.

—— (x) —— "Termination" means the cessation of employment with Metro, whether or not for cause.

~~2.02.330 Position Classification Plan~~

—— (a) —— The purpose of the classification plan is to provide an inventory of specifications for each classification. The plan shall be developed and maintained so that all positions substantially similar with respect to duties, responsibilities, authority and qualifications are included within the same class, and so that the same range of compensation will apply. Each permanent position shall be allocated to an appropriate classification on the basis of the duties and responsibilities of the position.

—— (b) —— Classification titles shall be used in all personnel, budget and financial records.

—— (c) —— The classification plan shall cover permanent full-time and permanent part-time positions, as adopted and amended by the Council.

—— (d) —— The Chief Operating Officer or his/her designee shall establish administrative procedures to implement the classification and pay plans. The Chief Operating Officer may make administrative changes to classification specifications, title, and classification numbers.

~~2.02.335 New Positions~~

~~Any new positions added to the budget require Council approval.~~

~~2.02.340 New Classifications~~

~~Any new classification added to the classification plan requires Council approval.~~

~~2.02.345 Reclassification of Existing Positions~~

~~Reclassification of an existing position from one existing classification to another existing classification may be approved by the Chief Operating Officer provided the reclassification can be accomplished with the limitations of the current budget.~~

~~2.02.350 Pay Plans~~

~~Pay plans for represented employees are developed through collective bargaining and are subject to ratification by the Council. The Chief Operating Officer, Personnel Director, and labor relations officer will meet with designated Councilors prior to the expiration date of collective bargaining contracts to discuss fiscal direction regarding pay and benefits for negotiations with the unions.~~

~~2.02.355 Salary Administration~~

—— (a) —— Upon initial appointment to a position, each employee should receive a salary at or 5 percent above the beginning salary rate of the salary range for the class to which the position is allocated. Appointment at or 5 percent above the beginning salary rate should be the general practice, with appointments above that level being the exception for outstanding qualifications and experience, and subject to departmental personal services budget resources and approval of the hiring Department Director with concurrent notification to the Chief Operating Officer.

~~———— (b) ——— When an employee is reclassified to a position in a classification with a higher maximum salary rate, the employee shall be placed on the beginning salary rate of the salary range or receive an increase of 5 percent, whichever is greater.~~

~~———— (c) ——— A reclassified employee shall not serve a probationary period. An employee reclassified to a position in a classification with a higher maximum salary rate shall not receive a salary increase after completion of six months in the new classification. The employee's anniversary date shall reflect the effective date of the reclassification.~~

~~———— (d) ——— When an employee is reclassified to a position in a classification with a lower maximum salary rate, the employee's salary rate shall not be reduced as long as the employee's current salary rate is within the lower salary range. If the employee's salary rate is above the new salary range, the employee's rate of pay shall remain the same (red-circled) until annual adjustments to the pay plan bring the employee's rate within the new classification range. At that time, the employee will become eligible for merit increases.~~

~~———— (e) ——— When an employee is voluntarily demoted to a position in a classification with a lower maximum salary rate, the employee's salary rate shall not be reduced as long as the employee's current salary rate is within the lower salary range. If the employee's salary rate is above the new salary range, the employee's salary will be reduced to the highest rate of the new range. In no case, shall an employee's current salary rate be increased upon voluntary demotion.~~

2.02.360 Pay Policies

~~———— (a) ——— Permanent employees shall be paid according to the pay plan adopted by the Council and administered by the Chief Operating Officer.~~

~~———— (b) ——— Employees shall be paid twice monthly.~~

~~———— (c) ——— In the event the normal payday falls on a holiday, payday shall occur the workday before the holiday. If the normal payday falls on a Saturday or a Sunday, payday shall be the prior Friday.~~

~~———— (d) ——— Payroll procedures shall be established and implemented by the finance and management information department, accounting division.~~

~~———— (e) ——— Payroll deductions will be made for income tax withholding, Workers' Compensation insurance and employee contributions to employee benefits, and may be made for the United Way Fund, payments to the employee's credit union and other agencies as approved by the Chief Operating Officer at the request of the employee;~~

~~———— (1) ——— Charitable solicitations of Metro employees while on the job during working hours shall be conducted in compliance with this section. No other solicitations of Metro employees while on the job during working hours by a charitable organization shall be permitted.~~

~~———— (2) ——— The Chief Operating Officer with consultation of Metro employees shall by executive order establish rules and procedures to implement this section including procedures for applications, time and length of solicitation campaigns and payroll deductions. The procedures shall specify that all solicitations shall be made during a single campaign period lasting no longer than 30 days and that employees may sign payroll deduction cards for charitable donations only during a two-week period following the end of the solicitation campaign period. The Chief Operating Officer once each year shall certify all charitable organizations recognized by Metro for the purpose of conducting a fund drive~~

among the employees of Metro. The Chief Operating Officer's action shall be based on the criteria stated in subsection (3) of this section.

_____ (3) _____ Charitable organizations recognized to conduct a fund drive among Metro employees while on the job during working hours shall:

_____ (A) _____ Be a fund-raising organization which raised funds for 10 or more charitable agencies.

_____ (B) _____ Disburse funds only to agencies whose charitable activities are primarily in the geographical areas of Metro and which have an office located within Metro.

_____ (C) _____ Be exempt from taxation under Internal Revenue Service Code Section 501(c)(3).

_____ (D) _____ Be in compliance with the Charitable Trust and Corporation Act and the Oregon Solicitation Act (ORS 128.618 through 128.898). All charitable organizations who have made the required filings under such laws and have no enforcement action pending against them shall be presumed to be in compliance with such laws.

_____ (E) _____ Have a policy prohibiting discrimination in employment and fund distribution with regards to race, color, religion, national origin, handicap, age, sex and sexual preference in the charitable organization and all its grantee agencies.

_____ (F) _____ Provide an audited annual financial report to Metro for distribution to its employees 60 days prior to the charitable campaign.

_____ (4) _____ Payroll deductions for employee charitable contributions shall be allowed only for charitable organizations in compliance with this section.

2.02.365 Affirmative Action Policy

_____ (a) _____ Policy Statement. Metro states as its policy a commitment to provide equal employment opportunities without regard to race, color, religion, national origin, sex, age, disability, sexual orientation, or marital or familial status, except where a bona fide occupational qualification exists.

_____ (b) _____ Affirmative Action Program. The Chief Operating Officer or his/her designee will adopt an affirmative action policy and program, as well as appropriate anti-discrimination and harassment policies, which will be set forth in separate documents. Such policies and programs will be distributed to employees at hire and be made available throughout Metro facilities. All employees are expected to familiarize themselves with these policies.

2.02.370 Nepotism

Notwithstanding Metro's affirmative action policy and program, no member of an employee's family (husband, wife, son, daughter, mother, father, brother, sister, in-laws of any kind, aunt, uncle, niece, nephew, stepparent, or stepchild) shall be employed in a position of exercising supervisory, appointment, or grievance adjustment authority over the other family member.

2.02.375 Internal Recruitment

A regular employee who has successfully completed his/her initial probationary period may apply for vacant positions and will be considered as an internal applicant. All applications will be considered

without prejudice to their present positions. Regular, regular part-time (and temporary employees) who apply will be given first consideration in filling a vacant position. Notice of internal recruitment shall be posted not less than five working days to allow for receipt of applications.

2.02.380 Probationary Period

The probationary period shall be a continuation of the screening process and shall provide the supervisor an opportunity to observe the employee's work, to instruct and aid the employee in adjustment to the position, and to reject any employee who does not demonstrate fitness for the position. The successful completion of probation is for Metro's internal screening process only and does not confer any form of tenure or other expectation of continued employment.

—— (a) — ~~Reclassification.~~ No employee's position shall be reclassified until such time as he/she has successfully completed his/her initial six-month probationary period in the classification into which he/she was hired. Employees whose positions are reclassified, upon successful completion of the initial probationary period, shall not serve an additional probationary period.

—— (b) — ~~Demotions.~~ An employee must have completed his/her initial six-month probationary period prior to requesting a voluntary demotion and shall not serve a new probationary period upon demotion.

—— (c) — Any authorized leave without pay during any probationary period will extend the probationary period by the amount of time the employee is on such leave.

2.02.385 Job Share

Any full-time position may be designated as a job share position by the Chief Operating Officer at the request of a Department Director. A job share position is a full-time position which is shared by two employees. Benefits for such position shall be apportioned between the position occupants in proportion to time worked by each; however, such apportioning may be altered upon written agreement of position occupants and approval by the Personnel Director. In no event, however, shall the benefits of a job share position exceed the benefits of any other full-time position.

2.02.390 Orientation

All new permanent employees shall be provided with a copy of this chapter and insurance plans and Metro shall periodically provide them with orientation sessions.

2.02.395 Workers' Compensation Insurance

—— (a) — All employees shall be covered for medical expenses and disability benefits for compensable injuries or illness resulting from employment.

—— (b) — Payment of medical expenses and lost time disability benefits is determined by the Workers' Compensation administration in accordance with ORS Chapter 656.

—— (c) — The cost of Workers' Compensation insurance shall be paid by Metro with the exception of the employee contribution mandated by the Workers' Compensation Law of the State of Oregon.

—— (d) — During an employee's absence due to an on-the-job injury or occupational illness, the employee may utilize sick leave or vacation credits to augment any benefits paid by the Workers' Compensation fund.

2.02.400 Transfers

All vacant positions are subject to normal recruitment procedures.

—— (a) — Involuntary Transfer. A lateral transfer of an incumbent employee without the consent of the incumbent employee may be made due to operational needs or as a result of disciplinary action, but the incumbent employee must be given 10 calendar days prior notice. The incumbent shall be transferred with the position.

2.02.405 Sick Leave Transfer

Under normal circumstances leave accruals are not transferable. However, upon written request of a regular employee to the Chief Operating Officer, the voluntary transfer of sick leave hours may be authorized on a limited, carefully monitored basis as follows:

—— (a) — Each request will be reviewed and approval granted or denied on a case by case basis by the Chief Operating Officer.

—— (b) — Requests must be due to a catastrophic, long-term, or chronic illness of the requesting employee only.

—— (c) — The requesting employee must have no more than forty (40) hours, combined accrued sick leave hours and accrued vacation leave hours, at the time of the request.

—— (d) — Upon approval per (1) above, the requesting employee, or another employee he/she has designated, may initiate a request to Metro employees for the transfer of accrued sick leave hours.

—— (e) — Employees wanting to voluntarily transfer accrued sick leave hours to the requesting employee may do so only as follows:

—— (1) — The transferring employee's Director must authorize the transfer of hours by signature, such authorization will indicate the transfer of hours can be accomplished within the departmental fiscal year budget.

—— (2) — The transfer of accrued sick leave hours cannot exceed a total of 40 hours per transferring employee for each individual requesting employee for each fiscal year.

—— (3) — Under no circumstances shall the transferring employee's sick leave balance be reduced to below 120 hours of accrued sick leave because of the voluntary transfer of sick leave hours to another employee.

—— (f) — Normal leave accruals will not continue for requesting employees while they are on paid leave status as a result of transferred hours. However, health and welfare benefits provided for any other employee on paid leave status will continue for the requesting employee for as long as they remain on paid status.

—— (g) — Any transferred sick leave hours unused by the requesting employee shall be returned to all transferring employees' sick leave accrual balances on a pro-rated basis.

—— (h) — Copies of approved requests and approved transfers of hours must be sent to the finance and management information department, accounting division for implementation and to the office of personnel.

2.02.410 Family Medical Leave

Metro provides family medical leave of up to twelve (12) weeks within a one-year period for eligible employees when a serious health condition requires inpatient care or continuing treatment by a health care provider and makes the employee unable to work, and/or because of the birth of a child, or the placement of a child for adoption or foster care in the employee's home, and/or for the care of family members who suffer serious health conditions. For the purpose of this leave, family members are defined as a seriously-ill spouse, parent, parent-in-law, or child, or a sick minor child requiring home care. At the employee's discretion, the leave shall be paid from accrued personal leaves (including vacation leave, sick leave, compensatory time leave, personal holiday leave), or be unpaid. Except for limited circumstances, family medical leave runs concurrent with other leaves.

———— (a) ——— The employee shall be entitled to take family medical leave without being penalized for taking such leave.

———— (b) ——— An employee returning from family medical leave shall be reinstated with no greater or lesser right in employment than if the employee has not taken the leave.

———— (c) ——— All full-time and part-time employees who have completed at least 180 calendar days of employment while averaging at least 25 hours of work per week are eligible to request the leave.

———— (d) ——— Employees have the option of using their accumulated leave balances during the family medical leave. Health and welfare coverage will continue at the same level of benefits and contributions for employees on family medical leave as for other benefit-eligible employees. If employees fail to return from leave, except because of their own or a family member's serious health condition or another circumstance beyond their control, Metro can recover health premiums it paid during the leave. These monies may be recovered from the final paycheck if there is one, or by a lawsuit.

———— (e) ——— Eligible employees may take a maximum of 12 weeks of family medical leave within a one-year period. Each one-year period begins on the date of the first day of actual leave taken. Leave may be taken continuously or, under certain circumstances, on a reduced workweek schedule, or intermittently.

———— (f) ——— When the employee can anticipate that the serious health situation is going to arise, the employee must submit a written request to the Department Director and the office of personnel at least 15 days prior to taking the leave. When the employee cannot anticipate the serious health condition of the family member, an oral request can be made to the Department Director to be confirmed in writing to the Department Director and the office of personnel within three working days.

———— The employee's written request must contain the following:

———— (1) ——— The relationship of the employee to the person needing care.

———— (2) ——— The health condition of the family member necessitating the leave, along with a doctor's certification stating such health condition.

———— (3) ——— The anticipated length of absence, not to exceed 12 weeks.

———— (4) ——— Other family members who are taking family medical leave and when they are taking it, or are otherwise available to care for the family member.

—— (g) —— Metro is not required to grant this leave of absence during any period of time in which another family member is also taking a family medical leave of absence from their employer, or is otherwise available to care for the family member. If a husband and wife both work for Metro, they can have only 12 weeks of combined leave for birth, placement for adoption or foster care in the employee's home, or caring for a sick parent or parent-in-law, which they can split between them. However, both are entitled to the full 12 weeks for their own illness, or caring for a sick child or spouse.

—— (h) —— The employee who takes a family medical leave of absence has a duty to make a reasonable effort to schedule medical treatment or supervision so as to minimize disruption of Metro's operations, subject to the approval of the treating physician.

—— (i) —— The former position of an employee on family medical leave shall either remain vacant during the leave, or it may be filled on a temporary basis and considered vacant for reinstatement purposes.

—— (j) —— At the conclusion of a family medical leave, the employee shall be reinstated to his/her former position, unless it has been eliminated due to material changes in Metro's financial or business circumstances, or the circumstances have so changed that the employee cannot be reinstated to his/her former position, in which case the employee shall be reinstated to an equivalent position which is available and suitable. If the circumstances have so changed that the employee cannot be reinstated to the former or an equivalent position, then the employee shall be reinstated to an available suitable position.

—— (k) —— Employees who do not return by the date specified may be disciplined up to and including dismissal.

2.02.415 Pregnancy Leave/Transfer

Metro provides temporary transfer or pregnancy leave without pay to eligible employees who are physically unable to perform the duties of their regular position due to pregnancy, child birth, or related medical reasons, without significant risk to the health or safety of the employee or her pregnancy.

—— (a) —— The employee shall be entitled to take pregnancy leave or temporary transfer due to pregnancy without being penalized.

—— (b) —— The position of an employee on temporary transfer or pregnancy leave shall either remain vacant during the leave, or it may be filled on a temporary basis and considered vacant for reinstatement.

—— (c) —— An employee returning from pregnancy leave or temporary transfer shall be reinstated with no greater or lesser rights in employment than if the employee had not taken the leave.

—— (d) —— Subject to these policies, and upon written request, all pregnant employees of Metro are eligible.

—— (e) —— Temporary Transfer

—— (1) —— Metro shall provide a temporary transfer for the employee if there is an available job which is suitable for the employee and to which the transfer can be reasonably accommodated.

—— (2) —— To initiate a transfer, the employee must submit a written request to the Department Director and the office of personnel. The employee's written request must contain the following:

_____ (A) — The specific duties affected by the pregnancy.

_____ (B) — The reasons why the employee is unable to perform her duties without significant risk to the health or safety of the employee or her pregnancy.

_____ (C) — A statement that the employee is physically able to perform available work.

_____ (D) — A doctor's opinion/certificate confirming (a), (b), and (c) above to determine whether a transfer is reasonably necessary.

_____ (3) — The Department Director or the office of personnel may request an additional independent medical opinion, at Metro expense, within three working days after receipt of the initial medical opinion.

_____ (f) — Pregnancy Leave

_____ (1) — Metro shall provide a pregnancy leave of absence if no suitable work is available for temporary transfer, and if the leave can be reasonably accommodated.

_____ (2) — The period of leave shall be the reasonable period of time during which the employee is disabled from performing any available positions. To initiate a leave of absence, the employee must make the request in writing to her Department Director and the office of personnel. The leave request must include the period of time for which the leave is requested. The leave request must also address the employee's disability from performing other available work.

_____ (A) — If the employee previously requested a temporary pregnancy transfer, she must state whether a transfer was offered to her, and if a transfer was offered, the employee must explain why she is disabled from performing those job duties.

_____ (B) — If the employee did not request temporary pregnancy transfer, she must explain why she is disabled from performing any available job duties known to her.

_____ (C) — A doctor's opinion/certificate confirming (a) or (b) above.

_____ (3) — The Department Director or the office of personnel may request an additional independent opinion, at Metro expense, within three working days after receipt of the initial medical opinion.

_____ (4) — Employees have the option of using their accumulated leave balances during pregnancy leave. If the employee chooses to utilize accumulated balances, benefits will be continued as long as the leave is continued on paid status. If the employee chooses to take leave without pay, health and welfare coverage will continue at the same level of benefits and contributions as for other benefit-eligible employees to the extent the employee qualifies for family medical leave; otherwise, benefits only continue as long as the leave is continued on paid status. If employees fail to return from leave, except because of their own or a family member's serious health condition or another circumstance beyond their control, Metro can recover health premiums it paid during the leave. These monies may be recovered from the final paycheck if there is one, or by a lawsuit. If the employee chooses to take leave without pay,

benefits will be paid through the last day of the month following the month in which the leave without pay commences.

_____ (5) — If, during the course of the leave, another position which the employee is qualified to perform becomes available, Metro will, within three working days, offer the available position to the employee, unless a physician has determined that the employee must remain on leave for a fixed or minimum period of time and the job becomes available during that period of time, or unless a physician has determined that the employee is disabled from performing any job duties for an indefinite period of time.

_____ (g) — If, during the course of pregnancy leave or transfer, the employee regains the ability to perform the duties of her former position, she shall, within three working days of her knowledge of her regained ability, notify Metro. Metro shall restore the employee to her former position within 10 working days of notification by the employee, unless the position has been eliminated due to changed circumstances, in which case the employee will be reinstated to an available equivalent position. If no equivalent positions are available, the employee shall be reinstated to an available and suitable position.

_____ (h) — If, at any time during the course of pregnancy leave or transfer, the employee is released by her treating physician to perform the duties of her regular position, she must provide the written release to her Department Director and the Personnel Director with three working days of the release. Metro will, within 10 working days of receipt of notice of release, restore the employee to her former position, unless the position has been eliminated due to changed circumstances, in which case the employee will be reinstated to an available equivalent position. If no equivalent positions are available, the employee shall be reinstated to an available and suitable position.

_____ (i) — Employees who do not follow timelines established in this policy or do not return by the date specified may be disciplined up to and including dismissal.

2.02.420 Parental Leave

Metro provides parental leave of up to 12 weeks for eligible employees who have become parents. At the employee's discretion, the leave shall be paid from accrued vacation time or accrued sick leave, or be unpaid.

_____ (a) — The employee shall be entitled to take parental leave without being penalized for taking leave.

_____ (b) — When the employee returns from the leave, he or she must be restored to the former or an equivalent job, without loss of seniority, service credits, etc. If the employee cannot be reinstated to the former or equivalent job because the employer's circumstances have changed, the employee must be reinstated to any other position that is available and suitable.

_____ (c) — All employees who have completed 90 days of service are eligible to request the leave. If the period of leave occurs during any probationary period, the probationary period shall be extended for the period of the leave.

_____ (d) — Employees have the option of using their accumulated leave balances during pregnancy leave. If the employee chooses to utilize accumulated balances, benefits will be continued as long as the leave is continued on paid status. If the employee chooses to take leave without pay, health and welfare coverage will continue at the same level of benefits and contributions as for other benefit-eligible employees to the extent the employee qualifies for family medical leave; otherwise, benefits only

continue as long as the leave is continued on paid status. If employees fail to return from leave, except because of their own or a family member's serious health condition or another circumstance beyond their control, Metro can recover health premiums it paid during the leave. These monies may be recovered from the final paycheck if there is one, or by a lawsuit. If the employee chooses to take leave without pay, benefits will be paid through the last day of the month following the month in which the leave without pay commences.

—— (e) — Employees are entitled to a maximum of 12 weeks unpaid parental leave. Such entitlement begins on the date of birth of the child, or on the date of the taking of physical custody of a newly adopted child.

—— (f) — A request shall be submitted simultaneously to the Department Director and the office of personnel 30 calendar days before the occurrence of the event. The request must be in writing and contain the following information:

—— (1) — The employee's intent to take parental leave beginning on a date certain more than 30 days from the date of the request.

—— (2) — The anticipated date of birth of the parent's child, or

—— (3) — The anticipated date that the parent will obtain physical custody of a newly adopted child under six years of age.

—— (4) — The dates when the parent, or if both parents request parental leave, the dates which each parent will commence and terminate his or her portion of the parental leave.

—— (5) — Failure to submit a written request in accordance with (1) above may result in a reduction of leave time by three weeks as a penalty for untimely notice of leave.

—— (g) — Employees who return from parental leave by the date listed in the written request on file will be restored to their former position without loss of seniority or vacation credits. If circumstances change so that the employee's former job is no longer available, that worker will be reinstated to an equivalent position or any other position that is available and suitable. Employees who do not return may be disciplined.

2.02.425 Preamble—Conduct, Discipline, Termination and Appeal

Nothing contained in this chapter precludes a supervisor from establishing work rules not inconsistent with this chapter for efficient operation and administration of the job site, or precludes a supervisor from having private discussions with employees. These discussions may be in the form of assignment, instruction, or any other job-related communication. Any disciplinary action may be grieved by represented employees under the grievance procedure established in the collective bargaining agreement.

2.02.430 Disciplinary Actions

Disciplinary actions shall include only the following: oral or written reprimand, suspension, reduction in pay, demotion and termination from employment. Any of these disciplinary actions may be utilized. It may not be necessary in every circumstance that the discipline be taken progressively.

—— (a) — The following are some examples (but not all) of the types of conduct which will result in disciplinary action. The listing of these examples is for illustrative purposes, and in no way limits Metro's authority and discretion to discipline or terminate employees pursuant to paragraph (A) of this section:

- _____ (1) _____ Abandonment of position.
- _____ (2) _____ Absence from duty without leave.
- _____ (3) _____ Abuse of leave privileges.
- _____ (4) _____ Below standard work performance.
- _____ (5) _____ Discourteous treatment of the public or other employees, including but not limited to intentional tortious conduct.
- _____ (6) _____ Possessing, using, transferring, offering or being under the influence of any intoxicants or narcotics during working hours.
- _____ (7) _____ Fraud in securing appointment or promotion.
- _____ (8) _____ Insubordination.
- _____ (9) _____ Misuse of Metro property, funds or records.
- _____ (10) _____ Neglect of duty.
- _____ (11) _____ Willful deceit.
- _____ (12) _____ Any conviction by a court of law which demonstrates an impaired ability to properly perform work for Metro.
- _____ (13) _____ Violation of Metro ordinances, regulations and directives.
- _____ (14) _____ Willful violation of established safety policies.
- _____ (15) _____ Any falsification of information during the employment application or employment appointment process, regardless of when discovered.
- _____ (16) _____ Unlawful harassment or discrimination.
- _____ (17) _____ Theft, including personal or public property.
- _____ (18) _____ Sleeping on the job.
- _____ (19) _____ Gambling on Metro premises, including but not limited to card games, dice games, but not including employee pools.
- _____ (20) _____ Violation of this chapter, established work rules, or other management directives.
- _____ (b) _____ Procedure for Suspension, Reduction in Pay, Demotion or Termination. The supervisor will review information gathered with the office of personnel prior to the supervisor taking any suspension without pay, reduction in pay, demotion or termination action. If a basis for discipline exists:

_____ (1) _____ An employee may be suspended with pay, by the Department Director, pending disciplinary action.

_____ (2) _____ A written notice of contemplated disciplinary action (suspension, reduction in pay, demotion, or dismissal) shall be delivered to the affected employee in person or by mail. This notice shall state the reasons for the proposed action and will include:

_____ (A) _____ The alleged conduct by the affected employee.

_____ (B) _____ The violation(s).

_____ (C) _____ A date, time, and place for the affected employee to have an opportunity to address the violation(s) at a pre-disciplinary meeting. Employees may be represented by the union in a pre-disciplinary meeting.

_____ (3) _____ Upon completion of the pre-disciplinary meeting, a written notice of the actual disciplinary action taken, if any, shall be delivered to the affected employee in person or by mail. This notice shall state the disciplinary action taken, the violation(s), and the effective date of the disciplinary action. This notice shall be filed in the affected employee's personnel file.

_____ (e) _____ The affected employee may grieve the final disciplinary action pursuant to the grievance procedure established in the collective bargaining agreement.

~~2.02.435 Resignation~~

Any employee may resign from Metro by presenting an oral or written resignation to the supervisor, manager, or Department Director. An oral resignation shall be confirmed in writing by the supervisor to the resigning employee. To resign in good standing, an employee must give a minimum of two weeks notice of resignation, unless because of extenuating circumstances the supervisor, manager, or Department Director agrees to permit a shorter period of notice. The resignation shall provide an effective date which shall be the last day actually worked, and shall be forwarded to the office of personnel by the supervisor. If an employee who has resigned seeks to rescind the resignation, such rescission only may be granted by the affected Department Director at his/her sole discretion. All compensatory time for non-exempt employees only, and vacation leave credits earned and not used, up to the 250-hour limit, shall be paid.

~~2.02.440 Service Awards~~

The Chief Operating Officer shall provide a service award program for Metro employees.

~~2.02.445 Education Opportunities~~

_____ (a) _____ All regular and regular part-time employees are encouraged to pursue educational opportunities which are directly related to the employee's work and which will enhance the employee's job-related skill level.

_____ (b) _____ Employees who register for courses which are judged to be of direct and significant benefit to Metro may receive some reimbursement for expenses incurred by the employee while taking approved courses. Procedures for application and amount awarded are contained in the Personnel Procedures Manual.

——— (c) ——— Normally the cost of textbooks and technical publications required for such courses shall be the responsibility of the employee. If Metro purchases any of the textbooks and publications for such courses, said textbooks and publications shall become the property of Metro.

2.02.447 Drug and Alcohol Policy

——— (a) ——— Purpose

——— The purpose of the Drug and Alcohol Policy is to assist Metro in providing and maintaining a safe, healthy, and productive work environment for employees. The Metro Drug and Alcohol Policy is applicable to all Metro employees. This policy authorizes drug and alcohol testing if there is reasonable suspicion of drug or alcohol impairment, as well as return-to-duty and follow-up testing. Drug testing shall be conducted in accordance with procedures established and administered by the Personnel Director.

——— (b) ——— Employee Conduct

——— (1) ——— All employees are prohibited from engaging in the unlawful possession, dispensation, distribution, manufacture or use of alcohol or any controlled substance at any time while on duty, or in a Metro owned or operated vehicle(s).

——— (2) ——— It is the responsibility of any employee with a substance abuse problem to seek assistance, including any resources which may be required from Metro or Metro's employee assistance program, before drug and alcohol problems adversely affect the ability to perform his or her job or lead to violations of this policy.

——— (3) ——— All employees shall report to work in an appropriate mental and physical condition to work safely and effectively. No employee shall report to work or engage in work while under the influence of alcohol, or having the presence of illegal drugs, or any other disabling or controlled substance in his or her system.

——— (4) ——— Any employee who observes or has knowledge of another employee on duty in violation of this policy, and in a condition which poses a hazard to the safety or welfare of others, shall report the information to his or her immediate supervisor, the employee's supervisor, or the Personnel Director.

——— (5) ——— This policy is not violated when an employee possesses and uses a physician-prescribed medication in accordance with the prescription.

——— (c) ——— Drug and Alcohol Testing

——— Metro may require a current employee to undergo drug and alcohol testing if there is reasonable suspicion that the employee is under the influence of drugs or alcohol during work hours. "Reasonable suspicion" means an articulable belief based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of drugs or alcohol. Testing shall be conducted pursuant to standards and procedures administered by the Personnel Director.

——— (d) ——— Definitions

——— For the purposes of this policy:

_____ (1) _____ An employee has a controlled substance “in his or her system” when the employee tests “positive” in any blood or urine test administered if the result of such test meets or exceeds the level set forth in 49 CFR Part 40.

_____ (2) _____ An employee is “under the influence” of alcohol when the employee has an alcohol test with the result showing an alcohol concentration level of 0.02 or greater.

_____ (3) _____ The term “controlled substance” means marijuana, cocaine, opiates, amphetamines, and phenylcyclidine (PCP), as specified in Schedule I or Schedule II of the Controlled Substances Act (21 USC § 812).

_____ (e) _____ Drug-Related Convictions

_____ As required by the Drug-Free Workplace Act of 1998, Metro employees shall notify Metro of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction.

_____ (f) _____ Refusal to Consent; Employees

_____ An employee who refuses to consent to drug and alcohol testing when reasonable suspicion of drug or alcohol use has been identified is subject to disciplinary action up to and including termination. The reasons for the refusal shall be considered in determining the appropriate disciplinary action.

_____ (g) _____ Program Administration

_____ The Drug and Alcohol Policy and program are administered by the Personnel Director.

2.02.450 Smoking Policy

Smoking (cigarettes, pipes and cigars) is prohibited inside all Metro facilities. Notwithstanding the provisions of this section, smoking is prohibited in any public meeting as defined in ORS 192.710.

2.02.455 Conferences, Memberships and Conventions

Attendance at conferences, conventions or other meetings at Metro's expense shall be authorized by the Chief Operating officer. Authorization shall be granted on the basis of an employee's participation in or the direct relation of his/her work to the subject matter of the meeting. Members of professional societies may be permitted to attend meetings of their society when such attendance is considered to be in the best interests of Metro. Metro shall pay for professional or trade memberships for employees when deemed appropriate by the Chief Operating Officer or his/her designee limited, however, to the availability of budgeted funds.

2.02.460 Employee Organizations and Representation

Employees of Metro have the right to form, join and participate in the activities of labor organizations of their own choosing for the purpose of representation and collective bargaining on matters relating to wages, hours and working conditions in accordance with the Oregon Revised Statutes and Regulations of the State Employment Relations Board.

2.02.465 Political Activity

_____ (a) _____ Nothing contained within this chapter shall affect the right of the employee to hold membership in and to support a political party, to vote as they choose, to privately express their opinions on all political subjects and candidates, to maintain political neutrality and to attend political meetings.

An employee must exercise all due caution in such activities to prevent public misunderstanding of such actions as representing Metro, or to bring discredit to Metro, the Council, Chief Operating Officer or his/her supervisor.

_____ (b) _____ No official, employee or any other person shall attempt to coerce, command or require any Metro employee to influence or give money, service or other thing of value to aid or promote any political committee or to aid or promote the nomination or election of any person to public office.

_____ (c) _____ No public employee shall solicit any money, influence, service or other thing of value or otherwise promote or oppose any political committee or promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office holder while on the job during working hours. However, nothing in this section is intended to restrict the right of a public employee to express personal political views. (ORS 260.432)

2.02.470 Acknowledgment of Receipt of Personnel Policies

All permanent employees shall be given a copy of this chapter of the Code and shall acknowledge receipt by signing the following statement:

_____ "I acknowledge that I have received a copy of the Metro Code, Chapter 2.02, which outlines my working conditions, privileges and obligations as an employee. This chapter constitutes the general policies of Metro and may be supplemented by more specific policies. Further, I understand that this chapter is necessarily subject to change. I understand that no contract of employment can be created, nor can an employee's status be modified by any oral or written agreement (except a valid collective bargaining agreement), representation, or course of conduct. Lastly, I understand that these policies do not in any way constitute a contract of employment, either express or implied."

Print Employee Name _____ Employee Signature

Date _____ Social Security Number

**Exhibit B to
Staff Report for
Ordinance No. 05-1082**

CHAPTER 2.02
PERSONNEL CODE

2.02.010 PERSONNEL CODE

Sections 2.02.001 to of this Metro Code shall be known as and may be cited as the “Metro Personnel Code.”

The provisions in this chapter and Metro’s Personnel Policies do not constitute a contract of employment. Moreover, in order to meet future challenges, Metro retains the flexibility to change, substitute, and discontinue the policies and benefits described herein, at any time, with or without notice to employees. No person shall be deemed to have a vested interest in, or legitimate expectation of, continued employment with Metro, or any policy or benefit described herein or otherwise generally followed by Metro. No contract of employment can be created, nor can an employee’s status be modified, by any oral or written agreement, or course of conduct, except by a written agreement signed by the Council President or Chief Operating Officer and the employee, and subject to the approval of the Council.

(a) Duties of Chief Operating Officer

Administration and enforcement of the personnel code shall be the responsibility of the Chief Operating Officer. The Chief Operating Officer, or his or her delegee, shall:

- (1) Establish and maintain
 - (A) a record of all employees in Metro service
 - (B) the Metro employee classification plan
 - (C) the salary plan and salary administration policies, including employee benefits, including employee benefits
- (2) Prepare such rules, policies, and procedures as are necessary to carry out the duties, functions and powers of this personnel code, and to effectively administer Metro personnel.
- (3) Establish a system of personnel administration, based on merit, governing recruitment, appointment, tenure, transfer, layoff, separation, discipline of employees.
- (4) Devise and implement employee training programs, for the purpose of improving the quality of service rendered by Metro personnel.
- (5) Conduct labor negotiations with the authorized collective bargaining representatives of Metro employees

- (6) Serve as the final grievance adjustment officer in personnel matters.
- (7) Make quarterly reports to the Council regarding the personnel administration of Metro
- (b) The Metropolitan Exposition-Recreation Commission shall adopt personnel rules consistent with and subject to Sections 6.01.040(h) and (m) of the Code notwithstanding any provision of this chapter to the contrary. For this purpose, the authority and duties of the Chief Operating Officer to employ, manage and terminate employees referred to in this chapter shall reside with the commission for employees of the commission.

2.02.020 EXEMPTIONS

- (a) Notwithstanding any provision of this chapter, individual positions in the Office of Chief Operating Officer assigned to provide services to the Council may be designated as exempt from and not subject to this chapter provided that the Council President has given written approval of the exemption after 10 days prior notice has been given to members of the Council.
- (b) Notwithstanding any provision of this chapter, employees in the Office of Auditor shall be exempt from and shall not be subject to this chapter except as expressly determined in writing by the Auditor, limited however to budgeted funds allocated to the Office of Auditor.

2.02.030 DEFINITIONS OF PERSONNEL TERMS

For the purposes of this chapter unless the context requires otherwise, the following terms shall have the meanings indicated:

- (a) **“Auditor”** means the elected Auditor of Metro or his/her designee.
- (b) **“Chief Financial Officer”** means the person responsible for managing the financial affairs and budget of Metro and designated as such by the Chief Operating Officer.
- (c) **“Chief Operating Officer”** means the person holding the position of Chief Operating Officer established by Section 2.20.010 of the Metro Code.
- (d) **“Council”** means the elected governing body of Metro.
- (e) **“Department”** means a major functional unit of Metro as designated by the Chief Operating Officer.
- (f) **“Department Director”** means a person designated by the Chief Operating Officer to be responsible for the administration of a department or his/her designee.
- (g) **“Employee”** means an individual who is salaried or who receives wages for employment with Metro.
- (h) **“Full-time”** means a position in which the scheduled hours of work are 40 hours per week and which is provided for in the adopted budget.

- (i) **“Layoff”** means a separation from employment because of organizational changes, lack of work, lack of funds, or for other reasons not reflecting discredit upon the employee.
- (j) **“Part-time”** means a position in which the scheduled hours of work are less than 40 hours per week but at least 20 hours or more per week and which is provided for in the adopted budget.
- (k) **“Human Resources Director”** means the employee appointed by the Chief Operating Officer to administer the provisions of this chapter regardless of whether the person is also a Department Director.
- (l) **“Represented employee”** means an employee who is in a recognized or certified bargaining unit.
- (m) **“Separation”** is the cessation of employment with Metro not reflecting discredit upon the employee.
- (n) **“Status”** refers to the standing of an employee.
- (o) **“Termination”** means the cessation of employment with Metro.

2.02.040 NEW POSITIONS

Any new positions added to the budget require Council approval.

2.02.050 CHARITABLE SOLICITATIONS

- (a) Charitable solicitations of Metro employees while on the job during working hours shall be conducted in compliance with this section. No other solicitations of Metro employees while on the job during working hours by a charitable organization shall be permitted.
- (b) The Chief Operating Officer with consultation of Metro employees shall by executive order establish rules and procedures to implement this section, including procedures for applications, time and length of solicitation campaigns and payroll deductions. The procedures shall specify that all solicitations shall be made during a single campaign period lasting no longer than 30 days and that employees may sign payroll deduction cards for charitable donations only during a two-week period following the end of the solicitation campaign period. The Chief Operating Officer once each year shall certify all charitable organizations recognized by Metro for the purpose of conducting a fund drive among the employees of Metro. The Chief Operating Officer’s action shall be based on the criteria stated in subsection (3) of this section.
- (c) Charitable organizations recognized to conduct a fund drive among Metro employees while on the job during working hours shall:
 - (1) Be a fund-raising organization which raised funds for 10 or more charitable agencies.

- (2) Disburse funds only to agencies whose charitable activities are primarily in the geographical areas of Metro and which have an office located within Metro.
 - (3) Be exempt from taxation under Internal Revenue Service Code Section 501(c)(3).
 - (4) Be in compliance with the Charitable Trust and Corporation Act and the Oregon Solicitation Act (ORS 128.618 through 128.898). All charitable organizations who have made the required filings under such laws and have no enforcement action pending against them shall be presumed to be in compliance with such laws.
 - (5) Have a policy prohibiting discrimination in employment and fund distribution with regards to race, color, religion, national origin, handicap, age, sex and sexual preference in the charitable organization and all its grantee agencies.
 - (6) Provide an audited annual financial report to Metro for distribution to its employees 60 days prior to the charitable campaign.
- (d) Payroll deductions for employee charitable contributions shall be allowed only for charitable organizations in compliance with this section.

2.02.060 AFFIRMATIVE ACTION POLICY

- (a) **Policy Statement.** Metro states as its policy a commitment to provide equal employment opportunities without regard to race, color, religion, national origin, sex, age, disability, sexual orientation, or marital or familial status, except where a bona fide occupational qualification exists.
- (b) **Affirmative Action Program.** The Chief Operating Officer or his/her designee will adopt an affirmative action policy and program, as well as appropriate anti-discrimination and harassment policies, which will be set forth in separate documents. Such policies and programs will be distributed to employees at hire and be made available throughout Metro facilities. All employees are expected to familiarize themselves with these policies.
- (c) **Recruitment Efforts.** Recruitment efforts will be coordinated by the office of personnel in cooperation with the hiring department. Recruiting publicity will be distributed through appropriate media and/or other organizations to meet affirmative action guidelines. Such publicity will indicate that Metro is an affirmative action, equal opportunity employer and will be designed to attract a sufficient number of qualified applicants.

2.02.070 RECRUITMENT AND APPOINTMENT

- (a) Except as otherwise provided for in this Code, all appointments of employees shall be the sole responsibility of the Chief Operating Officer, subject to the provisions of this chapter.
- (b) All appointments of employees to the Office of the Metro Attorney shall be the sole responsibility of the Metro Attorney.
- (c) All appointments of employees to the Office of Auditor shall be the sole responsibility of the Auditor.
- (d) Appointments of Department Directors, the Chief Financial Officer, the Personnel Director, the Metro Attorney, staff in the Office of the Chief Operating Officer, and staff in the Office of the Auditor, may be made without going through the normal recruitment and selection process. The Personnel Director, the Chief Financial Officer, all Department Directors, and all appointed staff in the Office of the Chief Operating Officer shall serve at the pleasure of the Chief Operating Officer. Staff in the Office of Auditor shall serve at the pleasure of the Auditor.

2.02.080 DRUG AND ALCOHOL POLICY

(a) **Purpose**

The purpose of the Drug and Alcohol Policy is to assist Metro in providing and maintaining a safe, healthy, and productive work environment for employees. The Metro Drug and Alcohol Policy is applicable to all Metro employees. This policy authorizes drug and alcohol testing if there is reasonable suspicion of drug or alcohol impairment, as well as return-to-duty and follow-up testing. Drug testing shall be conducted in accordance with procedures established and administered by the Personnel Director.

(b) **Employee Conduct**

- (1) All employees are prohibited from engaging in the unlawful possession, dispensation, distribution, manufacture or use of alcohol or any controlled substance at any time while on duty, or in a Metro owned or operated vehicle(s).
- (2) It is the responsibility of any employee with a substance abuse problem to seek assistance, including any resources which may be required from Metro or Metro's employee assistance program, before drug and alcohol problems adversely affect the ability to perform his or her job or lead to violations of this policy.
- (3) All employees shall report to work in an appropriate mental and physical condition to work safely and effectively. No employee shall report to work or engage in work while under the influence of alcohol, or having the presence of illegal drugs, or any other disabling or controlled substance in his or her system.
- (4) Any employee who observes or has knowledge of another employee on duty in violation of this policy, and in a condition which poses a hazard to the safety or

welfare of others, shall report the information to his or her immediate supervisor, the employee's supervisor, or the Personnel Director.

- (5) This policy is not violated when an employee possesses and uses a physician-prescribed medication in accordance with the prescription.

(c) Drug and Alcohol Testing

Metro may require a current employee to undergo drug and alcohol testing if there is reasonable suspicion that the employee is under the influence of drugs or alcohol during work hours. "Reasonable suspicion" means an articulable belief based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of drugs or alcohol. Testing shall be conducted pursuant to standards and procedures administered by the Personnel Director.

(d) Definitions

For the purposes of this policy:

- (1) An employee has a controlled substance "in his or her system" when the employee tests "positive" in any blood or urine test administered if the result of such test meets or exceeds the level set forth in 49 CFR Part 40.
- (2) An employee is "under the influence" of alcohol when the employee has an alcohol test with the result showing an alcohol concentration level of 0.02 or greater.
- (3) The term "controlled substance" means marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP), as specified in Schedule I or Schedule II of the Controlled Substances Act (21 USC § 812).

(e) Drug Related Convictions

As required by the Drug Free Workplace Act of 1998, Metro employees shall notify Metro of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction.

(f) Refusal to Consent; Employees

An employee who refuses to consent to drug and alcohol testing when reasonable suspicion of drug or alcohol use has been identified is subject to disciplinary action up to and including termination. The reasons for the refusal shall be considered in determining the appropriate disciplinary action.

(g) Program Administration

The Drug and Alcohol Policy and program are administered by the Personnel Director.

2.02.090 SMOKING POLICY

Smoking (cigarettes, pipes and cigars) is prohibited inside all Metro facilities. Notwithstanding the provisions of this section, smoking is prohibited in any public meeting as defined in ORS 192.710.

2.02.100 EMPLOYEE ORGANIZATIONS AND REPRESENTATION

- (a) Employees of Metro have the right to form, join and participate in the activities of labor organizations of their own choosing for the purpose of representation and collective bargaining on matters relating to wages, hours and working conditions in accordance with the Oregon Revised Statutes and Regulations of the State Employment Relations Board.
- (b) Pay plans for represented employees are developed through collective bargaining and are subject to ratification by the Council.

2.02.110 POLITICAL ACTIVITY

- (a) Nothing contained within this chapter shall affect the right of the employee to hold membership in and to support a political party, to vote as they choose, to privately express their opinions on all political subjects and candidates, to maintain political neutrality and to attend political meetings. An employee must exercise all due caution in such activities to prevent public misunderstanding of such actions as representing Metro, or to bring discredit to Metro, the Council, or his/her supervisor.
- (b) No official, employee or any other person shall attempt to coerce, command or require any Metro employee to influence or give money, service or other thing of value to aid or promote any political committee or to aid or promote the nomination or election of any person to public office.
- (c) No public employee shall solicit any money, influence, service or other thing of value or otherwise promote or oppose any political committee or promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office-holder while on the job during working hours. However, nothing in this section is intended to restrict the right of a public employee to express personal political views. (ORS 260.432)

2.02.120 ETHICAL REQUIREMENTS FOR EMPLOYEES, OFFICERS, ELECTED AND APPOINTED OFFICIALS

- (a) The purpose of this section is to establish a Code of Ethics for Metro public officials which is consistent with current public policy established by the Oregon Legislative Assembly. Failure to comply with the provisions of this Code shall be grounds for disciplinary action for employees of Metro.
- (b) "Public official" means any employee, officer, elected official or appointed member of a board, commission or committee of Metro.
- (c) All public officials of Metro shall strictly comply with the following requirements:

- (1) No public official shall use official position or office to obtain financial gain for the public official, other than official salary, honoraria or reimbursement of expenses, or for any member of the household of the public official, or for any business with which the public official is associated.
 - (2) No public official or candidate for office or a member of the household of the public official or candidate shall solicit or receive, whether directly or indirectly, during any calendar year, any gift or gifts with an aggregate value in excess of \$100 from any single source who could reasonably be known to have a legislative or administrative interest in any governmental agency in which the official has or the candidate if elected would have any official position or over which the official exercises or the candidate, if elected, would exercise any authority.
 - (3) No public official shall solicit or receive, either directly or indirectly, and no person shall offer or give to any public official any pledge or promise of future employment, based on any understanding that such public official's vote, official action or judgment would be influenced thereby.
 - (4) No public official shall further the personal gain of the public official through the use of confidential information gained in the course of or by reason of the official position or activities of the public official in any way.
 - (5) No person shall offer during any calendar year any gifts with an aggregate value in excess of \$100 to any public official or candidate therefore or a member of the household of the public official or candidate if the person has a legislative or administrative interest in a governmental agency in which the official has or the candidate if elected would have any official position or over which the official exercises or the candidate if elected would exercise any authority.
- (d) The Auditor and every member of the Council of Metro shall be required to comply with the reporting requirements established by ORS 244.060, including the filing of a Statement of Economic Interest on an annual basis as required by state law. A copy of the Statement of Economic Interest shall be filed with the Council Clerk at the time of filing with the appropriate state agency.
- (e) The Chief Operating Officer, the Metro Attorney, the Chief Financial Officer, and all members of the Metropolitan Exposition-Recreation Commission and all Department Directors shall file annually with the Council Clerk a Statement of Economic Interest which is substantially consistent with that required by ORS 244.060.
- (f) Public officials shall comply with the following requirements regarding the declaration of potential conflicts of interest and recording the notice of a potential conflict:
- (1) If the public official is an elected public official or an appointed public official serving on a board or commission, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official.
 - (2) If the public official is any other appointed official subject to this chapter, notify in writing the person who appointed the public official to office of the nature of

the potential conflict, and request that the appointing authority dispose of the matter giving rise to the potential conflict. Upon receipt of the request, the appointing authority shall designate within a reasonable time an alternate to dispose of the matter, or shall direct the official to dispose of the matter in a manner specified by the appointing authority.

- (3) Nothing in subsection (1) of this section requires any public official to announce a potential conflict of interest more than once on the occasion which the matter out of which the potential conflict arises is discussed or debated.
- (4) Nothing in this section authorizes a public official to vote if the official is otherwise prohibited from doing so.
- (5) When a public official gives notice of a potential conflict of interest, the potential conflict shall be recorded in the official records of the public body.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 05-1082 FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 2.02 REGARDING PERSONNEL RULES AND DECLARING AN EMERGENCY

Date: May 26, 2005

Prepared by: Kevin B. Dull

BACKGROUND

After passage of the Metro charter amendment in 2001, Metro's form of government changed from a *strong* Council Executive to a *strong* Council Administrator form of managing the organization's day-to-day activities. One of the primary effects of the amended Charter was to align the strategic direction of the Metro Council to the goals and objectives of the Chief Operating Officer.

The Charter's change in the form of administering the day-to-day activities necessitates the need for the COO to have the tools necessary to effectively and efficiently manage the organization. Moving personnel policies from Code to an Executive Order effects the purposes of the charter amendment and allows the COO to effectively complete Council's policy directives regarding the management of Metro's human resources.

The efficient administration of Metro personnel matters regularly requires changes to Metro's personnel rules to meet budgetary goals, improve organizational efficiency, and to accommodate changes in laws and results of case law. The current Metro Personnel Rules contain policy statements as well as procedures for implementing personnel management.

The personnel code in its current state is a static document that prevents management from adopting best human resources management practices and changing the rules when laws affecting the code change. Removing the personnel rules from the code will allow management the ability to make necessary changes as required by law or to adjust to best human resource practices.

Examples:

Non-Represented Compensation:

Current compensation policy for non-represented employees is not flexible enough to adjust to council's goal of creating a merit pay-for-performance.

FMLA/OFLA (Family Medical Leave)

The current FMLA/OFLA policies do not allow management the maximum flexibility in managing an employee's use of FMLA/OFLA leaves and they do not allow management the flexibility to revise procedures in response to changes in legislation and/or results of case law.

The changes as proposed direct the Chief Operating Officer to create a body of personnel policies that comply with the laws related to human resource management and incorporate best human resource practices.

Removal of the personnel rules from code will not diminish a labor union's ability to demand to bargain over changes to the rules that affect mandatory subjects of bargaining (e.g. wages, hours and working conditions).

Additionally, removal of the personnel rules from code will not eviscerate the present language from existence. Rather, the present personnel rules will be transferred to an Executive Order. Human Resources will abide by and administer the Executive Order in this form until such time as revisions are made. All changes will be presented to the Council.

The COO will make quarterly reports to the Council regarding personnel administration of Metro. The council will retain oversight of the broad policy direction that the Council wishes Metro to pursue.

ANALYSIS/INFORMATION

1. **Known Opposition:** No known opposition.

2. **Legal Antecedents :** The Charter gives the Council the purview over personnel policies. The Council can address personnel policies through Code or it may delegate those responsibilities to the Chief Operating Officer. The Charter amendment of 2001 directed Metro to change from a strong Council Executive form of management to a strong Council Administration form of management.

The current version of the Personnel Code was created through a number of ordinances. In order to delegate the responsibility of creating and administering personnel policies to the Chief Operating Officer, the council must also pass an ordinance to move the current Personnel Code into an Executive Order.

3. **Anticipated Effects:** The Chief Operating Officer will have the authority to develop, maintain, administer and enforce Metro's Personnel Policies and Procedures.

1. 4. **Budget Impacts:** None

RECOMMENDED ACTION

Recommend that Metro Council amend Metro Code, Section 2.02 to read as shown in Exhibit "A" and declare an emergency.

Agenda Item Number 5.1

Ordinance No. 04-1063A, For the Purpose of Denying a Solid Waste Facility Franchise
Application of Columbia Environmental, LLC to Operate a Local Transfer Station.

Second Reading

Metro Council Meeting
Thursday, May 26, 2005
Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF DENYING A SOLID) ORDINANCE NO. 04-1063A
WASTE FACILITY FRANCHISE APPLICATION)
OF COLUMBIA ENVIRONMENTAL, LLC TO) Introduced by Michael Jordan, Chief
OPERATE A LOCAL TRANSFER STATION) Operating Officer, with the concurrence
) of the Council President

WHEREAS, on July 30, 2004 Columbia Environmental, LLC submitted a solid waste facility franchise application to operate a local transfer station at 14041 NE Sandy Boulevard in Portland Oregon; and

WHEREAS, on August 11, 2004 Columbia Environmental representatives met with Metro staff for a pre-application conference, where the application was determined to be complete; and

WHEREAS, in accordance with Metro Code section 5.01.070(h)(3), the Chief Operating Officer and the applicant agreed to a 30-day extension to the application review process; and

WHEREAS, the Metro Council was required to approve or deny the application prior to January 8, 2005, or the franchise will be deemed granted (see Metro Code section 5.01.070(g)); and

WHEREAS, on December 16, 2004 the Metro Council extended the review period for its decision on the application for an additional 60-days, as allowed by Metro Code section 5.01.070(h)(1) to provide the applicant and Metro staff with more time to further analyze cost savings and evaluate the applicant's proposed recovery plan; and

WHEREAS, on February 22, 2005 Metro received a letter from the applicant substantially modifying its application for a transfer station franchise that included a request for authority to accept 38,000 tons of putrescible solid waste per year rather than authority to accept 55,000 tons of putrescible solid waste per year as originally requested, and

WHEREAS, on February 28, 2005 Metro notified the applicant that in accordance with Metro Code section 5.01.070(h)(2) which provides that should an applicant substantially modify its franchise application during the course of the review, the 120-day review period for Council to act shall be restarted as of the date Metro received the applicant's modifications; and

WHEREAS, the Metro Council must approve or deny the substantially modified application prior to June 22, 2005, or the franchise will be deemed granted (see Metro Code section 5.01.070(g)); and

WHEREAS, Metro Code section 5.01.070 requires the Chief Operating Officer to review the application and other evidence submitted, to investigate as he deems appropriate, and to formulate recommendations regarding whether the applicant is qualified, whether the proposed franchise complies with the Regional Solid Waste Management Plan (RSWMP), whether the proposed franchise meets the requirements of Metro Code section 5.01.060, and whether or not the applicant has complied or can comply with all other applicable regulatory requirements; and

WHEREAS, the Chief Operating Officer has concluded that the applicant is qualified and can comply with all other applicable regulatory requirements, but that the proposed franchise does not comply with the RSWMP and does not meet all of the requirements of Metro Code section 5.01.060; and

WHEREAS, on the basis of the application and the Chief Operating Officer's investigation, the Chief Operating Officer recommends denial of the Columbia Environmental application for a solid waste franchise to operate a local transfer station; and

WHEREAS, Columbia Environmental may contest the Council's decision in this matter as explained in the contested case notice attached to this ordinance as Exhibit A, a copy of which shall be provided to Columbia Environmental as provided in Metro Code chapter 2.05; now therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

The solid waste facility franchise application of Columbia Environmental, L.L.C., is hereby denied. The Chief Operating Officer shall provide the applicant with contested case notice in a form substantially similar to that attached as Exhibit A. In the event that this decision is contested, a hearings officer shall conduct the initial contested case hearing as provided in Metro Code chapter 2.05.

ADOPTED by the Metro Council this ____ of _____, 2005.

David Bragdon, Council President

Attest:

Approved as to Form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

Executive Summary
Ordinance No. 04-1063A

For the purpose of denying the solid waste facility franchise application of Columbia Environmental, LLC to operate a local transfer station

Background

On July 30, 2004, Columbia Environmental, LLC submitted a franchise application for a local transfer station to be located at 14041 NE Sandy Boulevard in Portland, Oregon (located in Metro Council District 1). The proposed facility is located on a 12.5-acre site zoned IG2, a General Industrial base zone with a Scenic Resources overlay zone. It has operated as a source-separated recyclable processing facility since 1996.

The proposed facility is owned by a partnership. According to the applicant, there are two equal investment partners in Columbia Environmental: KCDK, L.L.C., and Oregon Recycling Systems (ORS).

Council review period extended

On December 16, 2004, the Metro Council extended the review period for its decision on Columbia Environmental (Ordinance No. 04-1063) for an additional 60 days, as allowed by Code. The purpose of the extension was to provide Metro staff and the applicant with more time to further analyze cost savings and evaluate the applicant's proposed recovery plan and report back to Council by March 9, 2005.

Franchise application substantially modified

On February 22, 2005 Columbia Environmental notified Metro it was revising its franchise application. It would now seek authority to accept 38,000 tons of putrescible solid waste rather than the 55,000 tons of putrescible waste requested in its original franchise application. Other operational changes were described related to Phase 1 through Phase 3 (future). These changes constituted a substantial modification of its franchise application (Metro Code section 5.01.070(h)(2)). As a result, on February 28, 2005, Metro notified the applicant that the 120-day review period for Columbia Environmental's modified franchise application would commence on February 22, 2005 and will expire on June 22, 2005. The Council must approve or deny the application within 120 days of the date the modifications were submitted by the applicant.

In its modified application for Phase 1, Columbia Environmental states that its cost savings are divided into two main categories: 1) lower tip fees for dry waste (\$300,000), and 2) transportation savings (\$1million to \$1.6 million); and it would conduct recovery at an overall rate of 10% from putrescible waste and 45% from non-putrescible waste. The applicant states these benefits will grow as Phase 2 and Phase 3 of their operations plan are implemented.

Five Metro Code evaluation factors

Metro Code requires the Council to consider five criteria when deciding whether to grant or deny an application for a regional transfer station franchise, but the Code explicitly provides that the Council need not be limited by only those five criteria. The analysis in the report has addressed all of the issues that the Chief Operating Officer is required to analyze, as well as all five of the criteria the Council is required to consider.

Findings

- ❑ In the short-term, Columbia Environmental's Phase 1 operations would, on balance, increase costs for the region's ratepayers by about \$238,000 to \$618,000 annually.
- ❑ Potentially lower transportation and disposal costs for Columbia Environmental's haulers—some of which are likely to be passed through to ratepayers—would be more than offset by the increased tip fees regionwide.
- ❑ The additional recovery, beyond that which now occurs, would be between 6,000 and 8,000 tons per year. This would add about three-tenths of a point to the regional recovery rate.
- ❑ For the longer term, and if approved, Phase 3 of the applicant's proposal would increase ratepayer costs by between \$534,000 and \$1,353,000, depending on how much of the cost reductions are passed on to the ratepayers.

Assuming that some savings would be passed through to ratepayers, it must be recognized that granting a local transfer station franchise to Columbia Environmental would create both winners and losers. Tip fee increases at Metro transfer stations would result directly in a local rate increase; whereas, transportation cost reductions have only a slight chance of lowering local rates. In addition, it has historically been the case when Metro increases its tip fee; other privately operated transfer stations and dry waste material recovery facilities also increase their tip fees. Thus, the cost of solid waste disposal services for the region's citizens and businesses will likely increase even more.

COO recommendation

Based on the detailed analysis of the applicant's revised proposal against the required Code criteria, staff concludes that the proposed transfer station is not in the public interest. The COO recommends denial of the applicant's proposal and approval of Ordinance No. 04-1063A.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 04-1063A FOR THE PURPOSE OF DENYING A SOLID WASTE FACILITY FRANCHISE APPLICATION OF COLUMBIA ENVIRONMENTAL, LLC TO OPERATE A LOCAL TRANSFER STATION

Date: November 2, 2004
Amended: May 4, 2005

Prepared by: Michael Hoglund

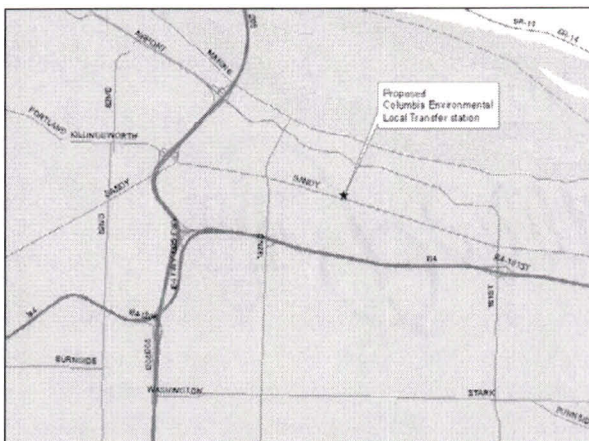
SUMMARY

Based on the criteria contained in Metro Code sections 5.01.060 and 5.01.070, the Chief Operating Officer recommends approval of Ordinance No. 04-1063A that would deny the solid waste facility franchise application of Columbia Environmental, LLC.

BACKGROUND

Columbia Environmental, LLC submitted a franchise application for a local transfer station to be located at 14041 NE Sandy Boulevard in Portland, Oregon (Site Location Map #1) and located in Metro Council District 1. The proposed facility is located on a 12.5-acre site zoned IG2, a General Industrial base zone with a Scenic Resources overlay zone. It has operated as a source-separated recyclable processing facility since 1996. The City of Portland has defined the impact area as a 60-acre trapezoid surrounding the site that includes some open channels and wetlands associated with the Columbia Slough. The nearest residential area to the site is south on NE Sandy Boulevard, approximately 200 feet from the proposed facility and separated by a parking area, a berm, the frequently-used Union Pacific rail line atop the berm, and NE Sandy Boulevard.

Site Location - Map #1



Aerial Photo of Subject Site



The proposed facility is owned by a partnership. The partnership includes independent haulers that also own Oregon Recycling Systems (ORS), which is a recycling business

operating on the site that is currently limited to accepting source-separated recyclable materials. According to the applicant, there are two equal investment partners in Columbia Environmental that contribute equally to a six-member board of managers. The board consists of members from each of the two equal ownership partners KCDK, L.L.C., and ORS. The three ORS members on the board are Mike Miller, David McMahon, and Richard Cereghino. The names of three of the members associated with KCDK are David Ross, Kirk Ross and Ty Ross. No other information was submitted regarding KCDK, LLC.

The aerial photo shows the location of ORS, the existing 96,000 square-foot building in the center of the photo. This building presently serves as a recycling processing business for residential source separated recyclables. The proposed transfer station would be housed in a new 36,000 square-foot building to be located in the center of the site, north of the exiting building.

The application process

Columbia Environmental submitted its local transfer station franchise application to Metro on July 30, 2004. Columbia Environmental representatives met with Metro staff for a pre-application conference on August 11, 2004, where upon providing additional information requested by Metro and proof of insurance, the application was determined to be complete and the 120-day review period was initiated. However, in accordance with Metro Code section 5.01.070(h)(3), the COO and the applicant agreed to a 30-day extension to the application review process.

On December 16, 2004, the Metro Council extended the review period for its decision on Columbia Environmental (Ordinance No. 04-1063) for an additional 60 days, as allowed by Code. The purpose of the extension was to provide Metro staff and the applicant with more time to further analyze fiscal impacts and evaluate the applicant's proposed recovery plan and report back to Council by March 9, 2005 (see **Attachment 1**, Agenda Item #5.1).

In addition to the five Metro Code evaluation criteria, at the December 16, 2004 Council hearing, a Metro Councilor introduced five additional evaluation factors for Council consideration in its review of the Columbia Environmental proposal. These included:

- 1) The ability for a significant number of remaining small independent haulers to compete in this region and ensure their competitiveness in the ever increasing vertically integrated system.
- 2) An innovative approach to increasing recycling through enhanced mechanization and by going after the significant amount of recyclable materials mingled in with multi-family putrescible waste.
- 3) A significant reduction in truck Vehicle Miles Traveled (VMT) given Columbia Environmental's proximity to their customers.
- 4) Potential cost savings to ratepayers on the east side.

- 5) The facility would provide a second transfer station in a watershed that currently generates about 130,000 tons a year.

These evaluation factors were discussed at the February 22, 2005 Council work session. Council provided no direction to the COO to incorporate the factors into the staff analysis. Therefore, each Councilor may consider these additional factors as he or she deems appropriate.

Metro staff met with Columbia Environmental representatives on December 21, 2004 to discuss the information that Metro required, including information requested by the Metro Council. In a letter from Columbia Environmental dated January 19, 2005, the applicant provided Metro staff with some of the information that was previously requested (see **Attachment 2**). This was followed up with a fax on February 8, 2005 from the applicant containing more information (see **Attachment 3**).

On February 10, 2005, Metro staff sent a letter to the applicant requesting the balance of the information that was necessary to evaluate the application as requested by the Metro Council at its December 16, 2004 meeting and at the follow up meeting between the applicant and Metro staff on December 21, 2004 (see **Attachment 4**).

On February 22, 2005 Metro received a letter from Winterbrook Planning on behalf of Columbia Environmental regarding its application for a transfer station franchise (see **Attachment 5**). In that letter the applicant stated that it was revising its application to seek authority to accept 38,000 tons of putrescible solid waste rather than the 55,000 tons of putrescible waste requested in Columbia Environmental's original franchise application. In addition, other operational changes were described related to phases for the material recovery system installation.

Metro considered these changes to constitute a substantial modification of Columbia Environmental's franchise application. In accordance with Metro Code section 5.01.070(h)(2) which provides that should an applicant substantially modify its franchise application during the course of the review, the 120-day review period for the Council to act shall be restarted as of the date Metro received the applicant's modifications. As a result, on February 28, 2005, Metro notified the applicant that the 120-day review period for Columbia Environmental's modified franchise application would commence on February 22, 2005 and will expire on June 22, 2005 (see **Attachment 6**). The Council must approve or deny the application within 120 days of the date the modifications were submitted by the applicant.

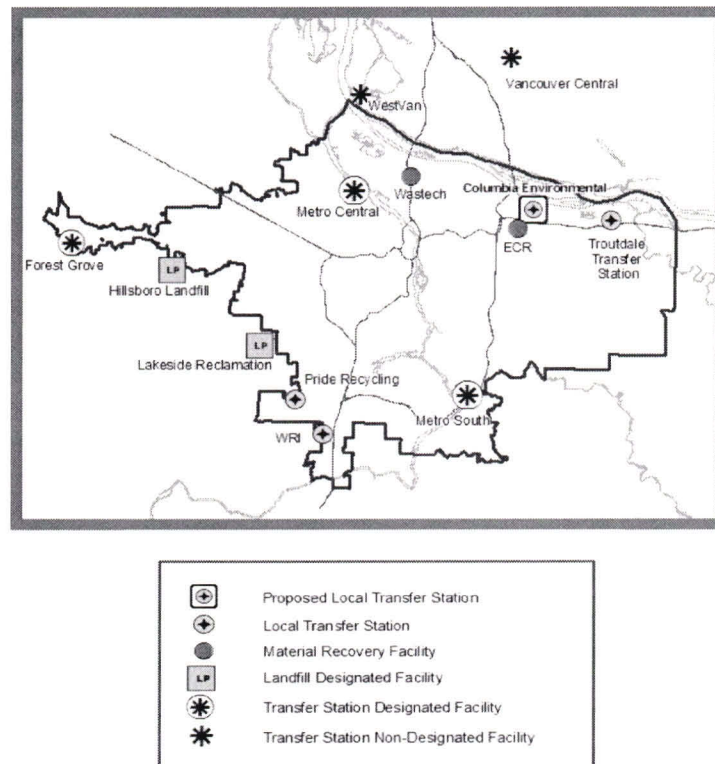
After conducting a review of the modified application information submitted by Columbia Environmental, Metro staff identified specific items that still required clarification in order to analyze the application consistent with Metro Code criteria. On March 8, 2005, Metro staff sent a letter to the applicant requesting clarification of those items (see **Attachment 7**).

On April 7, 2005 Columbia Environmental responded in writing to Metro staff questions (see **Attachment 8**). On April 13, 2005 Metro staff and the applicant met to discuss the information provided by the applicant.

Geographical context of the proposed local transfer station

The following map locates the proposed Columbia Environmental transfer station in relation to other primary facilities of the current solid waste system where waste generated in the Metro region is processed, transferred or disposed.

**Solid Waste Facilities and the
Proposed Columbia Environmental Transfer Station – Map #2**

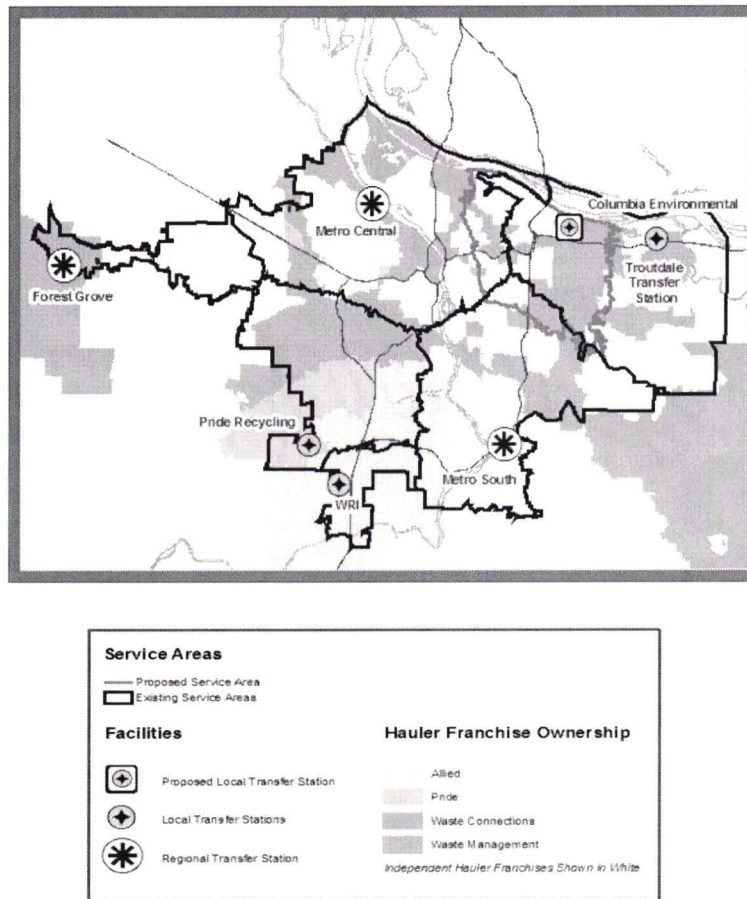


There are also numerous other specialized processing, composting and reload operations throughout the region (not shown). The two transfer facilities located in Clark County, Washington are used to process some solid waste generated from within the Metro region. Six other general and limited purpose landfills are found throughout Oregon and Washington and serve as disposal destinations for solid waste generated within the Metro region (not shown).¹ These landfills are located anywhere from 47 miles to 170 miles from the Metro region.

¹ Coffin Butte landfill, Columbia Ridge landfill, Finley Buttes landfill, Wasco landfill, Riverbend landfill, and Roosevelt landfill.

Each transfer station in the region has an associated service area based on the 2001 amendments to Chapter 5.01 of the Metro Code. Each of the service area boundaries are located equidistant from the next closest transfer station. Map #3 illustrates how the existing transfer station service area boundaries would change if Columbia Environmental's application were approved.

**Proposed Transfer Station Service Areas
with Approval of Columbia Environmental – Map #3**



As illustrated, inserting a new local transfer station service area into the regional system shrinks the service areas of the existing transfer stations (both Metro and non-Metro). The service area concept was adopted by the Council as a rationale for establishing the local transfer station tonnage caps, and as specified in Metro Code, are to be arrived at by: 1) establishing geographic service areas based on distance, 2) calculating the amount of putrescible waste for disposal in each service area (“demand”), and 3) limiting the putrescible waste tons that could be delivered to local transfer stations to the calculated demand.² In other words “demand” in each service area would set the “tonnage cap” for

² Annual putrescible waste tonnage authorizations are currently: Pride-65,000 tons, Troutdale-65,000 tons; and WRI-68,250 tons (2005-2006).

each local transfer station. Council was also interested in minimizing distances traveled by waste collection vehicles or reducing Vehicle Miles Traveled (VMT). This was to be accomplished by requiring each facility to serve haulers within its service area.

EVALUATION OF PROPOSED FRANCHISE APPLICATION

Columbia Environmental promotes several key points as part of its franchise application package, including:

- Granting the franchise would allow its members to reduce their transportation costs, in order to offset other ongoing increases in their solid waste collection costs. They claim this could result in lower franchise collection rate increases, allowing them to charge more competitive fees to Portland commercial customers;
- The proposed facility would help maintain the presence of small haulers as a stabilizing factor in providing solid waste services in the Metro region. The emphasized features of the proposal are improved accessibility to haulers, increased competition and enhanced material recovery capacity. The applicant provided a financial analysis showing a net “benefit” to the overall system of more than \$1.3 million.

Franchise application substantially modified

As noted, on February 22, 2005, Columbia Environmental submitted a letter to Metro that contained information that constituted a substantial modification to its original franchise application. In its letter, the applicant requested authority to accept and transfer 38,000 tons of putrescible solid waste per year. This is a reduction from its original request of 55,000 tons of putrescible solid waste per year. Based on the applicant’s Phase 1 estimates, the proposed facility would accept about 15,600 tons of dry waste per year (originally 32,000 tons per year).

In its modified application letter, Columbia Environmental proposes a three-phase approach to its investment in recovery equipment. This phased approach is a result of the reduction in putrescible waste tonnage. The applicant states that it is not economically viable for it to make all of its capital expenditures in recovery equipment at once. The applicant’s phased recovery plan is based on increases in its putrescible waste tonnage authorization from Metro as summarized as follows³:

³ The annual tonnages for Phase 1 through Phase 3 are estimates based on information provided by the applicant.

Proposed amounts (tons/year)	Original Application	Modified Application Phase 1	Modified Application Phase 2	Modified Application Phase 3
Putrescible waste	55,000	38,000	51,000	66,000
Non-putrescible waste	37,000	15,600	25,500	38,000
Recovery	29,000	11,745	20,815	32,234

The following is a brief summary of some of the additional information that was contained in Columbia Environmental's modified application information:

- ❑ The general geographic service areas where the applicant's waste will be collected.
- ❑ The applicant's cost savings estimates (lower tip fees for dry waste and transportation savings).
- ❑ A description of the applicant's recovery plans, proposed equipment and updated estimate of wet and dry waste recovery.
- ❑ A site plan illustrating the location of the proposed recovery equipment.
- ❑ Estimates of applicant's "vehicle miles traveled" (VMT) savings from reduction in truck travel times.
- ❑ A list of the ownership and membership of Columbia Environmental.
- ❑ Applicant's discussion on competitiveness of small haulers.
- ❑ Applicant's discussion of its proposed innovative approach to recovery.
- ❑ Tables illustrating the applicant's own findings regarding how its application meets the Metro Code evaluation factors.

Technical considerations with the Columbia Environmental application

As a result of several meetings and letters regarding the inconsistencies and lack of detail or clarity in some of Columbia Environmental's application information, Columbia Environmental expressed concerns about the amount of information required for the review process. However, staff notes the following regarding any application for a local transfer station franchise: 1) the applicant has the duty to demonstrate system benefit and consistency with the RSWMP, and 2) the applicant should provide accurate, verifiable and consistent data. Moreover, Metro Council requested additional information from Columbia Environmental.

Description of Evaluation Factors

This section provides analysis of explicit criteria for Metro Council consideration in determining whether to grant or deny the franchise application.

Metro Code

Metro Code 5.01.070(f) provides that the Council “shall consider but not be limited by” the five factors listed in the Evaluation Factors Summary Table shown on the next few pages. Further, as part of the Franchise application, Metro Code 5.01.060(d) requires the applicant to provide an analysis of the same factors described above (Metro Code 5.01.070(f)(1-5)). In its application, Columbia Environmental provided a narrative of how the proposal responds to these five factors.

Other evaluation factors for Council consideration

At the December 16, 2004 Metro Council hearing on Ordinance No. 04-1063, a Metro Councilor introduced five additional considerations for the Council to consider in its review of the Columbia Environmental proposal. They are:

- 1) The ability for a significant number of remaining small independent haulers to compete in this region; and ensure their competitiveness in the ever increasing vertically integrated system.
- 2) An innovative approach to increasing recycling through enhanced mechanization and by going after the significant amount of recyclable materials mingled in with multi-family wet waste.
- 3) A significant reduction in truck VMT given Columbia Environmental’s proximity to their customers.
- 4) Potential cost savings to ratepayers on the east side.
- 5) The facility would provide a second transfer station in a wasteshed that currently generates about 130,000 tons a year.

At the February 22, 2005 Council work session, these additional evaluation factors were discussed. The Council generally agreed that they were not adopted by the Council, but they were submitted only for individual Councilor consideration. It was further clarified by the Office of Metro Attorney, that the Metro Code requires the Council to consider the five factors in sections 5.01.070(f)(1) to- (5) before making its decision. Council could consider any other factors it thought were relevant and could weigh those factors however it felt was appropriate. There is no preset formula on how the factors should be weighed.

Table 1 – Summary of Evaluation Factors - Comparison of Original Application with Revised Application

This table compares staff findings from the original application with staff findings based on the modified application submitted by Columbia Environmental. The table summarizes whether or not the application submitted by Columbia Environmental meets the five Metro Code evaluation factors.

Staff Findings From Original Application				Staff Findings From Modified Application				
The Five Metro Code Evaluation Factors	Meets Criteria	Neutral	Does Not Meet Criteria	Summary of new information submitted by the applicant	Meets Criteria	Neutral	Does Not Meet Criteria	Findings on the Revised Columbia Environmental Application
<i>1. Consistent with the Regional Solid Waste Management Plan [Metro Code 5.01.070(f)(1)].</i> Will there be a <i>Net Benefit</i> to the regional solid waste system? <u>RSWMP considerations:</u> <ul style="list-style-type: none">CapacityAccess (under-served area)			X				X	Staff findings have not changed, however the application is not without merit. On balance, staff finds that the proposed facility would not produce a certain, equitably distributed, or sufficiently large net benefit to the regional solid waste system and therefore, staff cannot find the application to be consistent with the RSWMP.
			X	No new information was submitted by the applicant.			X	Staff findings have not changed. The region has more than adequate capacity to accept, manage and transfer all of the region’s waste for many years to come (refer to Metro’s Regional Transfer Capacity Analysis, April 2004).
			X	The applicant provided geographic areas served by affiliated haulers, and estimates of VMT savings associated with the proposed facility (107,386 miles saved), with less traffic congestion and pollution and produce more efficient hauling operations and greater profitability. In addition, applicant contends that the closest facility (Troutdale Transfer Station) is effectively restricted because it is owned by a competitor and is capped.			X	Staff findings have not changed as the proposed facility location does not meet the RSWMP standard for an under-served area (characterized as more than 25 minutes to a transfer station). Staff notes that the RSWMP does not explicitly define an “underserved area.” However, the facility would improve access and increase efficiency for its affiliated haulers by reducing travel times. It is by hauler choice that access to the nearby Troutdale Transfer Station is effectively restricted because it is owned by a competitor. Increasing its cap would not improve access for applicant’s affiliated haulers – since they claim they will not use it.

Staff Findings From Original Application				Staff Findings From Modified Application				
The Five Metro Code Evaluation Factors <i>RSWMP considerations</i> (continued):	Meets Criteria	Neutral	Does Not Meet Criteria	New information submitted by the applicant	Meets Criteria	Neutral	Does Not Meet Criteria	Findings on the Revised Columbia Environmental Application
<ul style="list-style-type: none">Recovery	X			The applicant provided more detail on its proposed recovery plan. Overall recovery rates are projected at: 10% from wet waste and 45% from dry waste. This exceeds the performance of any other similar facility. Applicant contends that high recovery rates result from innovative equipment, proximity to existing recycling processing, and a strong economic incentive (not affiliated with a landfill).	X			Staff findings have not changed. The applicant has proposed an aggressive recovery plan that would recover more from the waste stream than any other similar facility in the region (10% from wet and 45% from dry). According to the applicant, high recovery rates would result from equipment that includes “disk screens” to assist sorting, a strong economic incentive for recovery, and proximity to an existing recycling processing operation.
<ul style="list-style-type: none">Competition (competition also relates to Cost, which is discussed in Evaluation Factor #2)		X		The applicant contends that approval of its facility would allow a new, locally based entrant into the market. That increased competition promotes efficiency, and could lower prices. That the proposal would preserve a competitive marketplace for independent waste haulers which are threatened by large, vertically integrated, multi-national firms.		X		Staff findings have not changed. The proposed facility would allow a new locally based entrant into the market and could help the affiliated haulers become more competitive. However, the proposed transfer station could have negative impacts on competition by: 1) causing tip fee increases throughout the region that would be detrimental to many haulers that rely on Metro’s public transfer stations, and 2) increased tip fees at private facilities could provide a windfall to other solid waste operations in competition with the applicant.
<ul style="list-style-type: none">Cost to regional ratepayers			X	The proposed facility will produce some cost savings to its haulers and residential customers associated with lower tip fees on dry waste and transportation savings. However, depending on rate-setter decisions this could help lower rates or hold down increases.			X	Staff findings have not changed. The potential cost savings to the applicant’s affiliated haulers and customers would be offset by the certain increase in Metro’s tip fee. Further, other facilities would also raise tip fees, resulting in an overall increase in cost to all the regional ratepayers.

Staff Findings From Original Application				Staff Findings From Modified Application				
The Five Metro Code Evaluation Factors For Solid Waste Franchise Applications	Meets Criteria	Neutral	Does Not Meet Criteria	New information from the applicant	Meets Criteria	Neutral	Does Not Meet Criteria	Findings on the Revised Columbia Environmental Application
2. <i>The effect on the cost of solid waste disposal and recycling services for the citizens of the region [Metro Code 5.01.070(f)(2)].</i>			X	<p>In its modified application for Phase 1, Columbia Environmental proposes to accept 38,000 tons of wet waste and about 15,600 tons of dry waste per year. The applicant states that its cost savings are divided into two main categories: 1) lower dry waste tip fees, and 2) transportation savings.</p> <p><u>Applicant's estimated savings</u></p> <p>Dry waste tip fees = \$300,000</p> <p>Transportation = \$1 million - \$1.6 million</p> <p>Total savings = \$1.3 to \$1.9 million per year</p>			X	<p>Staff findings have not changed. If approved, Columbia Environmental's Phase 1 proposal will bring about a \$0.78 per ton increase in Metro's tip fee.</p> <p>As a result, the citizens of the region will incur net increased costs between \$238,000 and \$618,000, depending on how much of the cost reductions realized by CE's haulers are passed on to the ratepayers.</p> <p>For Phase 1, the applicant has overstated its projected transportation savings by \$732,000 to \$1.3 million.</p> <p>Phase 3 of the applicant's proposal would result in a tip fee increase of \$1.63 per ton, with a net increase in costs to citizens between \$534,000 and \$1,353,000.</p>
3. <i>Unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents [Metro Code 5.01.070(f)(3)]</i>	X			No new information submitted.	X			Staff findings have not changed. There is no reason to believe the applicant could not meet this criterion.
4. <i>Unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood [Metro Code 5.01.070(f)(4)]</i>	X			No new information submitted.	X			Staff findings have not changed. There is no reason to believe the applicant could not meet this criterion.
5. <i>Comply with all requirements and standards and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise [Metro Code 5.01.070(f)(5)].</i>	X			No new information submitted.	X			Staff findings have not changed. There is no reason to believe the applicant could not meet this criterion.

Based on balancing the Councilor Values for the Solid Waste System (see Table 2 below) staff suggests that the most important Metro Code evaluation factors are the first two: Consistency with the RSWMP and cost for the citizens of the region. Values 1, 3, 5 and 7 apply directly to Columbia Environmental's application and allows staff to consider Code criteria regarding RSWMP considering cost to the ratepayer as the most important criteria. Values 2, 4, and 6 are neutral as they pertain to Columbia Environmental's application.

Table 2
Councilor Values for the Solid Waste System

(As expressed at the public work session on July 2, 2003 and ordered according to the Council priorities)

- | | |
|---|---|
| 1. Protect the public investment in the solid waste system. | 5. Ensure regional equity - equitable distribution of disposal options. |
| 2. "Pay to Play". Ensure participants/users pay appropriate fees/taxes. | 6. Maintain funding source for Metro general government. |
| 3. Environmental sustainability. | 7. Ensure reasonable / affordable rates. |
| 4. Preserve public access to the disposal options (location & hours) | |

In its analysis of the Columbia Environmental transfer station franchise application, staff relied on 1) the evaluation criteria set forth in Metro Code section 5.01.060 and 5.01.070, and 2) the information submitted by the applicant. There are five evaluation factors listed in Metro Code that Council must consider. Again, Council is not limited by these five factors and may weigh them differently than staff, and may consider other factors.

Analysis of the Five Metro Code Evaluation Factors

The following is a detailed discussion and analysis of each of the five evaluation factors.

Evaluation Factor #1

Whether the applicant has demonstrated that the proposed Solid Waste Facility and authorized Activities will be consistent with the Regional Solid Waste Management Plan [Metro Code 5.01.070(f)(1)]

The Recommended Practice in the current RSWMP regarding new transfer stations is to:

"Allow additions to the existing system of three transfer stations as necessary to maintain solid waste transfer and disposal service levels. New transfer stations may be authorized where they provide a net benefit to the regional solid waste system. New transfer stations shall perform material recovery subject to facility recovery rate standards."

To determine consistency with the RSWMP, the application must show that it will result in an overall *net benefit* to the existing solid waste system. In order to evaluate the net benefit, the RSWMP includes provisions to be considered and balanced. These are:

- Capacity
- Accessibility (under-served area)
- Material recovery
- Competition
- Cost to regional ratepayers

In its application, Columbia Environmental indicates that the proposed transfer station will be consistent with the RSWMP because the proposed facility will: 1) improve accessibility to haulers, 2) provide services to an under-served area, and 3) enhance the material recovery capacity of the region, contributing to Metro's overall recovery and recycling goals.

The following section provides staff comment and analysis on each of the RSWMP provisions to be considered in order to assist the Council in its consideration of the application.

A. Capacity

The RSWMP policy on capacity: "...an efficient disposal system depends on both capacity and accessibility. New transfer stations may be considered when the delivery of efficient disposal services is negatively affected by either of these two factors."

Summary of applicant's analysis

The applicant did not address capacity.

Analysis/findings

In April 2004, Metro Solid Waste & Recycling staff issued the *Regional Transfer Capacity Analysis* report that addressed the capacity of the region's solid waste facilities to accept and load waste for transport to disposal sites. The analysis concluded that 1) the region's transfer capacity for putrescible waste currently exceeds the needed capacity by approximately 1.1 million tons per year, and 2) by 2015, the transfer stations that service the region will still have, at a minimum, 841,000 tons of unused capacity.

B. Accessibility

The RSWMP policy on accessibility: "...an efficient disposal system depends on both capacity and accessibility. New transfer stations may be considered when the delivery of efficient disposal services is negatively affected by either of these two factors."

The RSWMP's *Key Elements of the Recommended Practice* provide further clarification of the question of *accessibility*, with an emphasis that new transfer stations be located in "under-served" areas:

- *"Provide more uniform access to transfer stations, in order to improve system efficiencies in those areas of the Metro region that are under-served."*
- *"New transfer stations may be authorized where they benefit residents, businesses and solid waste haulers within the under-served areas."*

Summary of applicant's analysis

Columbia Environmental's application includes information on how its proposed facility would improve accessibility to its affiliated haulers. The applicant states that physical proximity is not the only factor that determines accessibility to haulers, and that price and ownership are also important. The applicant states that accessibility must be interpreted broadly to include all the factors that influence access to transfer stations. The applicant claims that the proposed new transfer station will significantly reduce travel times (and truck VMTs) for haulers in the areas it will serve. Further, the applicant claims that the proposed transfer station is located in an "underserved" area for transfer stations.

Analysis/findings

If approved, Columbia Environmental's new local transfer station would improve accessibility and reduce travel times for some of its affiliated haulers. However, the proposed facility would be sited only about 7 miles from the existing Troutdale Transfer Station (about 12 minutes driving time).

The working standard used to guide RSWMP policy for underserved areas has been that facility access is an issue in areas of the region that are more than 25 minutes travel time from a transfer station.⁴ However, staff notes that the RSWMP itself does not contain an explicit definition for what would constitute an "underserved area."

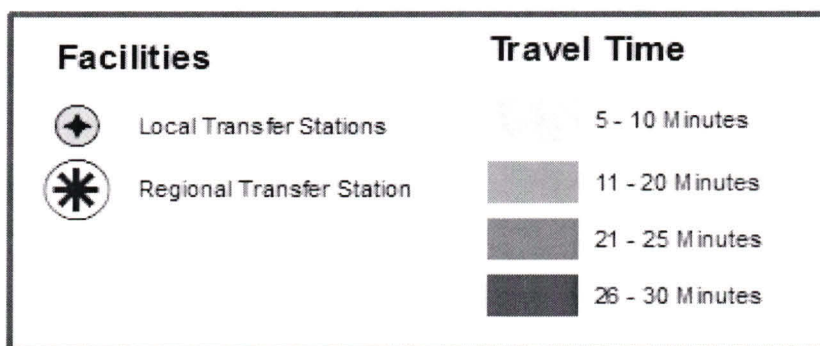
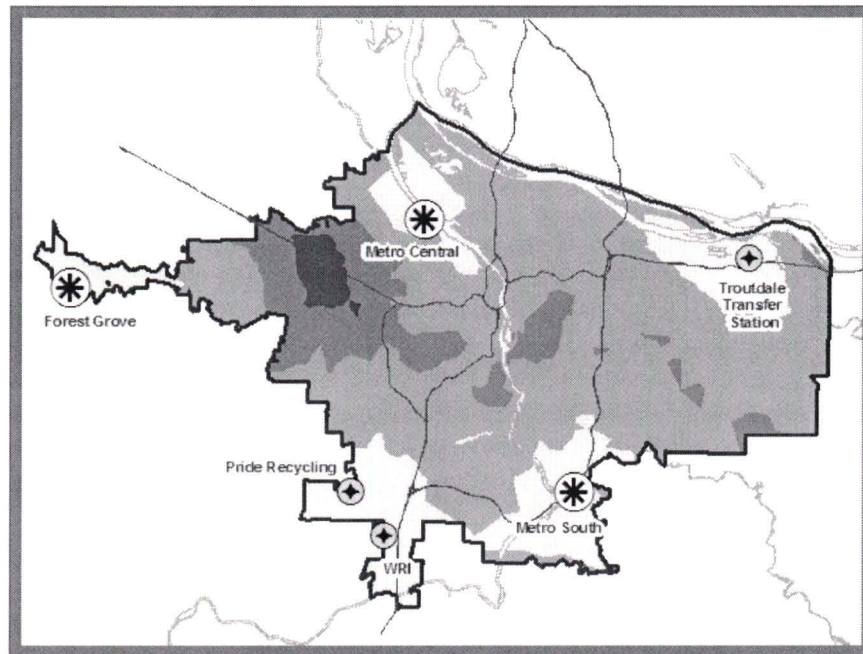
Estimated travel times relative to each of the six existing transfer stations are illustrated in Map #4 below.⁵

⁴ Staff Report to Ordinance No.00-865, adopted by the Metro Council on June 15, 2000.

⁵ Metro modeling network mid-day auto travel times for year 2000 are based on the modeling network developed by the Metro Planning Department for transportation planning purposes.

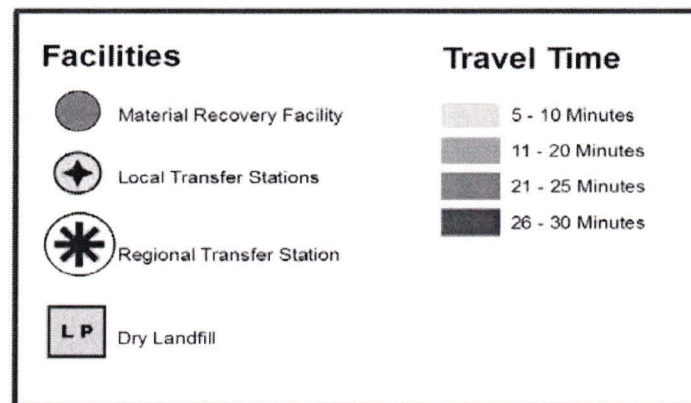
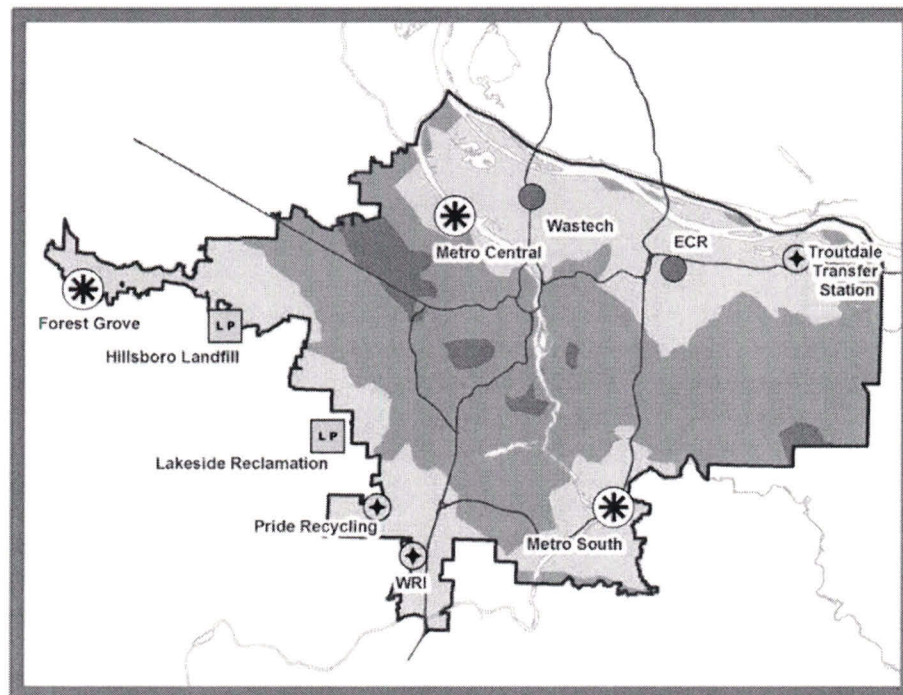
As illustrated, only an area in the western part of the region is more than 25 minutes away from an existing transfer station, and it would be unaffected by the proposed new transfer station.

Wet Waste: Estimated Travel Time to Nearest Transfer Station – Map #4



Moreover, regarding non-putrescible waste (“dry waste”), there are even more options available to the applicant’s affiliated haulers. This is because, in addition to the existing transfer stations that accept both wet and dry waste, there are also two mixed dry waste processing facilities located nearby: Wastech and East County Recycling (ECR), neither of which have any restrictions on the amount of waste Metro authorizes them to accept.

Dry Waste: Estimated Travel Time to Nearest Processing/Disposal Facility – Map #5



The applicant based its hauler travel time savings for solid waste on travel time to Metro's regional transfer stations (Metro Central or Metro South) and did not include consideration of the location of available existing infrastructure, such as Troutdale Transfer Station or the two nearby dry waste recovery facilities (Wastech and ECR). The applicant states that price and ownership are important factors to accessibility, and that many of its affiliated haulers were not willing to use the Troutdale Transfer Station because it is owned by one of their competitors. The applicant did not explain why the nearby dry waste recovery facilities are not used.

While the proposed facility would improve access for some Columbia Environmental independent haulers with collection routes within the proposed facility's new service area, the benefits of improved access cannot be viewed in isolation. Any new transfer station in the Metro region will enhance accessibility for some haulers. At some point the benefits of reducing travel time to the nearest transfer station are outweighed by inefficiencies caused by deteriorating economies of scale and resulting increased costs to the region's ratepayers (see the cost analysis in Evaluation Factor #2).

However, staff notes that the applicant does contend that the proposed facility would increase access to the system for haulers serving the most populous area of the region, and that it would significantly increase efficiency for haulers by reducing travel times. The applicant has estimated that the number of miles saved per year during Phase 1 for its affiliated haulers would be about 107,386 miles with the proposed facility. The applicant also states that access to the Troutdale Transfer Station is effectively restricted because this station already is at its Metro's tonnage cap, and because it is owned by a competitor.

Based on the preceding analysis: 1) the proposed location of the new transfer station is not within an underserved area, and 2) while adding this transfer station will not improve overall system efficiencies for businesses, residents and haulers that are not affiliated with Columbia Environmental and are located in close proximity to the proposed facility, the addition of the proposed local transfer station would improve access and efficiencies for many of the independent small haulers that are affiliated with Columbia Environmental and serve businesses and residences in this vicinity. Access for many of the applicant's affiliated haulers would be improved, because the applicant contends there are some 107,386 VMT savings that would be associated with the proposed Columbia Environmental facility.

C. Material Recovery

The RSWMP policy on material recovery: "*New transfer stations shall perform material recovery subject to facility recovery rate standards.*" Metro Code 5.01.125(b) specifies that franchised local transfer stations will recover at least 25 percent by weight of non-putrescible waste accepted at the facility.

Summary of applicant's analysis

The applicant states that recovery at the facility will be accomplished because Columbia Environmental has a strong economic incentive to recover recyclable materials from the waste stream. Columbia Environmental does not own a landfill to which the waste will be transferred and, therefore, has more of an incentive to conduct material recovery, which will bring revenue into the facility. For all phases of the proposal, the applicant states that the facility will operate using superior technology for sorting and recovery and that these systems are similar to the ones operating effectively in the two California facilities, as discussed in its February 22, 2005 letter. Further, the applicant states that the proposed facility is unique because of its proximity to existing recycling processing

activities, and that this creates efficiencies for the processing of recovered materials. The applicant states that while not all materials can be processed on site, cardboard, waste paper, glass, metal, and other specialty materials will be brought to the main building and turned into marketable commodities. Unlike other transfer stations, no additional truck trips will be needed to bring these materials to a processing center.

The applicant projects the proposed facility would conduct recovery at a rate of about 10 percent from putrescible waste and 45 percent from non-putrescible waste. In summary, the applicant claims that the proposed facility would have economic incentives for conducting greater recovery, that it would employ cutting edge sorting technology, and its proximity to recycling processing are innovative and unlike any transfer and recovery station in the region.

Analysis/findings

The applicant has indicated that it intends to maintain an aggressive recovery rate substantially greater than the minimum 25% standard required by Metro Code. According to Columbia Environmental's modified application material, during Phase 1, the proposed facility will recover 5% from putrescible residential waste, 25% from putrescible commercial and multi-family waste, and 30% from commercial containers and boxes. This represents a total of 5,220 tons of recovery from about 38,000 tons of putrescible solid wastes delivered to the facility. For non-putrescible wastes, the applicant proposes to recover 50% from residential drop boxes, 40% from commercial and construction & demolition debris. This represents about 6,525 tons of recovered materials from about 15,600 tons of non-putrescible solid wastes delivered to the facility. For Phase 1 operations, the proposed facility would recover a total of about 11,745 tons of materials each year.

The 11,745 tons of material the applicant projects will be recovered does not all represent *additional* tons recovered because wherever that waste is currently delivered, some amount of it is already being recovered. From the application, it is not clear whether any of that waste is currently being delivered to the two dry waste recovery facilities (Wastech and ECR) located closest to where Columbia Environmental is proposed to be located. Even so, there would likely be some increase in additional recovery, as both of these facilities achieve recovery rates somewhat lower than what the applicant is proposing for non-putrescible wastes.

If all of the estimated 15,600 tons of dry waste is currently delivered to one of the two Metro transfer stations, it would likely result in about 4,000 tons of recovery based on the 25% to 30% recovery rate at Metro transfer stations for dry commercial drop-box loads (the recovery rate for public self-haul loads is lower).

The additional recovery that the applicant claims it could achieve from recovery of both putrescible and non-putrescible wastes would be between 6,000 and 8,000 additional tons above and beyond that which already occurs at Metro facilities. This amount of new

recovery – at current generation levels – would add about three-tenths of a point to the regional recovery rate⁶.

While Metro staff supports the intention of the applicant to recover at a very aggressive level, staff is doubtful that the applicant will be able to achieve its projected recovery levels based on regional and national state of the art recovery experiences.

D. Competition

The RSWMP policy on competition: *“Metro shall encourage competition when making decisions about transfer station ownership or regulation of solid waste facilities in order to promote efficient and effective solid waste services. Metro shall consider whether the decision would increase the degree of vertical integration in the regional solid waste system and whether that increase would adversely affect the public. Vertical integration is the control by a private firm or firms of two or more of the primary functions of a solid waste system – collection, processing, transfer and hauling, and disposal.”*

Summary of applicant’s analysis

The applicant states that the proposed Columbia Environmental transfer station will preserve the presence of small independent haulers in the Metro system, which, in turn, improves competition. The applicant predicts that competition will increase efficiency and reduce system costs. For example, the applicant states that since 1988, there has been a significant decrease in the number of small haulers serving the Metro region due to consolidation and the presence of large, vertically integrated, multi-national firms. In response, the small haulers, in order to compete and survive in the business, need to engage in some of the same scale advantages as the larger, vertically-integrated corporations. The applicant contends that individually, the independent hauling companies are too small to provide their own processing or transfer station facilities. As a group, they can collectively compete for the waste and recycling business and remain viable in the marketplace. Recycling processing is a way that the coalitions of small haulers have maintained a revenue-generating activity that will allow them to grow. The applicant states that the best opportunity for small companies to participate in the waste business in the Metro region is for them to integrate processing, transfer, and hauling together, as does Columbia Environmental’s proposal.

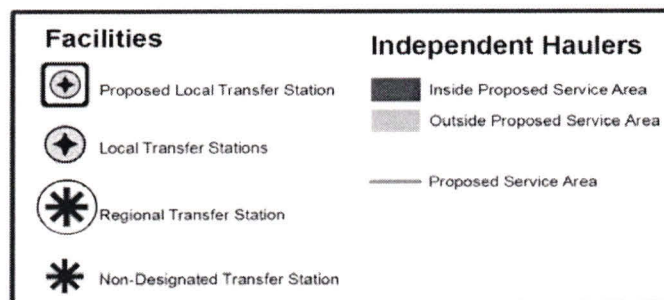
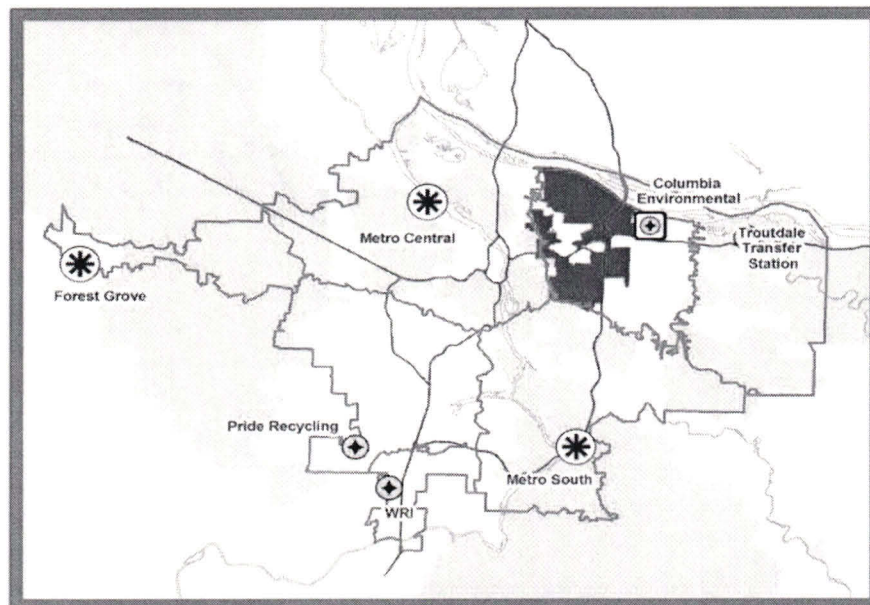
Analysis/findings

According to the RSWMP policy, competition should be encouraged in order to promote efficient and effective solid waste services. Further, Metro must consider whether the degree of vertical integration in the region would be increased and if it would adversely affect the public.

⁶ 8,000 tons additional recovery / 2,417,000 tons generated in region (2003) = 0.0033, or 3/10 of 1%.

The applicant has stated that its proposed facility would “preserve the presence of small independent haulers in the Metro system.” No quantitative information was included in the application to support that finding. In fact, as illustrated in Map # 6 below, there are many independent haulers located outside the new Columbia Environmental service area that will not benefit from the proposed transfer station.⁷

**Independent Hauler Franchises Located Inside and Outside
the Proposed Columbia Environmental Service Area – Map #6**



As illustrated in Map #6 above, there are a number of independent hauler franchises (shown in darker shade) inside Columbia Environmental’s proposed service area.⁸ These haulers will benefit from the proposed facility (through shorter drive time and lower dry waste tip fees). In contrast, if the transfer station were approved, the other independent

⁷ For the purpose of this report, independent haulers mean those haulers that do not own or are not directly affiliated with their own transfer station or landfill.

⁸ There are other Columbia Environmental affiliated haulers located outside the proposed service area that would use the proposed transfer station.

haulers in the region (franchises shown in lighter shade), many of whom also use Metro Central or Metro South, would be adversely impacted due to the expected increase in tip fees at Metro transfer stations (see Evaluation Factor #2). The applicant has represented that the owners of a number of these independent haulers who will be adversely impacted are also partners in the Columbia Environmental consortium. No detail was provided about revenue sharing among partners, so staff were unable to evaluate whether shared profits might offset some of the higher tip fees at Metro facilities; or what the net reduction in tip fees might be for those haulers using Columbia Environmental.

Would the applicant's proposed facility result in competition leading to an improvement in the delivery of efficient and effective solid waste services? Probably not. In a solid waste system that already has ample capacity and only limited access issues, the addition of new transfer capacity within a few miles of three other existing facilities (Wastech, ECR, Troutdale Transfer Station) is unlikely to noticeably improve service efficiency or effectiveness for more than a small subset of the region's haulers. Moreover, with tip fees expected to increase region-wide in response to Metro's higher per-ton costs if the facility is approved, the costs to most ratepayers would increase (see Evaluation Factor #2).

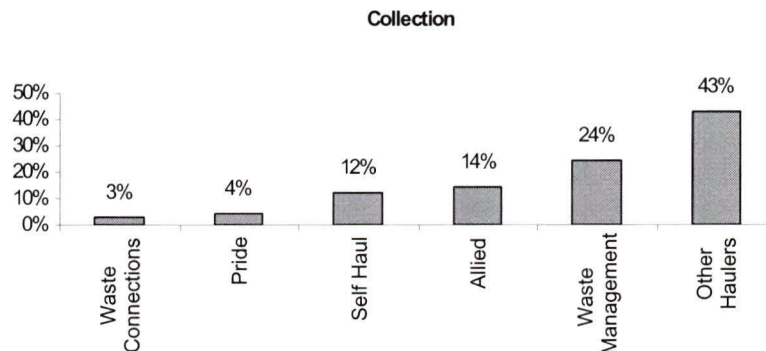
Would approval of the proposed transfer station have an impact on the degree of vertical integration, and would the public be adversely impacted? Yes to both questions. The Columbia Environmental haulers would become a new vertically integrated company, i.e., its members would control two of the three major pieces of the supply chain (collection and transfer). Hence, there would be a limited increase in the overall degree of vertical integration in the solid waste system. Whereas this new vertically integrated entity would likely gain some market power for commercial accounts, non-affiliated haulers and the general rate paying public would be negatively impacted due to the increased tip fees at other solid waste facilities (see Evaluation Factor #2).

Classical measures of competition commonly utilize the concept of "market share," i.e., the proportion of the total market controlled by the firm in question. Typically, competition will also lead to either lower prices for the consumer, as a result of market entry, or innovation in service or products. The proposal will actually increase rates (see cost analysis). However, new innovation in services or products is identified in the application as the applicant's approach to recovery and recycling.

The following graph illustrates that independent haulers ("other haulers")—including Columbia Environmental affiliates and non-affiliates—collectively still control 43% of the total collection service market. If approved, the Columbia Environmental transfer station would likely accept about 1/4 of the total solid waste delivered to transfer facilities by independent haulers, or about 11% of the total market.⁹

⁹ Estimated CY 2004 MSW tons taken to transfer stations by independent haulers is about 372,000 tons. Of this total, about 228,000 tons are delivered to Metro's public transfer stations.

Solid Waste Collection Markets for the Metro Region (FY 2003/04).



From a competition standpoint, it should be noted that the City of Portland actively encourages multiple haulers for its residential collection franchised routes. In order to prevent a monopoly by any single company, the City of Portland limits the total number of households (50,000) any single residential franchise can serve.¹⁰

In summary, the applicant's proposed facility would allow some of its independent affiliated haulers to operate more profitably. However, the increased "competition" would at best lead to a reduction in some commercial dry waste disposal fees, but an increase for most residential ratepayers in the region. Granting the Columbia Environmental franchise would increase costs for haulers and ratepayers who continue to rely on Metro's public transfer stations, and could provide a financial windfall opportunity to other solid waste facilities in competition with the applicant. One potential use of these windfall revenues elsewhere in the region could be to subsidize the cost of commercial collection in the City of Portland, further squeezing the profitability of independent haulers who currently compete in this market.

Staff notes, however, that the applicant contends that the proposal would allow a new, locally-based entrant into the market and that increased competition promotes efficiency, and could lower prices for some consumer services in some areas. The applicant also contends that, more importantly, the proposed facility will help preserve a competitive marketplace for independent waste haulers, which are at a competitive disadvantage when compared to the large, vertically integrated, multi-national firms.

Consistency with the RSWMP Conclusion

Based on staff analysis and findings, the Columbia Environmental proposed transfer station would not result in a net benefit to the solid waste system. Therefore, the proposed new transfer station would not be consistent with the current RSWMP.

¹⁰ The City of Portland estimates that there are about 135,000 total households.

Evaluation Factor #2

The effect that granting a Franchise to the applicant will have on the cost of solid waste disposal and recycling services for the citizens of the region [Metro Code 5.01.070(f)(2)]

Summary of applicant's analysis

In its modified application for Phase 1, Columbia Environmental proposes to accept 38,000 tons of putrescible waste and about 15,600 tons of non-putrescible waste. The applicant states that its cost savings are divided into two main categories: 1) lower tip fees for dry waste, and 2) transportation savings.

The applicant estimates dry waste tip fee savings of \$300,000 and transportation savings between \$1 million and \$1.6 million per year, for a total savings of \$1.3 to \$1.9 million.¹¹ Metro staff believe that increased tip fees regionwide will outweigh any Columbia Environmental savings.

Dry waste tip fee savings: The applicant states that it will charge its customers lower dry waste tip fees than does Metro's public transfer stations. Metro's current tip fee is \$70.96 per ton, and Columbia Environmental has represented that it would charge only \$55 per ton for dry waste. Columbia Environmental has indicated that it intends to charge the full Metro tip fee for wet waste at its proposed facility. Therefore, on dry waste received at the proposed facility, the applicant projects lower tip fees on 15,600 tons of dry waste will result in an estimated savings of \$300,000.¹²

Transportation savings: Off-route transportation costs are costs incurred after a truck leaves a collection route to deliver waste to a transfer station or disposal facility and then returns to the next collection point or the truck storage site. The applicant provided an estimate of 107,386 total off-route miles saved per year associated with using the proposed facility. The applicant modeled cost reductions based on a range of operational costs from \$9 per mile to \$15 per mile, resulting in projected savings of between \$1 million and \$1.6 million annually. The applicant states, however, that a per-mile operating cost is rarely used and much more difficult to estimate than per-hour cost because of widely varying time demands between on-route vs. off-route travel. So, in addition to the \$9 to \$15 per mile rate, the applicant provided an alternative \$70 per hour figure as more commonly recognized method to calculate the cost of operation.

Columbia Environmental states that savings realized by its affiliated, smaller haulers will: 1) have a constraining effect on their average collection costs, and, thus, will constrain rate increases for their residential customers, and 2) that it would allow their haulers the option to charge more competitive rates to provide service to Portland commercial customers. The applicant contends that it has no direct control over what fraction of the expected transportation savings is returned to the ratepayer, and that historically

¹¹ Based on approximately 107,386 miles saved x \$9 to \$15 per mile.

¹² The \$300,000 estimated savings by the applicant is the difference between Metro's tip fee (\$70.96) and its proposed tip fee (\$55) per ton on some 15,600 tons of dry waste.

efficiencies in the waste collection system have been expressed as a downward pressure on prices rather than actual reductions.

Analysis/findings

Introducing Columbia Environmental's Phase 1 operations into the region's solid waste system would, on balance, increase costs for ratepayers by about \$238,000 to \$618,000 annually. Potentially lower transportation and disposal costs for Columbia Environmental's haulers—some of which are likely to be passed through to ratepayers—would be more than offset by increased tip fees regionwide.

Metro staff estimate that based on the information provided by the applicant, haulers using the proposed facility could realize reduced annual costs of about \$249,000¹³ in lower dry waste tip fees, and annual reductions in transportation costs of about \$268,000.¹⁴ If realized, this would result in a total savings for Columbia Environmental's haulers of about \$518,000 per year. Furthermore, Metro staff believe that over \$250,000 of those reduced costs—if realized—would be passed through to ratepayers via local government rate setting.

At the same time, Metro's tip fee - which acts as the benchmark for local rate setters - would likely increase in response to higher per-ton costs at publicly-owned transfer facilities. In turn, private facilities would likely match Metro's tip fee increase. Thus, tip fees would increase regionwide. In total, higher tip fees regionwide are projected to add ratepayer costs of between \$755,000 and \$879,000 annually under Phase 1 tonnage assumptions, or between \$238,000 and \$618,000 net of Columbia Environmental savings.

Analysis of Applicant's Transportation Cost Parameters

Using the applicant's projected mileage savings and industry standard parameters, Metro staff calculate potential transportation cost reductions significantly lower than the applicant projects: a total of about \$250,000 vs. the applicant's \$1 million to \$1.6 million.

Reasonableness of Unit Cost Assumption

Metro's transportation planning group uses an average freight trucking cost of \$35 per hour in its models. An industry rule of thumb for garbage truck operating costs is \$70 to \$75 per hour. In its analysis of the applicant's estimate, staff used the higher industry standard of \$75 per hour in its estimates of operating costs and an average 30 mile-per-hour off-route truck speed. The applicant's cost estimate of \$9-\$15 per mile becomes \$270 to \$525 per hour.¹⁵

¹³ \$250,000 is based on the difference between Metro's current tip fee of \$70.96 per ton and Columbia Environmental's projected \$55 per ton dry waste tip fee, times the number of dry waste tons: $(\$70.96 - \$55.00) \times 15,600 \text{ tons} = \$248,976$.

¹⁴ Staff based its analysis on the applicant's projection of 107,386 miles saved per year. Taking an average truck speed on major roads and highways of 30 miles per hour and a truck operating cost of \$75 per hour would result in about \$268,000 cost reduction for Columbia Environmental's affiliated haulers.

¹⁵ The \$9-\$15 per mile does seem reasonable as the average cost per mile for a residential collection vehicle for *on-route* mileage. However, it is not appropriate to use these averages for the off-route trip to the transfer station and back to the garage. For the most part, trips to the transfer station, in particular to Metro's facilities, are made on arterial streets or highways, which permit average speeds of 30 miles-per-hour or greater.

Using the more reasonable assumptions of \$75 per hour operating cost and 30 mph average speed, transportation cost reductions on 107,386 miles traveled would amount to \$268,000.

Impact on Regional Tipping Fees

Metro's Tip Fee: Because Metro recovers some of its fixed costs from its direct customer base, all else equal; a loss of tonnage will increase Metro's per-ton costs. The tonnage diversion contemplated in Phase 1 would increase Metro's per-ton costs by about \$0.78 per ton. Phase 3 of the applicant's proposal would increase Metro's per-ton costs by about \$1.63 per ton. If the Metro Council maintained current cost recovery policies, those cost increases would translate directly to increases in Metro's tip fee. Thus, customers of Metro's two transfer stations would incur higher disposal costs as a result. Phase 1 and Phase 3 would add a total cost of about \$401,000 and \$755,000, respectively, for users of Metro's transfer stations. Projected tip fee increases at private facilities would about double that.

Non-Metro Tip Fees: Users of non-Metro facilities could also incur higher disposal prices. Private transfer stations and material recovery facilities in the Metro region tend to follow increases in Metro's tip fee. From an economics point of view, Metro can be viewed as the "price leader," while smaller private facilities are "price followers." In other words, Metro's tip fee sets the benchmark price in the region. If private facilities matched the projected increase in Metro's tip fee, then the total ratepayer impact of higher tip fees regionwide would be about \$755,000 to \$879,000 for Phase 1 and between \$1.5 million to \$1.8 million for Phase 3.¹⁶¹⁷

Net Ratepayer Impact

On balance, ratepayers would pay more for disposal and recycling services if Columbia Environmental were to begin operation as a transfer station. Columbia Environmental may create some ratepayer savings as local governments in the course of their normal rate-setting processes consider haulers' lower costs in franchised areas (e.g., City of Portland residential, and most of Gresham residential and commercial). In addition, in unfranchised areas (e.g., primarily City of Portland commercial customers) Columbia Environmental's haulers may choose to share some of their lower costs with their ratepayers. Public and private disposal prices can be expected to increase in response. In all, Columbia Environmental's Phase 1 is likely to increase ratepayer costs by between \$238,000 and \$618,000, depending on how much of the cost reductions realized by Columbia Environmental's affiliated haulers are passed on to the ratepayers.

And if approved, Phase 3 would increase ratepayer costs by between \$534,000 and \$1,353,000, depending on how much of the cost reductions are passed on to the ratepayers.

Refer to **Attachment 9** for additional details on Metro's cost impact assessment for Columbia Environmental's proposed Phase 1 and Phase 3 operations.

¹⁶ The range of total tip fee impacts stems from uncertainty in how closely non-Metro disposal facilities match Metro's price increases. The lower estimates for both Phase 1 and Phase 3 assume that dry waste tip fees throughout the region remain unchanged, while all wet waste matches Metro's projected increase. The higher estimates assume both wet and dry waste tip fees match the projected increase.

¹⁷ Note that ratepayers might see the same effect even if private facilities did not match a Metro tip fee increase, as Metro's rate is commonly allowed by local government rate setting authorities.

Conclusion

The citizens of the region will likely pay between \$238,000 and \$618,000 *more* annually for solid waste and recycling services if Metro grants Columbia Environmental a local transfer station franchise.

Phase 1 Ratepayer Impact Summary (refer to Attachment 9 for details)

Adjusted Gross Savings Passed on to Ratepayer: \$261,000 to \$518,000

Total Increase from Tip Fees: \$756,000 to \$879,000

ANNUAL NET COST TO RATEPAYERS: \$238,000 to \$618,000

Evaluation Factor #3

Whether granting a Franchise to the applicant would be unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents [Metro Code 5.01.070(f)(3)]

Summary of applicant's analysis

The applicant posits that the issue of adverse effects on area residents was completely reviewed as part of the City of Portland conditional use approval for the proposed Columbia Environmental transfer station. A "Decision of the Hearings Officer" was issued by the City of Portland (LUR 02-137433) in 2003 and the Hearings Officer concluded that:

- The "proposed waste-related uses pose no significant health or safety risk to nearby uses."
- Operations at the site "adequately address potential nuisance impacts."
- "Taking into consideration expected traffic impacts of the proposed use, both City and State requirements for traffic levels and safety on nearby streets would be met."
- From any residential property, "noise, vibration, odor, and glare will be difficult to detect at significant levels."
- "The existing facility has not had a citation of non-compliance in the five years it has been in operation."

In summary, the applicant claims that based on the information presented to the City of Portland, the Oregon Department of Environmental Quality, and in its application to Metro, there is no indication that the activities on the proposed site would be likely to unreasonably adversely affect residents of the region.

Analysis/findings

The proposed facility is located on a 12.5-acre site zoned IG2, a General Industrial base zone with a Scenic Resources overlay zone. It has operated as a source-separated

recyclable processing facility since 1996. The City of Portland has defined the impact area as a 60-acre trapezoid surrounding the site that includes some open channels and wetlands associated with the Columbia Slough. The nearest residential area to the site is south on NE Sandy Boulevard, approximately 200 feet from the proposed facility and separated by a parking area, a berm, a frequently-used rail line atop the berm, and NE Sandy Boulevard.

Following hearings on Columbia Environmental's application to the City of Portland for a conditional use permit, the Hearings Officer made a finding that "There will be no significant health or safety risk to nearby uses." Factors considered in the Hearings Officers written decision included evaluations of the potential for nuisances caused by traffic, noise, vibration, odor, glare, litter, dust, mud, and vectors. A conditional use permit was approved with conditions intended to assure the minimization of any impacts to nearby residents. Such conditions include the processing of waste only within enclosed buildings, the implementation of an odor control system that limits the migration of odors off-site, and on-going monitoring by Metro. These are conditions that are also routinely included in Metro transfer station franchises. Metro staff concurs with the Portland Hearings Officer's findings and concludes that the granting of the requested franchise is unlikely to unreasonably adversely affect the health, safety, and welfare of Metro's residents. In summary, the application satisfies this criterion.

Evaluation Factor #4

Whether granting a Franchise to the applicant would be unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood [Metro Code 5.01.070(f)(4)]

Summary of applicant's analysis

The applicant states that the potential for impacts on nearby residents and property owners was reviewed as part of the City of Portland conditional use approval for the proposed facility. The applicant refers to the Hearing Officer quotes listed above in responses to evaluation factor #4 as applicable to this factor. Further, the "existing character or expected future development of the surrounding neighborhood" was also considered as part of the land use case. The applicant asserts that the industrial area around the proposed facility is already mostly developed, with some vacant parcels, and the proposed transfer station would have no significant adverse impact on future development, residents, property owners, or the character of the area.

Analysis/findings

Following hearings on Columbia Environmental's application to the City of Portland for a conditional use permit, the Hearing Officer made a finding that "There will be no significant health or safety risk to nearby uses." Factors considered in the Hearings Officers written decision included evaluations of the potential for nuisances caused by traffic, noise, vibration, odor, glare, litter, dust, mud, and vectors. A conditional use

permit was approved with conditions intended to assure the minimization of any impacts to nearby residents. Such conditions include the processing of waste only within enclosed buildings, the implementation of an odor control system that limits the migration of odors off-site, and on-going monitoring by Metro.

Metro staff concurs with the Portland Hearings Officer's findings and concludes that the granting of the requested franchise is unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood. The area immediately adjacent to the facility is zoned for industrial uses, and two other solid waste facilities are already in operation on the site. The granting of this franchise therefore, is not likely to have any significant additional impact on nearby residents, property owners or the character and future development potential of the area. However, staff notes that there could be odor impacts on nearby residents or businesses that are created by Pacific Power-Vac (PPV), a tenant of Oregon Recycling Systems and co-located at the proposed Columbia Environmental facility. PPV treats sludges, wastewaters and sludge-like material for landfill disposal. In 2003, for example, Metro received a series of odor complaints regarding PPV's operations. In summary, the application satisfies this criterion.

Evaluation Factor #5

Whether the applicant has demonstrated the strong likelihood that it will comply with all the requirements and standards of this chapter (Metro Code Chapter 5.01), the administrative rules and performance standards adopted pursuant to section 5.01.132 of this chapter and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise [Metro Code 5.01.070(f)(5)].

Summary of applicant's analysis

The applicant states that Columbia Environmental will comply with all applicable regulations for the transfer station, and that the existing management team at the facility has an excellent history of meeting its regulatory obligations. Further, as stated by the City of Portland in the land use decision, "The existing facility has not had a citation of non-compliance in the five years it has been in operation."

Analysis/findings

To evaluate the likelihood that the applicant will comply with all applicable regulations, staff contacted both the City of Portland's Bureau of Environmental Services and the DEQ in order to examine the applicant's past record of compliance. Neither agency has had compliance issues with Columbia Environmental. Oregon Recycling Systems is the recycling processing business currently located on the site.

Oregon Recycling Systems has not been regulated by Metro except to periodically inspect them to assure only source-separated recyclables are being taken. The facility operators have always been cooperative with Metro staff. There is a presumption of a strong likelihood that Columbia Environmental will comply with all the requirements and standards of Metro Code Chapter 5.01. In summary, the application satisfies this criterion.

CHIEF OPERATING OFFICER'S RECOMMENDATION

The Metro Code requires the Chief Operating Officer to formulate recommendations to the Metro Council "regarding whether the applicant is qualified, whether the proposed Franchise complies with the Regional Solid Waste Management Plan, whether the proposed Franchise meets the requirements of [Metro Code] section 5.01.060, and whether or not the applicant has complied or can comply with all other applicable regulatory requirements." (See Metro Code 5.01.070(c).) In addition, the Metro Code requires the Council to consider five criteria when deciding whether to grant or deny an application for a regional transfer station franchise, but the Code explicitly provides that the Council need not be limited by only those five criteria. The previous analysis in this report has addressed all of the issues that the Chief Operating Officer is required to analyze, as well as all five of the criteria the Council is required to consider.

The Chief Operating Officer finds that the applicant is generally qualified to operate a local transfer station and has complied and can likely comply with all other applicable regulatory requirements. The Chief Operating Officer also finds that the application meets the requirements of Metro Code sections 5.01.060(a), (b) and (c), and 5.01.070(f)(3), (4) and (5).

The Chief Operating Officer believes, however, that the most important criteria are demonstration by the applicant that the proposed new facility will be consistent with the RSWMP and the effect that granting the franchise would have on the cost of solid waste services for the region's citizens (see Metro Code sections 5.01.070(c), (f)(1) and, (f)(2), and 5.01.060(d)). The RSWMP provides that new transfer stations may be considered when disposal services have been impaired by either of two factors: inadequate capacity or inadequate access.

It should be emphasized that the region's current transfer stations have more than adequate capacity to accept, manage, and transfer all of the region's waste for many years to come (refer to Metro's *Regional Transfer Capacity Analysis, April 2004*). If a new transfer station is to be granted, the primary rationale must be improved access. Moreover, the RSWMP also specifically provides that a transfer station may be approved if it will provide a net benefit for the region and if located in an "under-served" area.

The net benefit analysis of the applicant's proposal requires the weighing and balancing of several different RSWMP factors. Thus, to grant an application for a transfer station, an applicant must demonstrate that the benefits of doing so outweigh the costs that will accompany such a decision. Given this, prudence demands that new transfer station

franchises be approved only if the potential benefits are large and certain enough to outweigh potential risks and costs to the system.

Taking into consideration the changes made to the RSWMP in 2000 to allow consideration of new transfer station applications, the Chief Operating Officer concludes that the two most important issues to be considered are whether:

- (1) The proposed transfer station is located in an underserved area, and
- (2) The effect on the costs of solid waste and recycling services for the citizens of the region.

Furthermore, the Chief Operating Officer has considered the Councilor Values for the Solid Waste System in weighing the evaluation factors. In addition to each value, the Metro Council has indicated that all system-related scenarios or decisions will “maintain safety and public health throughout the solid waste system” as a minimal threshold for operation.

Underserved Area

One of Metro’s key objectives in deciding to consider the establishment of additional transfer stations was to provide for better access within the *underserved areas*. The working standard for underserved areas that guides the RSWMP policies for authorizing new transfer stations, are those areas within the region that are more than 25 minutes from a transfer station.¹⁸

As illustrated previously in the Estimated Travel Time Zone maps for both wet and dry waste (map #4 and map #5), the proposed transfer station would not be located in an area of the region where estimated travel time for wet waste would exceed 25 minutes. For dry waste, there are even more options available to haulers in this area when the dry waste recovery facilities are also considered since there are two nearby mixed dry waste processing facilities (Wastech and ECR). Therefore, based on the RSWMP considerations for establishing an under-served area, the proposed Columbia Environmental transfer station would not be located in an underserved area, and therefore does not meet the RSWMP requirement for approving a new transfer station.

As a local transfer station, Columbia Environmental would be located only 7 miles, or about 12 minutes away, from an existing local transfer station (the Troutdale Transfer Station), which already has both the authority and capacity to serve a substantial portion of their service area. Nevertheless, granting Columbia Environmental’s application would result in better access for those haulers affiliated with the proposed Columbia Environmental facility and located within its proposed service area boundary.

¹⁸ Staff Report to Ordinance No.00-865, adopted by the Metro Council on June 15, 2000.

However, almost any new local transfer station within the region would achieve similar results by improving local access by reducing travel time for some haulers, but at the same time create a very inefficient overall disposal system. Unless an area is truly underserved, the benefits of reducing travel time (and minimizing VMT) are outweighed by inefficiencies caused by deteriorating economies of scale at the region's existing transfer stations and resulting increase in cost to the regional ratepayers.

Costs to the Regional Ratepayers

If this application were approved, the citizens of the region would almost certainly incur increased costs estimated to be between \$238,000 to \$618,000 annually (over the status quo for Phase 1 of Columbia Environmental's proposal). At the same time, Columbia Environmental's affiliated haulers may be able to reduce their own costs; they state that it is unlikely these lower costs will be passed on to the ratepayers via lower garbage bills. The applicant claims, however, that future rate increases might be delayed.

Even if it could be assured that some savings would be passed through to ratepayers, it must be recognized that granting a local transfer station franchise to Columbia Environmental would create both winners and losers. That is to say, residents in franchised areas close to Columbia Environmental whose haulers began using that facility might see a savings in their garbage bills as their local governments factored the greater transportation efficiencies and localized tip fee savings into collection rates. However, the much larger group of ratepayers whose haulers continue to use Metro's transfer stations would be burdened with higher rates as Metro increased its tip fee to pay for its costs after having lost tonnage and, along with it, part of those stations' economies of scale.

Tip fee increases at Metro transfer stations would result directly in a local rate increase; whereas, transportation cost reductions have only a slight chance of lowering local rates. In addition, it has historically been the case when Metro increases its tip fee; other privately operated transfer stations and dry waste material recovery facilities also increase their tip fees. Thus, the cost of solid waste disposal services for the region's citizens and businesses would likely increase even more.

In summary, significantly more rate payers in the region would see cost increases than those who would see cost decreases.

COO Conclusion and Recommendation

While the COO continues to recommend denial of the application, the applicant's proposal is not without merit. It appears that granting its application would result in some transportation cost savings and some *dry waste* tip fee savings to its affiliated haulers. The question, however, is whether the estimated benefits are sufficiently certain, large, equitably distributed, and likely to be realized by the region's ratepayers to outweigh the likely costs and potential risks of granting this application. On balance, the Chief Operating Officer finds that the benefits to a limited number of haulers and customers do not outweigh the overall increases in costs to the rest of the citizens and businesses of the region.

For the above reasons, the Chief Operating Officer recommends approval of Ordinance No. 04-1063, denying Columbia Environmental's application for a local transfer station franchise.

Options for Council Consideration

The Council must weigh several policy criteria before determining whether to grant or deny the application. The staff has provided analysis of those policy criteria and has made a recommendation to deny the application. Not surprisingly, the applicant objects to the staff's recommendation, and presents its own interpretations of those policy criteria and arguments for why its application should be approved. This is a matter of a difference of opinion regarding the best way to interpret the policy criteria established to determine whether to grant or deny an application for a solid waste transfer station franchise. The Council may consider the information put forward by staff and the applicant and decide, based on those policy criteria and others, as the Council deems appropriate, whether to grant or deny the application.

The following alternative options are offered for Council consideration. These options would require additional evaluation, some more than others. However, the Council could direct staff to implement any of the options listed below, individually or in some combination.

1. **Additional evaluation factors.** The Council may consider additional evaluation factors in making a decision about the applicant's proposed local transfer station.
2. **Weigh evaluation factors differently.** The Council may decide to weigh the five Metro Code evaluation factors differently than did staff, and as a result, come to a different conclusion about the applicant's proposal.
3. **Implement mitigation measures for Metro's public facilities and the ratepayers.** If Council wanted to approve Columbia Environmental's proposal and reduce the adverse impact on ratepayers, the Council could consider implementing specific mitigation measures that would help off-set the impacts of lost tonnages to Metro's

public transfer stations. Staff offers the following four examples for Council consideration:

- a) **Reallocate existing tonnage authorizations at the three existing local transfer stations.** The Council has granted annual tonnage authorizations of 65,000 tons of putrescible waste to each of the three existing local transfer stations (Pride, Troutdale, and WRI). The Council could reduce the authorizations and reallocate the tonnages to the proposed Columbia Environmental facility. All three local transfer station franchises will expire at the end of 2008.
 - b) **Reallocate tonnages from the Forest Grove Transfer Station.** Unlike other private transfer stations in the region, the Forest Grove Transfer Station has no annual cap on the wet waste tonnages it can accept, because it is considered a regional transfer station. The facility is currently accepting about 145,000 tons of solid waste per year. As part of its evaluation of a new franchise agreement after the current franchise agreement expires, the Council could impose a tonnage authorization on this facility, as it does with other private local transfer stations in the region. The tonnages could then be reallocated to the proposed Columbia Environmental facility. The Metro franchise agreement for Forest Grove will expire at the end of 2007.
 - c) **Reallocate tonnages from Metro Non-System Licenses (NSLs).** Metro has issued NSLs to various solid waste hauling businesses accounting for some 83,000 tons of putrescible solid waste per year generated inside the Metro region. This waste is currently hauled to transfer stations and/or landfills not operated by Waste Management and is considered to be ten percent of waste not required by contract to go to the Waste Management facilities. The Metro Council approves issuance of NSLs to solid waste haulers that deliver putrescible solid waste to any facility outside the Metro region. One such example is Waste Connections (Arrow Sanitary and American Sanitary), that has two Metro NSLs to haul putrescible waste to its transfer station in Vancouver, Washington and disposed at Wasco County Landfill. The Council could limit the amount of tons that it grants in NSLs, and reallocate a commensurate amount to the proposed Columbia Environmental facility, since it intends to haul waste to Columbia Ridge – a Waste Management landfill.
4. **Restructure Metro's rates to mitigate impacts.** The Metro Council could adopt a rate structure that would insulate Metro's tip fee from solid waste tonnage diversions to other solid waste facilities (e.g., allocate Metro's fixed costs to the regional system fee).

If the Council decides to approve Columbia Environmental's local transfer station franchise application, then a franchise agreement will need to be drafted by staff, reviewed by the applicant and approved by the Metro Council. In such case, in order to ensure sufficient time for Council to act and approve the terms of a new franchise

agreement, Council should request that the applicant and the COO agree to extend the deadline for an additional 90 days as provided in Metro Code section 5.01.070(h)(3).

If the ordinance to deny the application is upheld by the Council and the matter is contested by the applicant, the Council has the option of having the matter heard by a Hearings Officer or by the Council (Metro Code section 2.05.025). The Chief Operating Officer recommends that the matter, if contested, be referred to a Hearings Officer for consideration. This would allow the Hearings Officer, an unaffiliated third party, to hear all of the evidence in the matter and to draft a Proposed Order, which the Council would then consider, along with any of the parties' objections to the Proposed Order, before issuing a Final Order in the matter.

ANALYSIS/INFORMATION

1. Known Opposition

The applicant, Columbia Environmental, LLC and its affiliated haulers that would use the facility are opposed to the proposed legislation.

2. Legal Antecedents

Metro Code Chapter 5.01 and the Regional Solid Waste Management Plan.

3. Anticipated Effects

If the legislation were adopted, the proposed local transfer station franchise application would be denied.

4. Budget Impacts

There would be no cost to implement the legislation, as the legislation would deny the franchise application.

RECOMMENDED ACTION

Council should approve Ordinance No.04-1063A, denying Columbia Environmental's application for a local transfer station franchise.

BM:bjl

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ATTACHMENT #1 TO ORDINANCE 04-1063A

MINUTES OF THE METRO COUNCIL MEETING

Thursday, December 16, 2004
Metro Council Chamber

Councilors Present: David Bragdon (Council President), Rod Monroe, Rex Burkholder, Carl Hosticka, Rod Park, Brian Newman

Councilors Absent: Susan McLain (excused)

Council President Bragdon convened the Regular Council Meeting at 2:01 p.m.

1. INTRODUCTIONS

Council President Bragdon introduced Mayor Becker from Gresham.

2. CITIZEN COMMUNICATIONS

There were none.

3. DAMASCUS UPDATE

Council President Bragdon said in November, the residents of the Damascus area voted to incorporate as a city – the first new city in Oregon in more than 22 years. This was not only a historic moment, but also a moment of opportunity. The people of Damascus have created the opportunity to build a vibrant community from the ground up. Clackamas County and Metro have the opportunity to provide our technical expertise to help Damascus develop their vision. He was pleased to welcome the newly elected Damascus City Council to Metro today:

- o Councilor John Hartsock
- o Councilor Barbara Ledbury
- o Councilor James Wright
- o Mayor Dee Wescott (elected by the Council at their first meeting)
- o (Absent: Councilor Randy Shannon)

He said, to the Damascus Council, you have a formidable but exciting job ahead of you. Metro will continue to provide technical support, planning assistance, and whatever else you need in the interim to help you achieve your goal of a thriving, livable community.

Councilor Park said in 2002, the Metro Council voted to include 12,000 acres in the Damascus area to the urban growth boundary. Clackamas County, citizen groups, non-profit groups and Metro facilitated a series of meetings and studies over several years to determine the “core values” of residents of Damascus and envision what a planned community could look like. The Damascus City Council now has the responsibility to help ensure that the community core values will be integrated into the concept plan, including: Maintaining the rural character, planning efficient transportation systems, creating opportunities for employment and development of local business, protecting open spaces and wildlife corridors, etc.

Michael Jordan, Chief Operating Officer, introduced and acknowledged Maggie Dickerson, a Clackamas County staff person. He talked about his time as a Clackamas County Commissioner and his experience working with the Damascus folks to engage them in their future. It was an inspiring experience.

Councilor Park thanked Mr. Jordan in his other capacity. He spoke to the sense of place that Damascus had. Today they were going to get to take a look at some of the concept plan alternatives chosen by the community. He then introduced and recognized the contributions of Metro staff that had assisted with the Damascus concept planning process: Ray Valone, Kim Ellis, and Lori Hennings.

Ray Valone, Planning Department, provided a power point presentation on the Damascus Boring Concept Plan. He again introduced and acknowledged Maggie Dickerson, Project Manager and John Hartsock, City Councilor for Damascus (a copy of the power point presentation is included in the meeting record). Mr. Hartsock thanked the Metro team for their efforts. They were constant professionals. Mr. Valone talked about the public involvement approach and the development of core values and goals. He noted key issues and next steps.

Councilor Newman asked about the relationship between Clackamas County and Damascus. When the final product was develop, who approved it? Who resolved key issues? Ms. Dickerson said they had not officially negotiated the approval process. There were two cities that would have the responsibility for implementing the concept plan. Mr. Hartsock said they would have to work together on the Springwater piece.

Councilor Park commented on additional discussions that needed to occur such as sewage and storm water issues. He spoke to challenges and opportunities. Mr. Hartsock talked about bringing in the entire piece. He said Council accommodated that and now it was their challenge and opportunity to come up with a concept plan. He spoke to future public involvement efforts.

4. CONSENT AGENDA

4.1 Consideration of minutes of the December 9, 2004 Regular Council Meetings.

4.2 **Resolution No. 04-3510**, For the Purpose of Accepting the November 2, General Election Abstract of Votes.

Motion:	Councilor Hosticka moved to adopt the meeting minutes of the December 9, 2004 Regular Metro Council and Resolution No. 04-3510.
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Vote:	Councilors Burkholder, Monroe, Park, Newman, Hosticka and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.
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5. ORDINANCES – SECOND READING

5.1 **Ordinance No. 04-1063**, For the Purpose of Denying a Solid Waste Franchise Application of Columbia Environmental, LLC to Operate a Local Transfer Station.

Council President Bragdon said there was a motion already on the table since this had been considered at a previous meeting.

Motion to postpone:	Councilor Park moved to postpone a decision by Council and direct staff to do the additional work with Columbia Environmental and report back to Council by March 9 th .
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Seconded:	Councilor Newman seconded the motion
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Councilor Park said Columbia Environmental, LLC, submitted a solid waste facility franchise application in July of this year to operate a local transfer station at 14041 NE Sandy Blvd.

The Chief Operating Officer recommended denial of the application because, based on Regional Solid Waste Management Plan (RSWMP) criteria and the requirements of the Metro Code.

He had reviewed the staff report and recommendation and he thought that there were other considerations Council should consider in their review of the Columbia Environmental proposal, which offered the following: 1) The ability for a significant number of remaining small, independent haulers to compete in this region and ensure their competitiveness in the ever-increasing vertically integrated system. 2) An innovative approach to increasing recycling through enhanced mechanization and by going after the significant amount of recyclable materials mingled in with multi-family wet waste. 3) A significant reduction in truck VMT given Columbia Environmental's proximity to their customers. 4) Potential cost savings to ratepayers on the east side. 5) Would provide a second transfer station in a waste shed that currently generates about 130,000 tons a year.

He suggested postponing a decision on Ordinance 04-1063 to allow staff time to work further with Columbia Environmental to analyze cost savings and evaluate the applicant's recovery plan.

Accordingly, he requested that Council extend the review time by 60 days as allowed by Code. This would give staff until March 9 to complete the additional work with Columbia Environmental.

If they worked successfully with Columbia Environmental, he would direct staff to report back to Council on or before March 9 with a plan that did the following: 1) Laid out a process and timeline for Council to take action on granting a franchise to Columbia Environmental. Grant 38,000 tons of wet waste to Columbia Environmental. Sets recovery performance targets consistent with Columbia Environmental's application that would be reviewed by Metro staff and Council, if necessary, on an annual basis. Exempts wet waste recovery from eligibility under the Regional System Fee Credit Program.

Councilor Monroe said he would support this motion. He was taken by the testimony from Columbia Environmental. He urged staff to look at options. He said we must maintain the viability and vitality of the transfer stations that we own. He urged Council to support the postponement. Council President Bragdon concurred with Councilor Monroe's remarks. He hoped we could provide opportunity with out injury to our public investment.

Councilor Hosticka asked who beside staff would be looking at this issue, any advisory committees? Mike Hoglund, Solid Waste and Recycling Director, responded Solid Waste Advisory Committee (SWAC) had been silent on the issue. There had been a few letters supporting the new transfer station. Councilor Hosticka said one of his real concerns about this was they were in the process of developing a Regional Solid Waste Management Plan. Dan Cooper, Metro Attorney, clarified the date to postpone. He suggested a date 60 days after January 8, 2005. Councilor Park suggested March 9, 2005. Mr. Cooper said he wasn't sure if there was a Council meeting on March 9th.

Vote to postpone:

Councilors Park, Hosticka, Burkholder, Newman, Monroe and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.
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5.2 Ordinance No. 04-1067, For the Purpose of Amending the FY 2004-05 Budget and Appropriations Schedule for the Purpose of Transferring \$92,902 from contingency to personal

services in the Planning Fund to Add 1.0 FTE Regional Planning Director (Program Director II); and declaring an emergency.

Motion:	Councilor Burkholder moved to adopt Ordinance No. 04-1067.
Seconded:	Councilor Monroe seconded the motion

Councilor Burkholder said this would add 1.0 for a regional planning director. They were looking at the needs of the Planning Department. He felt this position was necessary for leadership in issues such as the Big Look, Habitat Protection program. They had had a few discussions about the characteristics of the position. This was a high level position. He urged support. Councilor Park said they were setting a policy direction on what they would like to see come out of the department. The expectations that were laid out were on point. Council President Bragdon said when he recommended that this money be put in contingency he was looking for completion of some efforts before any position was considered. He would be voting no and explained his reasoning. He couldn't support the motion. Councilor Hosticka asked what the full-time commitment would be for next fiscal year. Mr. Jordan responded that attached to the staff report was a job description, which laid out salary ranges. Councilor Hosticka said it could be up to \$180,000. He shared the Council President's concern. This was a budgetary issue. He expressed concern about the uncertainty.

Council President Bragdon opened a public hearing on Ordinance No. 04-1067. No one came forward. Council President Bragdon closed the public hearing.

Councilor Park noted that this was a management decision. Councilor Hosticka said the question was did they want to spend up to \$180,000 in additional resources. Council President Bragdon concurred with Councilor Hosticka. He saw this budgetary decision as a policy decision. Councilor Burkholder urged an aye vote. He felt the strategic planning work had identified a need in this area. This department had had quite a few cuts over the past two years.

Vote:	Councilors Park, Burkholder, Newman, Monroe voted in support of the motion, Councilor Hosticka and Council President Bragdon vote no. The vote was 4 aye/2 nay, the motion failed because an emergency clause required 5 votes in support of the motion.
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Motion:	Councilor Newman asked that this ordinance be reconsidered on January 13, 2005.
Seconded:	Councilor Burkholder seconded the motion

Council President Bragdon said it would be reconsidered on January 13, 2005 without objection.

6. RESOLUTIONS

6.1 **Resolution No. 04-3513**, For the Purpose of Receiving the Performance Measures Report and Directing the Chief Operating Officer to Submit The Report to the Oregon Department of Land Conservation and Development.

Motion:	Councilor Newman moved to adopt Resolution No. 04-3513.
Seconded:	Councilor Burkholder seconded the motion

Councilor Newman introduced the resolution and called Andy Cotugno, Planning Director, and Gerry Uba, Planning Department, to provide additional information. No additional information was necessary. Councilor Newman urged an aye vote.

Vote:

Councilors Park, Hosticka, Burkholder, Newman, Monroe, and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.

6.2 Resolution No. 04-3520, For the Purpose of Directing the Chief Operating Officer to formulate regional policy options relating to Ballot Measure 37.

Motion:	Councilor Newman moved to adopt Resolution No. 04-3520.
Seconded:	Councilor Hosticka seconded the motion

Councilor Newman turned this resolution over to the Council President to introduce. Council President Bragdon spoke to the resolution and the need to work collaboratively with their local partners. He spoke to possible options in coordinating this effort. He also noted public involvement standards. There needed to be a search for other outcomes that we all wanted to achieve. He urged an aye vote. Councilor Hosticka asked about the scope of the activities of this group. He suggested trying to put some sort of outside deadline as to when people would have to file claims. He also suggested that under circumstances where payment was made, that payment act as a final decision on the claim. Councilor Burkholder suggested that the State of Oregon needed to be represented in this group as well. Council President Bragdon urged an aye vote.

Vote:

Councilors Park, Hosticka, Burkholder, Newman, Monroe, and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.

Council President Bragdon said the 2004 Functional Plan Compliance Report was not ready yet.

7. CHIEF OPERATING OFFICER COMMUNICATION

Michael Jordon, Chief Operating Officer, reminded the council about the reception for Councilor Monroe.

8. COUNCILOR COMMUNICATION

Council President Bragdon personally acknowledged Councilor Monroe for his many years of service. He spoke to the many contributions that Councilor Monroe had made to Metro. He thanked him personally for his civility.

Councilor Newman noted Councilor Monroe's contribution to this institution as well as the region. He talked about his own experience working with Councilor Monroe as chair of Joint Policy Advisory Committee on Transportation (JPACT). More than his progressive ideas, it was the attitude and professionalism that Councilor Monroe brought to the job. He shall be sorely missed.

Councilor Park said there was life after Metro. He had watched Councilor Monroe over the years. It had helped him become a better leader. He noted his work with the Convention Center and transportation. He thanked him for his many years of services to the general public.

Councilor Hosticka said he was sorry to see Councilor Monroe go. He had served with Councilor Monroe for over 20 years in a variety of capacities. They will miss him in this panel.

Councilor Burkholder recognized that this body was called upon to think regionally. He noted Councilor Monroe had worked on regional issues such as Bi-State Committee, Area 93, and a variety of other regional issues. He had done work to solve regional problems and provided a lot of leadership.

Council President Bragdon gave Councilor Monroe a plaque recognizing his years of service.

Councilor Monroe said it had been more than a decade serving at Metro. He had served in the legislature and as a teacher. He felt that Metro was an entity that looked out many years in the future. He said Metro was about his grandson's life a lot more than his own. He recognized his son, daughter-in-law and his wife. He will treasure this award. He offered to help in anyway. He expected to continue in public and private leadership roles if the come available.

9. ADJOURN

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 3:25 p.m.

Prepared by

Chris Billington
Clerk of the Council

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF DECEMBER
16, 2004**

Item	Topic	Doc Date	Document Description	Doc. Number
4.1	Minutes	12/9/04	Metro Council Meeting Minutes of December 9, 2004	121604c-01
3	Power Point Presentation	12/16/04	To: Metro Council From: Ray Valone, Planning Department, Re: Damascus Boring Concept Plan	121604c-02
3	Timeline	12/16/04	To: Metro Council From: Ray Valone, Planning Department Re: Damascus Organization Chart and Timeline	121604c-03
5.1	Memo and Metro Transfer Station Policy Study	12/14/04	To: Metro Council From: Michael Hoglund, Solid Waste and Recycling Director Re: Study to be continued and made part of the public record	121604c-04
6.2	Resolution No. 04-3520	12/16/04	Resolution No 04-3520, For the Purpose of Directing the Chief Operating Officer to Formulate regional policy options relating to Ballot Measure 37	121604c-05
6.1	2004 Performance Measures Report	121/6/04	To: Metro Council From: Gerry Uba, Planning Department Re: 2004 Performance Measure Report	121604c-06



METRO
R.E.M. DEPT.
05 JAN 24 AM 11:01

January 19, 2005

Bill Metzler
Metro Solid Waste Division
600 NE Grand Ave.
Portland, OR 97232

Dear Bill:

This letter is a response to Metro's request for more information regarding the Columbia Environmental Local Transfer Station application. Staff repeated this request after the Council hearings. Your questions are addressed below in the order they were asked.

Cost savings

1. Geographic areas from which wastes are generated

Columbia Environmental is still collecting and organizing this information from the haulers and will provide it to Metro in a separate document.

2. Characteristics of "special wastes"

The estimated 5,000 tons of special wastes referred in Part 1, page 4 of the application should more accurately be called "inerts." The table in Part 3, page 4 of the application contains a clearer breakdown of each category of waste and their estimated tonnages. The 5,000 tons in this table is categorized as inerts, and the quantity of special wastes is listed as "none." Inerts are likely to be construction and demolition debris such as rock, brick, dirt, concrete, and sand. The applicant apologizes for inconsistency in terminology. The facility will not accept hazardous wastes.

Material Recovery

1. Separation of wet and dry waste streams.

Wet wastes and dry wastes will be kept separate by being located on opposite sides of the transfer facility. Wet waste will be processed on the north side of the proposed transfer station, dry waste on the south side. The two waste streams will have different loading areas and will be loaded using separate equipment and trucks.

2. Route-collected waste or drop boxes?

The proposed facility will handle both route-collected waste and drop boxes. Nearly all the wet waste collected will be from residential sources. Nearly all of the inerts (construction and demolition debris) will be delivered in drop boxes. Dry waste delivered to the site will be split, approximately 60 percent arriving in drop boxes and 40 percent route-collected.

Drop box loads of dry wastes will likely require a heavier floor sort to remove large bulky items and recover recyclable materials. Then both drop box and route-collected dry waste loads will be processed with the same methods. This waste stream typically has a very high recovery rate for recyclable materials such as wood (e.g., pallets, lumber) and cardboard.

3. Material recovery and sorting methods

For dry wastes, loads will be tipped on to the sorting floor, and large bulky items (e.g., mattresses) will be removed using skid steer loaders. The remaining materials will be fed onto a sorting and recovery line that will potentially incorporate a debris recovery screen, a cross belt magnet, and some manual sorting. Skid steer loaders will also be used to move the separated and sorted materials for recycling (wood, cardboard, metals), and the residual waste for delivery to the landfill.

Wet wastes have a lower recovery rate. Large items will be removed in the same way as from the dry waste stream. Residual waste will be loaded into closed containers for transfer.

4. Moved to recycling processing facility

Recyclable materials recovered from the waste streams in the new building will be placed in drop boxes. Recyclables that can be processed on site by the existing facility will be transferred between buildings in roll-off trucks, and subjected to further processing.

5. Material loaded into trailers

The materials loaded into containers for transport off-site will predominantly be residual waste products. Mixed Solid Waste will be transferred to Oregon Waste Systems (WMI). Dry waste residuals will be transferred to a pre-approved landfill. Wet waste will be placed in sealed containers, per Metro regulations for transport.

While the original intent of transfer station operations was to push the waste products into top-loading, sealed containers, further engineering has revealed functional difficulties

with that design. As a result it is more likely that wastes will be compacted in an Amfab-type compaction system, then the compacted waste will be pushed into the side of empty containers. This requires less mechanics and infrastructure, and little change in efficiency. The location of the containers and loading areas will be the same as shown on the site plan.

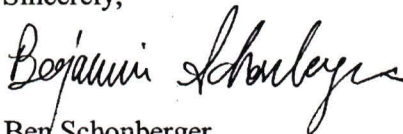
6. Traffic patterns to main building

Traffic delivering materials for recycling processing will enter the site through the new driveway on the west, be weighed on the on site scale if necessary, then proceed around the east side of the new building and main building. Some trucks will unload at the dock on the northeast corner of the existing building. (This traffic pattern is shown in the graphic on the last page of the land use decision in the July 30 application submittal.) Most trucks will proceed around the east side of the existing building to unload in one of the bays on the building's south side.

7. Activities in the existing building

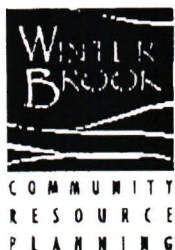
A plan of the existing buildings on site with the current activities indicated is attached to this letter. As shown on the site plan, the shop and repair functions of the small building to be demolished will be relocated to the north side of the proposed new building.

Sincerely,

A handwritten signature in black ink, appearing to read "Benjamin Schonberger". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ben Schonberger
Associate Planner

ATTACHMENT #3 TO ORDINANCE #04-1063A



FAX

To: Bill Metzler
From: Ben Schonberger
Date: February 8, 2005
Copy:
Re: Existing activities

Fax #: (503) 797-1795
Fax #: 503-827-4350
Pages: , including cover
Fax #:

☐ Urgent

☐ For Review

☐ Please Comment

☐ FYI

☐ Original To Be Sent By Mail

Attached is an annotated site plan of the Columbia Environmental site that shows the activities in the existing buildings. This responds to a question in your earlier memo.

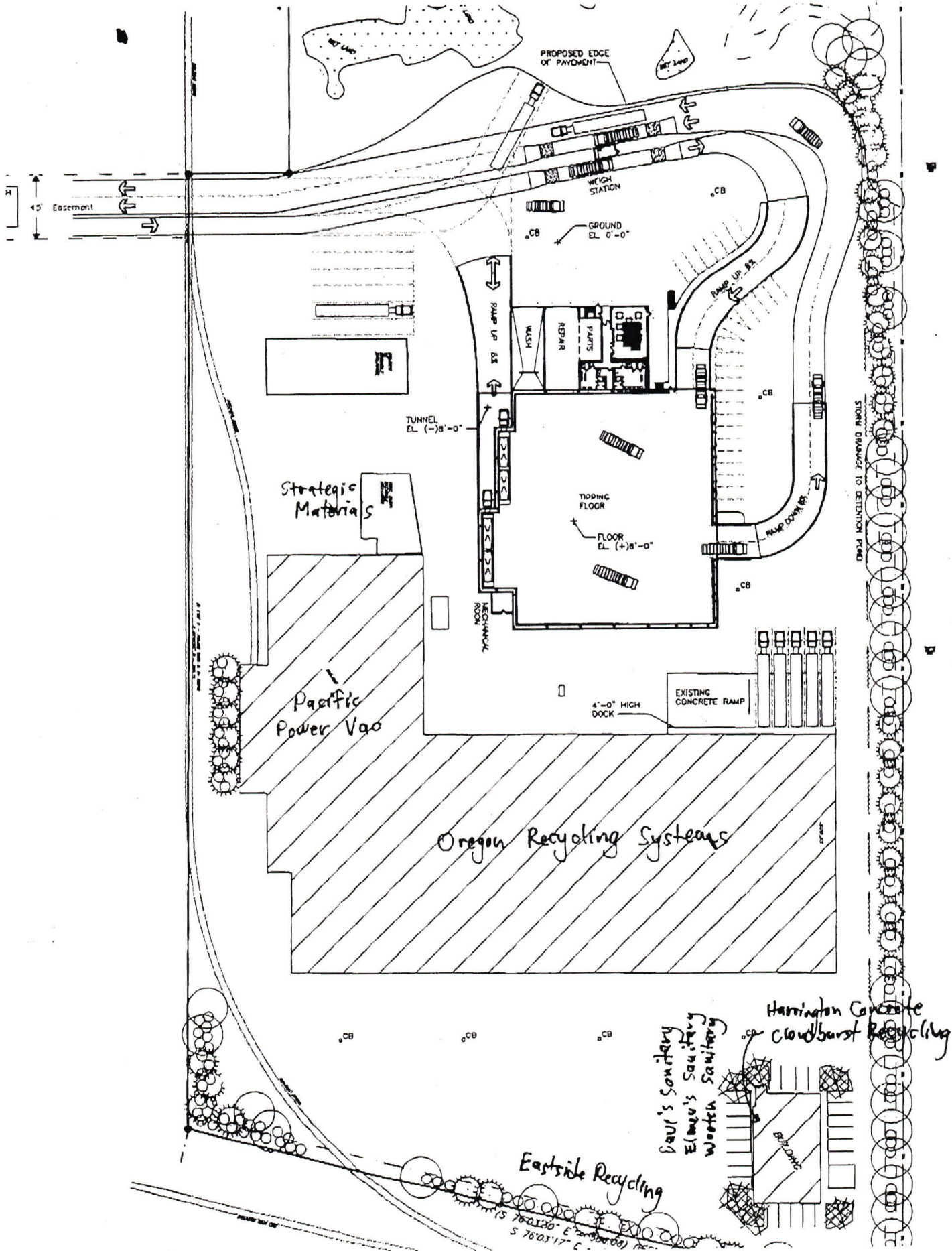
Existing space in the facility is divided among three primary tenants, shown on the map.

1. Oregon Recycling Systems processes and sorts recycled plastic, paper, metal and container glass for bulk resale.
2. Strategic Materials collects container glass and plate glass for transfer to a California facility where the glass is converted into "cullet," and ultimately into end products such as wine bottles or fiberglass insulation.
3. Pacific Power Vac is a vacuum waste treatment service that collects and processes oils, grease, sludge, and water from sources such as parking lot catch basins.

The other tenants indicated on the map—Eastside Recycling, Dave's Sanitary, etc.—are primarily recycling or waste haulers that park trucks or store equipment at the site.

Metro staff observed the operation and location of all these activities during their site visit on September 21, 2004.

Winterbrook Planning
310 SW Fourth Ave. Suite 1100 ■ Portland, Oregon 97204-2305
503.827.4422 ■ 503.827.4350 (fax)
ben@winterbrookplanning.com





METRO

February 10, 2005

Mr. Bryan Engleson
Columbia Environmental, LLC
14041 NE Sandy Blvd.
Portland, OR 97230

Re: Council Extension for Application Review

Dear Mr. Engleson:

On January 24, 2005, Metro received the January 19, 2005 letter from Winterbrook Planning that outlined some of the additional information Metro had requested from Columbia Environmental at the December 21, 2004 meeting. As you recall, on December 16, 2004, the Metro Council postponed its decision on Ordinance No. 04-1063 for an additional review period of 60 days. During this timeframe Council requested that Columbia Environmental and staff work together to analyze cost savings and evaluate Columbia Environmental's proposed recovery plan. Metro staff met with Columbia Environmental on December 21, 2004 to discuss the information that Metro required of Columbia Environmental.

Notwithstanding the information you provided in your January 19, 2005 letter from Winterbrook Planning, it is my understanding that Columbia Environmental is still working on the balance of the information requested by Metro at that meeting. These include: 1) geographic areas from which wastes will be generated (for cost savings), 2) cost savings estimates (refer to the sample table provide to you at the meeting), 3) a revised application with a 38,000 ton request for putrescible solid waste, 4) a more detailed description of how Columbia Environmental plans to achieve the high recovery rates along with information on its proposed mechanized material recovery system with clarified or revised estimates of projected recovery rates from both wet and dry wastes, 5) a site plan that illustrates all the proposed activities and major equipment such as mechanized material recovery system and the proposed solid waste compactor in the proposed building, and 6) estimates for VMT savings. Columbia Environmental should provide baseline hauler VMT without its proposed transfer station and the proposed hauler VMT with the proposed transfer station.

At the December 16, 2004 Council hearing, Councilor Park offered five additional evaluation criteria for Council to consider in its review of Columbia Environmental's application. These are outlined in the attached Table 2- Additional Council Evaluation Factors. As you can see, factors #7 (innovative recovery approach) and #8 (VMT

reduction) require information to be submitted from Columbia Environmental so that findings can be developed. Table 1 is also attached and summarizes findings regarding whether or not Columbia Environmental's application meets the five Metro Code evaluation factors.

In summary, Metro Council has requested that Columbia Environmental provide additional information in order for staff to develop complete findings that may lead staff to recommend approval of Columbia Environmental's franchise application to operate a local transfer station. Columbia Environmental has not yet provided the requested information. The 60-day extension granted by Council will expire on March 9, 2005. Any decision on how to proceed must be made by Council at its March 3, 2005 meeting. We will need to discuss with you early the week of February 14, 2004 how to proceed. At this point staff will not be able to adequately evaluate new information regarding your application. Please call me so we can discuss your options and the next steps in this process.

For your information, Council will be holding an informal worksession regarding Columbia Environmental's application on February 22, 2004; 2:00 p.m, here at Metro. To get the process started again, please call Roy Brower (503) 797-1657 or me (503) 797-1743.

Sincerely,



Michael G. Hoglund
Solid Waste & Recycling Department Director

BM/MH:bjl

Attachments

cc: Michael Jordan, Chief Operating Officer
Roy W. Brower, regulatory Affairs Division Manager

Evaluation Factors Summary Tables - Revised for 2005

- Table 1 summarizes findings regarding whether or not the application submitted by Columbia Environmental meets the five Metro Code evaluation factors.
- Table 2 summarizes additional evaluation factors introduced by Councilor Park for Council consideration at the December 16, 2004 Council hearing on Ordinance No. 04-1063.¹

Table 1- Five Metro Code Evaluation Factors

Table 1 The Five Metro Code Evaluation Factors For Solid Waste Franchise Applications	Meets Criteria	Neutral	Does Not Meet Criteria	Findings on the Columbia Environmental Application
<p>1. <i>Consistent with the Regional Solid Waste Management Plan [Metro Code 5.01.070(f)(1)].</i></p> <p>Will there be a <i>Net Benefit</i> to the regional solid waste system?</p> <p><u>RSWMP considerations:</u></p> <ul style="list-style-type: none"> • Capacity 			X	On balance, staff finds that the proposed facility would not produce a certain, equitably distributed, or sufficiently large net benefit to the regional solid waste system and therefore, the application is not consistent with the RSWMP.
<ul style="list-style-type: none"> • Access (under-served area) 			X	The region has more than adequate capacity to accept, manage and transfer all of the region's waste for many years to come (refer to Metro's Regional Transfer Capacity Analysis, April 2004).
<ul style="list-style-type: none"> • Recovery 	X			The proposed facility location does not meet the RSWMP criteria for an under-served area, characterized as more than 25 minutes to a transfer station. Further, it would be located only 6.6 miles from an existing local transfer station. There are even more nearby options for dry waste. While access may be improved for a small number of haulers, a transfer station in every neighborhood would also improve access, but at the same time create a very inefficient system.
<ul style="list-style-type: none"> • Competition (competition also relates to Cost, which is discussed in Evaluation Factor #2) 		X		The facility would recover an additional 3,000 tons rather than the 20,000 tons claimed by the applicant. The applicant's affiliated haulers have the option of using the nearby existing material recovery facilities rather than the more distant Metro facilities.
<ul style="list-style-type: none"> • Cost to regional ratepayers 			X	The proposed transfer station could hurt competition since a new facility would cause tip fee increases throughout the region (see Evaluation Criteria #2). This situation would: 1) be detrimental to many other independent haulers that rely on Metro's public transfer stations, and 2) provide a windfall to other solid waste operations in competition with the applicant.
				Staff finds a significant negative cost impact on regional ratepayers - refer to comments for Evaluation Criteria #2 on the next page.

¹ Ordinance No. 04-1063 was introduced for Council consideration by the COO with the concurrence of the Council President for the purpose of denying a solid waste facility franchise application of Columbia Environmental, LLC to operate a local transfer station. On December 16, 2004 the Council extended the Ordinance review period for 60 days.

Table 1- Five Metro Code Evaluation Factors (continued)

<p>...continued...</p> <p>The Five Metro Code Evaluation Factors For Solid Waste Franchise Applications</p>	<p>Meets Criteria</p>	<p>Neutral</p>	<p>Does Not Meet Criteria</p>	<p>Findings on the Columbia Environmental Application</p>
<p>2. <i>The effect on the cost of solid waste disposal and recycling services for the citizens of the region [Metro Code 5.01.070(f)(2)].</i></p> <p>(Cost relates to Competition, discussed on previous page Evaluation Factor #1-RSWMP consistency)</p>			<p align="center">X</p>	<p><i>If the application were approved, the citizens of the region will likely incur increased costs of about \$1.2 million to \$1.4 million annually.</i></p> <ul style="list-style-type: none"> <i>Cost increases to Metro's customers of \$1.30 per ton (+ \$606,000).</i> <i>Cost increases at private facilities would result in higher tip fees region-wide to recover those increased costs (+ \$167,000 excise taxes and fees).</i> <i>In addition, the posted rates at many private facilities are expected to increase to match Metro's rates (at least +\$439,000 additional revenue at non-Metro facilities).</i> <i>The applicant claims that it could realize an adjusted gross savings of \$1.3 million from transportation and dry waste tip fee savings. However, the applicant states these savings would likely not be passed on to its customers, but might slow down future rate increases.</i>
<p>3. <i>Unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents [Metro Code 5.01.070(f)(3)]</i></p>	<p align="center">X</p>			<p>There is no reason to believe the applicant could not meet this criterion.</p>
<p>4. <i>Unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood [Metro Code 5.01.070(f)(4)]</i></p>	<p align="center">X</p>			<p>There is no reason to believe the applicant could not meet this criterion.</p>
<p>5. <i>Comply with all requirements and standards and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise [Metro Code 5.01.070(f)(5)].</i></p>	<p align="center">X</p>			<p>There is no reason to believe the applicant could not meet this criterion.</p>

S:\REM\metzlerb\Columbia Environmental_2004\Evaluation Factors Summary Table2005.doc

Table 2- Additional Council Evaluation Factors

The following additional five evaluation factors were introduced by Councilor Park for Council consideration at the December 14, 2004 Council hearing on Ordinance No. 04-1063.

<p align="center">Table 2 Additional Council Evaluation Factors</p>	<p align="center">Meets Criteria</p>	<p align="center">Neutral</p>	<p align="center">Does Not Meet Criteria</p>	<p align="center">Findings on the Columbia Environmental Application</p>
<p>6. <i>The ability for a significant number of small independent haulers to compete in this region and ensure their competitiveness in the ever-increasing vertically integrated system.</i></p>	<p align="center">X</p>			<p>The applicant has indicated that the proposed facility would benefit nearby affiliated haulers with transportation saving, and some tip fee savings. Further, haulers that are shareholders in the company would benefit from company profits. Therefore, the proposed local transfer station would help the small independent haulers affiliated with Columbia Environmental to compete and remain competitive in a vertically integrated system.</p>
<p>7. <i>An innovative approach to increasing recycling through enhanced mechanization and by going after the significant amount of recyclable materials mingled in with multi-family wet waste.</i></p>			<p align="center">More information is required from the applicant</p>	<p>More information is required from the applicant on its proposed mechanized recovery system (type of system, performance of system with similar waste streams, projected recovery rates, the types of materials that will be recovered, timeframe for installation of mechanized system).</p>
<p>8. <i>A significant reduction in truck VMT given Columbia Environmental's proximity to their customers.</i></p>			<p align="center">More information is required from the applicant</p>	<p>More information is required from the applicant. The applicant has provided estimates for travel time savings rather than VMT savings. For example, the applicant should provide and compare baseline hauler VMT without the proposed facility to proposed hauler VMT with the proposed facility (there must be separate estimates for wet and dry wastes).</p>
<p>9. <i>Potential cost savings to ratepayers on the east side.</i></p>	<p align="center">X</p>			<p>The applicant has indicated that users of the facility will realize savings, and some of the savings may also be realized by residential ratepayers, who could experience lower rates as determined by local government rate setters. Savings on residential routes are passed through to customers as a consequence of the local government rate-setting process.</p>
<p>10. <i>Would provide a second transfer station in a watershed that currently generates about 130,000 tons a year.</i></p>		<p align="center">X</p>		<p>Metro has designated six transfer station service areas (watersheds) based on distance. The estimated annual wet waste service area tonnages and the facility tonnage caps are:</p> <p><u>Local Transfer Station Service Areas</u> Pride Recycling = 167,000 tons (65,000 ton cap). Troutdale Transfer Station = 131,00 tons (68,250 ton cap). Willamette Resources (WRI) = 19,000 tons (68,250 ton cap).</p> <p><u>Regional Transfer Station Service Areas</u> Forest Grove=52,000 tons (No cap. Accepted about 105,000 tons wet waste in 2004). Metro Central = 353,000 tons (no cap, accepted about 395,000 tons wet waste in 2004). Metro South = 160,000 tons (no cap; accepted about 172,000 tons in 2004).</p>



METRO
R.E.M. DEPT.

05 FEB 22 PM 4: 16

February 22, 2005

Metro Council
600 NE Grand Ave.
Portland, OR 97232

Dear Councilors:

On February 10, 2005, Metro staff sent a letter to Columbia Environmental requesting more information about its application for a transfer and recovery facility. This request resulted from the Metro Council's discussion and decision to postpone action on the application at its December 16, 2004 meeting. In response, this letter provides all the supplemental information as requested by Metro staff. Winterbrook Planning represents Columbia Environmental in this matter.

The applicant would like to note that as part of the process, it carefully reviewed past applications to Metro for new or expanded transfer station authority. In no previous case did Metro staff ask for, nor did applicants provide, the quantity and depth of detailed information that is now being requested of Columbia Environmental.

1. *"Geographic areas from which waste will be generated"*

Transportation savings from the presence of the new facility have been recalculated, based on new data from haulers. Details of the analysis in narrative and table form are attached to this letter. In addition, a map of the areas from which waste will be generated has been created, and is also attached.

2. *"Cost saving estimates"*

Calculated cost savings for the proposed facility are divided into two main categories: lower tip fees for dry waste, and transportation savings. As shown in the previous application, lower tip fees will result in a savings of \$640,000. Transportation savings, which have been recalculated based on new data from the haulers, will be between \$1.35 million and \$2.25 million, assuming solid waste costs of \$9 to \$15 dollars per mile.

Approximately two-thirds of the transportation savings will come from residential routes. By law, transportation cost savings from residential routes are returned to ratepayers based on decisions made by local rate-setters. Columbia Environmental has no direct control over what fraction of this expected savings is returned to the ratepayer. Only local jurisdictions can guarantee lower rates. Historically, though, efficiencies in the waste

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collection system have been expressed as downward pressure on prices rather than actual reductions. This was clearly communicated in the original application.

In addition, approval of a new transfer station would add other, less easily quantifiable benefits for the citizens of the region. Less roadway congestion, and less air and noise pollution will be tangible benefits from the reduction in vehicle miles traveled. Greater competition in the marketplace will drive up operating efficiencies at all facilities and hold down price increases. Increased recovery will reduce landfilling and move the region toward Metro recycling goals.

Columbia Environmental would also like to note that it disagrees with the methodology for calculating benefits and impacts to "citizens of the region" as presented in the previous staff report. In addition to giving Columbia Environmental no credit for the expected transportation and other benefits outlined above, the staff report attributes cost impacts to the consequences of market-distorting public policies. Half of the regional cost impact from the proposal is due to the fact that Metro has insulated itself from price competition, basing its tip fees on its cost-of-operation, regardless of market pressures. Staff outlines other regional cost impacts, or "losses," that are secondary economic impacts of this policy, *i.e.*, the expectation that all private facilities would match Metro's price increases. Finally, the staff report also adds a tertiary impact of this policy—that government rate-setters will allow price hikes to be translated into higher disposal rates to consumers. The inevitability of this chain reaction of rising prices is not assured. Moreover, all of these impacts could be significantly offset in the long run by increasing competition in the marketplace, which is a key purpose of the Columbia Environmental application.

3. *"Revised application requesting 38,000 tons of wet waste authority"*

Columbia Environmental officially requests the authority for a transfer station application for 38,000 tons of wet waste annually. This is a reduction from its original request of 55,000 tons. The request for dry waste and other wastes in the original application are unchanged.

Metro staff raised the concern that fewer tons would be delivered to Metro-owned facilities with the operation of the new Columbia Environmental facility. Columbia Environmental has never disputed that its presence in the marketplace will redistribute tons away from Metro-owned transfer stations. The regional trend toward greater market share for private transfer stations precedes this application, and will continue with or without a new market participant. Columbia Environmental believes that the overall benefits to the citizens of the region—reduced VMT, increased recovery, greater competition in the marketplace, downward pressure on prices—will exceed any increased costs from the redirection of some waste away from Metro.

As pointed out in previous submittals, the zero-sum argument in the staff report—waste delivered to privately-owned transfer stations creates a net loss for the citizens of the region—is debatable and does not recognize regional benefits. By this reasoning, any

increase in tons at existing non-Metro facilities could be expected to reduce Metro's market share and cause the same chain of events.

Without changing the system, there is simply no way for a new transfer station to hold Metro harmless from a revenue standpoint. This is due to two factors: Metro's inflexible cost-based approach to setting prices, and the assumption that Metro's market dominance allows it to control rates region-wide.

Therefore, if maintaining Metro's current wet waste tons is a high priority for the Council, an option for altering the system is to lower tonnage caps at other privately-owned transfer stations. The first obvious solution is to focus on the Forest Grove transfer station, because it currently has no cap on wet waste. If Forest Grove were capped at 65,000 tons annually—which is roughly the limit applied to all other private transfer stations in the region—40,000 tons that are currently delivered there would have to be re-directed, presumably to Metro. This change would immediately make Columbia Environmental's proposal revenue-neutral from Metro's perspective. Alternatively, Metro could lower the tonnage caps at other private transfer stations to level the playing field. If the three private local transfer stations were limited to the same 55,000 tons originally requested by Columbia Environmental, their excess tons would likely be re-routed to Metro facilities. Columbia Environmental notes that it has no authority to restrict tonnages at other facilities, and no immediate interest in doing so. Consideration of these options was suggested by staff; the Metro Council has the authority to implement such a plan.

4. *“Detailed description of recovery; more details on equipment; updated estimate of wet and dry waste recovery”*

Columbia Environmental has reviewed its operations plan and spoken with vendors since the Council and staff recommended exploring a cap of 38,000 tons of wet waste. Representatives of Columbia Environmental visited two similar facilities in California to evaluate its proposed model of recovery and operations. A summary of the site visits and the high recovery rates that are currently being achieved at these facilities are detailed in the attached document. Innovation and mechanization of the sorting process allows these facilities to achieve recovery rates in excess of those targets set by Columbia Environmental in its application. Metro staff initially expressed skepticism about Columbia Environmental's aggressive approach to material recovery. Nevertheless, comparable facilities achieving similar results are operating successfully at other locations, and the proposed facility will use many of the same systems. The recovery rates described in the original application are feasible, reasonable, and will benefit Metro and the citizens of the region.

Because of the reduction in tonnage requested by Metro, it is not economically viable for Columbia Environmental to make all of its capital expenditures in recovery equipment at once. Under the new cap, investment in recovery equipment and operations will have to be phased in three stages. Recovery rates will increase incrementally as new equipment and operations are brought on line. An implementation plan for operations and equipment

is contained in the summary. Construction for the new building and the first phase of equipment installation will be nine months to a year from final approval by Metro.

At full implementation, Columbia Environmental expects to process 260 tons of wet waste and 150 tons of dry waste per day. Overall recovery rates from all sources will be approximately 10 percent for wet waste and 45 percent for dry waste.

5. *"Site plan"*

A description of the recovery operations and equipment within the new building is described in detail in the attached narrative. Because of the proposed reduction in tonnage, equipment installation will be phased. Final design and engineering for the location of all the equipment has not been determined. The applicant must have flexibility to modify how equipment is configured within the new structure to maximize the efficiency of the system.

6. *"Estimates of VMT savings"*

Reducing travel times and vehicle miles traveled (VMT) is a priority for Columbia Environmental. The benefit to the region is less traffic congestion and pollution; the benefit to the haulers is more efficient operations and greater profitability. A detailed summary is attached to this letter that describes the locational benefits of the current facility, and calculates the savings in vehicle miles traveled. In short, the proposed facility will create a clear reduction in vehicle miles traveled, in excess of 150,000 VMT annually.

In conclusion, Columbia Environmental has revised its original proposal, and followed direction by Metro staff and the Metro Council. At staff's request, the applicant has supplemented its application with unusually detailed information about its proposal. This comes at a considerable cost to the applicant. We appreciate the opportunity to provide this additional information and hope it provides sufficient detail for staff and Council to approve the application.

Sincerely,



Ben Schonberger
Winterbrook Planning

Columbia Environmental Supplement to Application for a Transfer Station

Vehicles Miles Traveled (VMT)

Reducing travel times and vehicle miles traveled (VMT) has been a priority for Columbia Environmental since its inception. The benefit to the region is less congestion and pollution; the benefit to the haulers is more efficient operations and greater profitability.

In 1997, the local haulers that make up Columbia Environmental began to develop plans to construct a Recovery / Transfer station. The guiding principles of this new transfer station were:

1. The facility must be convenient and practical for the hauler to use.
2. The facility must provide necessary safety and operational practices.
3. The facility must provide innovative solutions to resource recovery.
4. The facility must assist the local independent hauler in competing with the large multi-national corporations.
5. The facility should provide educational opportunities for the local community.

To choose a location for the new facility, the haulers divided the Portland Metro area into districts. Three hauler districts were envisioned that were conceptualized to meet the above criteria. The districts are:

1. North: The area serving downtown Portland from Foster Road north to the Columbia River and east past Gresham
2. South: The area south of Foster Road
3. West: The area encompassing Beaverton and the surrounding area

Next, tonnage estimates within these three districts were computed based on what was controlled by these independent haulers. These annual tonnage estimates were:

1. North: 183,000 tons
2. South: 109,400 tons
3. West: 71,358 tons

The next step was to apply the "convenient and practical" criteria to the districts. It was envisioned that haulers would continue to use Metro facilities when that was "convenient and practical" to do so. District tonnages were reduced to reflect this factor. At that time it was determined that the north district was the most practical area to develop. A site selection committee consisting of Richard Cereghino, Paul Truttman, and Dean Kamper located and recommend the current location on NE Sandy Boulevard. Operations were transferred to that site. Extensive discussions with the landlord with the intent of purchasing the site failed at that time. Discussions started again in 2000 that culminated in the purchase of the NE Sandy site in February 2001. Applications were pending before the Metro Council at that time but were not allowed to proceed because Metro required that Columbia Environmental obtain a Conditional

Use Permit from the City of Portland, the first facility required to do so in the Metro area. In addition, the Oregon Department of Transportation and the Union Pacific Railroad required Columbia Environmental to obtain different entry to the site because of an October 31, 2001 fatality at the railroad crossing. When clear title to an alternate access was obtained in 2004, the application for a Transfer Station was resubmitted to Metro.

In December 2004, additional information based on new review criteria was requested by the Metro Council. One of those requests was to convert the time savings—which is the primary concern of the haulers—detailed in the original application into vehicle miles traveled. In a letter dated February 10, 2005, staff requested that travel times and VMT be further disaggregated into wet and dry waste loads. Based on information provided to Columbia Environmental by the haulers, the attached table shows savings for haulers who are most likely to use the new facility. The summary of this chart is:

Waste type	Annual VMT savings
Wet Waste (primarily residential sources)	102,838 miles
Dry Waste (primarily commercial sources)	50,571 miles
Total Annual Savings	153,409 miles

It is interesting to note that the new calculations for VMT savings translate into larger cost savings than claimed in the original application. Currently, solid waste costs per mile in the Portland Metro area range from \$9 to \$15 per mile, depending on the route efficiencies.

Columbia Environmental

Haulers Most Likely to Use NE Sandy Site

Route Identification	Distance To Metro Facility	Distance To Lot	Distance To Columbia En.	Distance To Lot	Difference	Number Of Loads	Miles Saved Per Year	Miles Saved Residential	Miles Saved Commercial
Alberta	11.9	16.0	5.5	4.5	17.9	322	5,764	4,611	1,153
Argay	13.5	10.3	0.0	4.8	19.0	340	6,460	4,845	1,615
PDR-Baldwin	11.9	16.0	5.5	4.5	17.9	667	11,939	10,745	1,194
PDR-Blains	6.2	16.3	8.8	4.5	9.2	113	1,043	939	104
Borgens	13.3	16.3	6.8	4.0	18.8	236	4,432	3,989	443
City Sanitary	9.0	15.5	9.0	1.0	14.5	167	2,422	1,211	1,211
Cloudburst	6.3	6.5	8.0	0.0	4.8	167	793	0	793
Daves	10.3	20.0	10.0	0.0	20.3	260	5,265	4,212	1,053
Eastside Waste	15.0	17.5	2.5	5.0	25.0	667	16,675	10,005	6,670
Egger	9.5	11.0	4.5	4.0	12.0	114	1,368	1,300	68
Elmers	13.0	20.0	7.0	0.0	26.0	314	8,164	7,756	408
Flannery's						83	850	0	850
Eckert						83	850	0	850
Kiltow	16.0	16.3	10.3	4.0	18.1	282	5,099	4,844	255
Gresham						1,667	25,000	12,500	12,500
Heiberg						333	3,500	0	3,500
Irvington	13.0	16.0	7.0	4.0	18.0	110	1,980	1,881	99
Weisenfluh	11.0	14.0	4.5	4.0	16.5	291	4,802	4,321	480
Cloudburst-Schnell	6.0	6.5	8.0	0.0	4.5	80	362	326	36
Cloudburst-Lofink	6.5	6.5	8.0	0.0	5.0	80	400	360	40
PDR						1,333	16,000	12,800	3,200
PDR-Drop Box						70	1,000	0	1,000
Wooten	14.5	16.0	2.5	0.0	28.0	342	9,585	7,668	1,917
Trashco						834	9,000	0	9,000
Weber	16.0	18.0	5.5	4.0	24.5	435	10,658	8,526	2,132
							<u>153,409</u>	<u>102,838</u>	<u>50,571</u>

Columbia Environmental Recovery / Transfer Facility Supplement to Equipment and Operations

In its February 10, 2005 letter, staff requested additional information from Columbia Environmental. Columbia Environmental has been reviewing its operations plan and talking with vendors since the Council and staff recommended exploring a cap of 38,000 tons of wet waste. Site visits to other similar operations were conducted to further check the proposed model of recovery and operations. Since the proposed recovery and operation plan is significantly different than anything within the Portland area, site visits were conducted in California, where the technology has been used for over two years.

Site Visit # 1, Long Beach, California

The first site visited was a recovery facility in Long Beach, California. The facility is located in an industrial area approximately two miles from a major freeway. Materials are brought to the facility from sources in excess of 20 miles away. The land is owned by the City of Long Beach. The City has hired an independent contractor that has no collections in the area to operate the facility. In addition, a multi-national solid waste company is performing transfer without any attempt at recovery in a portion of the structure. The operator requested that no pictures be taken at the facility because of the keen competition that had developed since it was opened.

The operator processes four waste streams within its operations. They are:

1. Construction & Demolition Waste
2. Residential Wet Waste
3. Drop Boxes (not Construction & Demolition)
4. Commercial Dry Waste collected in Front Loaders

Each of the four waste streams are stored separate from one another and processed at different times. This allowed for more efficient setup and labor control. The following equipment and labor was used while sorting the waste.

Local Tip Fee:	\$35 to \$40
Tons per Day:	200 to 600
Loader:	Cat Knuckle Boom Track Hoe
Loader:	Bobcat skid steer
Bag Opener:	BHS Bag Breaker
Sort Line:	Bulk Handling Systems
Screen #1:	Bulk Handling Debris Roll Screen
Screen #2:	Portable Trommel
Boxes:	40 to 60 yard drop boxes.
Residue:	Loaded into open top transfer trailers

Floor Sort Labor: 1 presort
 Line Sorters: 6 workers per shift, 2 shifts daily

Recovery rates among all waste streams is very high. The waste stream and its recovery rate follows:

Construction and Demolition	80%-90%
Residential Wet Waste	18%
Drop Boxes	60% +
Commercial Dry Waste	50% to 60%

It is important to note some differences between the recovery rates at this facility and Columbia Environmental. First, 30% of the recovery from Construction and Demolition is Alternative Daily Cover (ADC). This is important in California since it is included in recovery statistics (Even though it is not currently recognized by Metro, methods are being researched in how to keep this material out of the landfill.). Second, residential wet waste recovery is relatively high, but this is skewed because of less developed curbside programs than those in the Portland area. We do not feel comfortable with more than a 4% to 5% recovery rate on this material. However, the wet waste stream observed might be similar in mix to the multi-family waste.

Site Visit # 2, Santa Barbara, California

Site number 2 is located in the City of Santa Barbara, in a residential neighborhood next to Interstate 101. The facility is owned and operated by an independent hauler and processor. Currently the facility is undergoing extensive expansion and updating. The only waste streams observed being processed were construction and demolition, and dry waste processing. The following equipment, labor, and structure information were observed.

Local Tip Fee:	\$40
Tons Per Day:	650
Building Square Footage:	40,000
Loaders:	Cat Knuckle Boom Track Hoe
Loader:	Cat Articulating Loader
Sort Line:	Bulk Handling Systems
Screen # 1:	Roll Debris Screen from Bulk Handling Systems
Screen # 2:	Vibratory Screen on Tracks with Diesel Power
Boxes:	40 to 60 yard drop boxes
Residue:	Loaded into open top transfer trailers
Floor Sort Labor:	3 including wheel wash attendants
Line Sorters:	10

Recovery was high in the facility with the owner/operator claiming up to 90% recovery on both streams. However, as above this includes "ADC" of 30%. This source material is very similar in nature to that expected at the Columbia Environmental facility.

Materials recovered included wood, brick, stone, tile, wire, aluminum, metals, cardboard, other paper, asphalt, containers, and other miscellaneous.

Columbia Environmental Equipment and Operations

Because of the reduction in tonnage requested by Metro, Columbia Environmental must make some changes to its recovery and processing systems. Observations from the site visits discussed above also drive some of these changes.

To be economically viable, capital investment in recovery equipment and operations will have to be phased in three stages. Recovery rates will increase incrementally as new equipment and operations are brought on line. Columbia Environmental expects to use the following equipment, labor, and structure components:

Phase 1:

Tons per Day Wet Waste:	150
Tons per Day Dry Waste:	60
Building:	New 25,000 to 30,000 sq. foot facility
Compactor:	New moderate-sized compactor with an in-floor infeed.
Sort Line:	Install sort line
Screen # 1:	Roll debris screen
Boxes:	40 to 60 yard drop boxes for recovered items
Residual Loads:	Open Top Containers
Loader:	Knuckle Boom Track Hoe
Loader:	Skid Steer with grapples
Floor Sort Labor:	2
Line Sorters:	6

Phase 2

Tons per Day Wet Waste:	210
Tons per Day Dry Waste:	100
Screen # 2:	Add Roll Debris Screen
Loader:	Add Articulating Loader
Line Sorters:	Add 2, for a total of 8

Phase 3

Tons per Day Wet Waste:	260
Tons per Day Dry Waste:	150
Bag Breaker:	Bulk Handling or similar system
Loader:	Additional Knuckle Boom Track Hoe
Loader:	Additional Skid Steer
Floor Sort Labor:	2 per shift for a total of 4

Line Sorters: 6 per shift for a total of 12

Recovery Rates

Recovery remains in line with previous estimates, with some adjustments. Because of the severe limitation on the amount of waste placed on the facility, residential wet waste and multi-family wet waste will be limited. The exact component is difficult to calculate at this time. However, waste recovery by stream is expected to be:

Phase 1:

Residential Wet Waste:	4% to 5%
Residential Dry Waste:	50%
Commercial Dry Waste:	25%
Construction & Demolition:	40%
Commercial Drop Boxes:	30%
Net Recovery:	12,000 tons

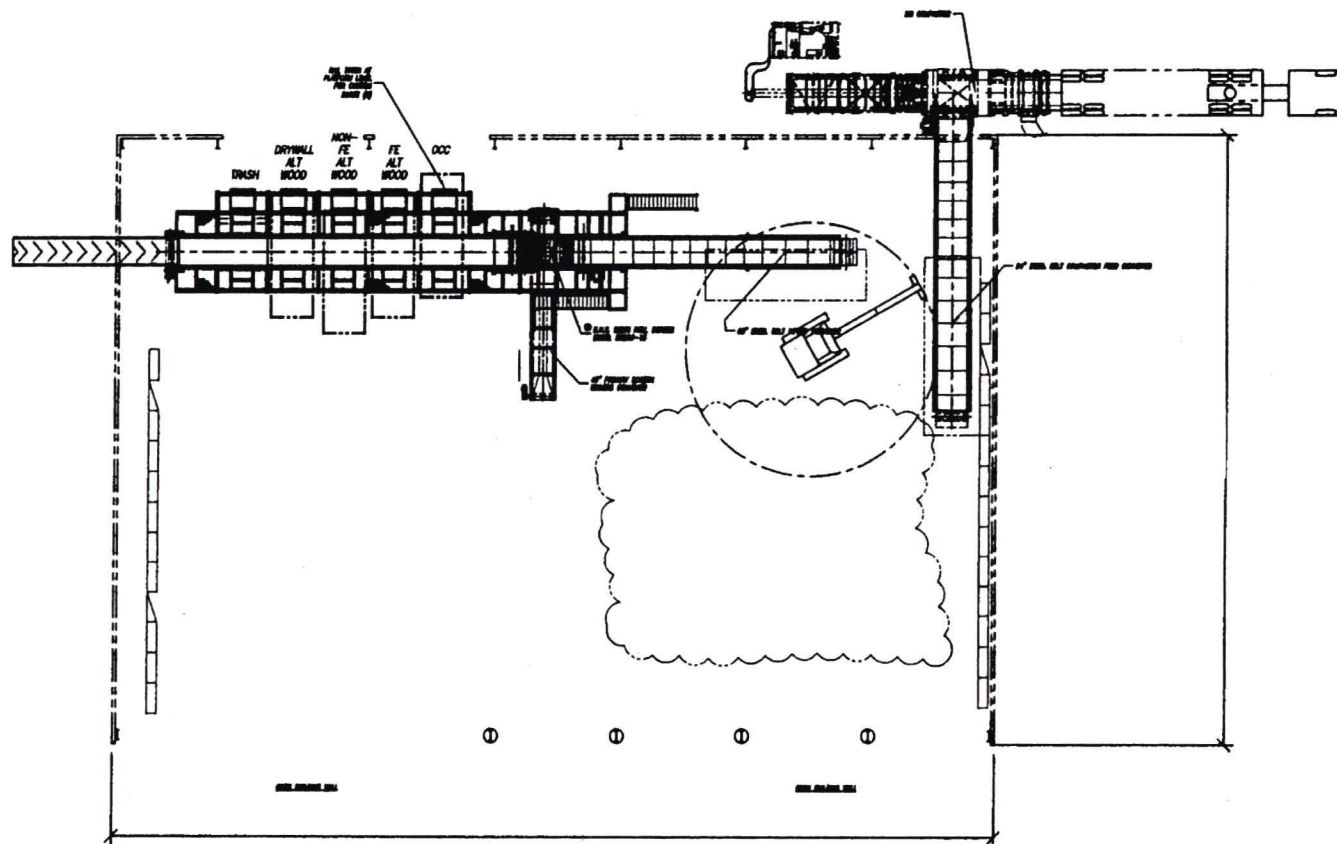
Phase 2:

Residential Wet Waste:	No change
Residential Dry Waste:	Increases 5%
Commercial Dry Waste:	Increase 5%
Construction & Demolition:	Increase 5%
Commercial Drop Boxes:	Increase 10%
Total Recovery:	21,000 tons

Phase 3:

Residential Wet Waste:	Increase 3%	(7% total recovery)
Residential Dry Waste:	No change	(55% total recovery)
Commercial Dry Waste:	Increase 5%	(35% total recovery)
Construction & Demolition:	Increase 5%	(50% total recovery)
Commercial Drop Boxes:	Increase 10%	(50% total recovery)
Total Recovery:	32,000 tons	

Attached to this narrative is a layout of the proposed facility. Construction will be done on the building with the intent of placing equipment using the above schedule. For Metro's analysis of the quantity of materials diverted from its transfer stations, it should be noted that construction time, including DEQ and the City of Portland Building permits, will be from 9 months to 1 year.



BULK HANDLING SYSTEM 100 GALLONS PER HOUR, 1000 GALLONS PER DAY	
PROJECT: INDUSTRIAL LOCATION: INDUSTRIAL DATE: 01/01/00	P-6357 6357-2.0
DESIGNED BY: DESIGNED BY CHECKED BY: CHECKED BY DATE: 01/01/00	SCALE: 1/4" = 1'-0" SHEET: 1 OF 1 TOTAL SHEETS: 1



METRO

ATTACHMENT #6 TO ORDINANCE #04-1063A

February 28, 2005

Mr. Bryan Engleson
Columbia Environmental, LLC
14041 NE Sandy Blvd.
Portland, OR 97230

Re: Receipt of Amended Franchise Application

Dear Mr. Engleson:

On February 22, 2005, Metro received a letter from Ben Schonberger of Winterbrook Planning written on behalf of Columbia Environmental regarding Columbia Environmental's application for a Metro transfer station franchise. In that letter, Mr. Schonberger indicated that Columbia Environmental is revising its application to seek authority to transfer 38,000 tons of putrescible solid waste, rather than authority to transfer 55,000 tons of putrescible waste as stated in Columbia Environmental's original franchise application. In addition, Mr. Schonberger also describes other changes to Columbia Environmental's proposed operations that will result from this decreased tonnage, such as a revised schedule for installing material recovery systems in the new facility. Metro considers these changes to constitute a substantial modification of Columbia Environmental's application. Metro Code section 5.01.070(h)(2) provides that should an applicant substantially modify its franchise application during the course of the review, the 120 day review period for the Council to act shall be restarted as of the date Metro receives the applicant's modifications. Therefore, the 120 day review period for Columbia Environmental's modified franchise application commenced on February 22, 2004 and will end on June 22, 2005. Metro staff will make every attempt to process your amended application as quickly as possible.

Within the next few weeks, I will contact you to set up a meeting to discuss our preliminary analysis of Columbia Environmental's amended application.

If you have any questions or concerns, please contact Roy Brower (503) 797-1657 or me (503) 797-1743.

Sincerely,

Michael G. Hoglund
Solid Waste & Recycling Department Director

BM/MH:bjl

cc: Michael Jordan, Chief Operating Officer
Roy Brower, Regulatory Affairs Division Manager
Bill Metzler, Senior Solid Waste Planner
Ben Schonberger, Winterbrook Planning

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METRO

March 8, 2005

Mr. Bryan Engleson
Columbia Environmental, LLC
14041 NE Sandy Blvd.
Portland, OR 97230

Re: Request for Clarifications

Dear Mr. Engleson:

Staff has conducted a preliminary review of the additional information provided in the February 22, 2005 letter from Mr. Ben Schonberger of Winterbrook Planning on behalf of Columbia Environmental regarding its solid waste facility franchise application. During the course of this review, specific items have been identified for further clarification by Columbia Environmental. They are as follows:

1. "Cost savings estimates"

Your letter represents that there will be savings of \$640,000 due to lower tip fees on dry waste. The \$640,000 per year in savings is the same estimate provided in your original application and was based on tip fee savings on 37,000 tons of dry waste. In your letter, you indicate that Columbia Environmental expects to receive about 60 tons per day (15,600 tons/year) of dry waste during the first phase of operation. Based on this information, we estimate that the tip fee savings for the first phase would be more near \$300,000, rather than \$640,000.

- a) Please provide clarification on your estimated savings for the first phase of your operation, as described in your letter.

In your original application you estimated unit hauling costs at an industry standard of \$70/hour. Your letter describes a unit cost of \$9-\$15 per mile to estimate transportation savings two to four times larger than your original estimate (original: \$553,071 versus \$1.35 to \$2.25 million revised).

- b) Provide a detailed explanation of the change of basis in your analysis (i.e., from per-hour to per-mile unit costs).
- c) Explain why your revised estimate of transportation savings roughly tripled when your wet tonnage request was reduced by some 30% (from 55,000 to 38,000 tons/year).

Referencing your attachment identified as "Haulers Most Likely to Use NE Sandy Site" we ask that you provide clarification to the following:

- d) This new table lists your estimate of distances to various locations but does not indicate from where. Please clarify.
- e) Does this new table show only wet loads, as in your original application, or both wet and dry?
- f) If the new table includes estimates for wet loads only, please explain why you now estimate a larger number of loads will be required to deliver tons to the proposed Columbia Environmental facility, even as the total annual wet waste tonnage drops from 55,000 to 38,000 tons.

Your letter states that "By law, transportation cost savings from residential routes are returned to ratepayers based on decisions made by local rate-setters."

- g) Please identify the specific local or state law, ordinance or rule that imposes the requirement that local rate-setters pass on transportation cost-savings to ratepayers.

2. "Recovery"

Your letter indicates that Columbia Environmental ultimately expects to process 260 tons of wet waste and 150 tons of dry waste per day. You indicate that overall recovery rates are expected to be about 10 percent for wet waste and 45 percent for dry waste. In your attachment identified as a "Supplemental to Equipment and Operations" you provide additional information. This includes information from site visits in Southern California.

- a) Please describe how this attachment pertains to your application as you provide insufficient information to determine whether or not these facilities are similar to the proposed facility.

A phasing plan is shown that identifies expected tonnages and equipment that is expected to be installed at Columbia Environmental. In addition information is also presented on expected recovery rates and recovery tonnages. This data appears to be internally inconsistent as well as inconsistent with the recovery rates included in your cover letter. Attached is a Metro spreadsheet showing the tonnage data that you have provided Metro. The numbers in bold face type are from your letter; the remaining numbers are calculated from the data provided. Using the maximum recovery shown for wet waste, we have calculated the required recovery rate for dry waste.

- b) You will note that recovery rates in the range of 65% to 70% are required in order to obtain the net recovery tonnage represented in your letter. Please provide clarification regarding this apparent discrepancy.

3. "Structure and ownership of Columbia Environmental LLC"

Your original application states that Columbia Environmental, LLC is owned by a partnership, and the ownership partners include independent haulers that were listed. You also represent that these partners also own Oregon Recycling Systems. A Metro Councilor has requested information about the structure of Columbia Environmental LLC. In order to meet that request, we ask that you please provide the following information:

- a) The names of investors or other partners not included in your list of haulers that accompanied your original application.
- b) Provide the names of investors and their respective proportional ownership (the top ten with the most ownership).
- c) Describe who is authorized to make decisions on behalf of the LLC, the extent of their decision making authority, and who owns the site on which the proposed facility would be built.
- d) A copy of the documentation for the limited liability corporation (e.g., articles of incorporation/organization, financial limits and obligations, bylaws, operating agreement).
- e) Describe how critical decisions will be made among the members of the LLC or its employees to ensure compliance with franchise requirements.

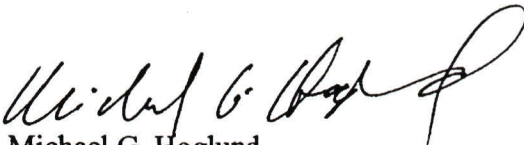
4. "Councilor's additional evaluation factors"

As you are aware, at the December 16, 2004 Council hearing on Columbia Environmental's franchise application, a Metro Councilor introduced five additional evaluation factors for Council consideration (in addition to the five required evaluation factors as provided in Metro Code). The following are questions related to two of that Councilor's evaluation factors regarding Columbia Environmental's proposed operation.

- a) Describe how the proposed facility will ensure that a significant number of small independent haulers will be able to compete in this region and ensure their competitiveness in the region's increasingly vertically-integrated solid waste system.
- b) Describe the exact nature of the proposed recovery operation's innovative approach to increasing recycling.

Please provide, in complete and final form, your responses to the requests listed above by Monday, March 28, 2005. If you cannot, please contact me so that we can work out an extension for this request. If you have any questions, please call me at (503) 797-1657 or Bill Metzler at (503) 797-1666.

Sincerely,



Michael G. Hoglund
Solid Waste & Recycling Department Director

BM/ME:bjl

Attachment

cc: Roy Brower, Regulatory Affairs Division Manager
Michael Jordan, Chief Operating Officer
Bill Metzler, Senior Solid Waste Planner
Ben Schonberger, Winterbrook Planning

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Preliminary Metro Review of Columbia Environmental Material Recovery Data

	Tons/Day	Tons/Year*	Recovery Rate	Net Recovery
Phase 1				
Wet Waste	150	<i>39,000</i>	5%	<i>1,950</i>
Dry Waste	60	<i>15,600</i>	64.4%	<i>10,050</i>
Total		<i>54,600</i>		12,000
Phase 2				
Wet Waste	210	<i>54,600</i>	5%	<i>2,730</i>
Dry Waste	100	<i>26,000</i>	70.3%	<i>18,270</i>
Total		<i>80,600</i>		21,000
Phase 3				
Wet Waste	260	<i>67,600</i>	7%	<i>4,732</i>
Dry Waste	150	<i>39,000</i>	69.9%	<i>27,268</i>
Total		<i>106,600</i>		32,000

*Work Days/ Year 260

Note: Bold indicates data from February 22 letter, numbers in italics are calculated.



METRO
R.E.M. DEPT.

05 APR -8 AM 10:00

April 7, 2005

Metro Council
Metro
600 NE Grand Ave.
Portland, OR 97232

Dear Councilors:

On March 8, 2005, Metro staff sent a letter to Columbia Environmental requesting additional information about its application for a transfer and recovery facility. In response, this letter provides a general response to the process, and a specific response to the questions in that letter. Winterbrook Planning represents Columbia Environmental in this matter.

General Response

Unfortunately, the application process thus far has been an unconstructive, frustrating back-and-forth between Metro and Columbia Environmental. Nearly all the new requests for information derive from answers Columbia Environmental provided in response to earlier requests by Metro staff. This cycle of response and counter-response has been repeated numerous times over many months.

Metro has not provided the applicant with a preferred format or clear direction for its economic or operational analyses. Typically, after Columbia Environmental gathers and submits information, Metro staff questions the assumptions, methodology, or applicability of the analysis, and requests further clarification or additional information. Additional information submitted in direct response to staff comments only generates new questions and more requests for different information. Seven months and countless responses after submittal of the original application, this process has bogged down.

This struggle to understand each other is evident in the debate over what savings will be passed through to the ratepayer, for example.

1. In the original July 2004 application, Columbia Environmental stated that a new transfer station would reduce travel costs and hold down rate increases.
2. In the November staff report, Metro criticized Columbia Environmental for not promising to reduce rates for residential customers.
3. Columbia Environmental responded by explaining that rate-setting is in the hands of local jurisdictions, and it cannot unilaterally increase or lower rates. Because franchising

Winterbrook Planning

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COMMUNITY ■ RESOURCE ■ PLANNING

contracts in Portland and Gresham include an effective limit on hauler profits, anticipated transportation savings would indeed be passed through to ratepayers.

4. Metro staff appeared to finally understand the relationship in their February 10 letter: “Savings on residential routes are passed through to customers as a consequence of the local government rate-setting process.” (Table 2, response to factor 9)
5. In the most recent letter, staff asks for identification of the “rule that imposes the requirement that local rate-setters pass on transportation cost-savings to ratepayers.”

The Metro Code’s evaluation factor for the economic aspect of the application is simple. It simply requires the Council consider the effect that a new franchise will have on the cost of services. It does not specify what kind of economic analysis is needed. It puts forward no parameters, no accepted methodology, and no assumptions. Metro staff has never outlined exactly what kind of a model or analysis they wish to see, but has repeatedly requested more or different information from the detailed analysis already provided by Columbia Environmental.

The applicant wishes to provide staff and the Council with all the information they need to make an informed decision. The applicant also wants to work collaboratively with Metro in this process. Columbia Environmental believes that the Metro Council should focus on the main principles of the application, which have not changed. The new transfer station:

- **Levels playing field**—restores competitive balance for small haulers, increasing competition and maximizing system efficiency
- **Increases recovery**—brings region closer to stated recovery and recycling goals, creates economic incentive for higher recovery rates
- **Reduces travel**—reduces travel times and VMT, thereby reducing congestion and pollution, and increasing the efficiency of services

Columbia Environmental’s proposal meets all of the evaluation factors listed in the Metro Code 5.01.070(f). The applicant has revised a Metro-authored table to demonstrate conformance with these factors, and has included it with this letter.

Specific Responses

This letter contains specific responses to Metro staff's request for additional information in the March 8, 2005 letter. That request stems from information provided by Columbia Environmental on February 22, 2005. The information in that letter was requested by Metro staff in their letter of February 10, 2005. The headings below correspond to the questions in the March 8 letter.

1a. Dry waste tip fee savings

The projected savings for dry waste were calculated for the facility at full operation in a future final phase of development. Staff has correctly calculated that for the project's first phase, lower tip fees on 15,600 tons of dry waste will result in an estimated savings of \$300,000.

1b. Change in analysis from hours to miles

The original application showed time savings resulting from the proposed facility. Time is the primary concern of haulers, and is a widely-accepted proxy for cost savings. At the Council hearing, staff and several councilors requested that the applicant translate this time savings into vehicle miles traveled.

The applicant changed the basis of the analysis *only because it was specifically asked to do so by both staff and the Metro Council*. Staff made this request orally in a December 21, 2004 meeting, and in writing on February 10, 2005: "[staff requests] estimates for VMT savings. Columbia Environmental should provide baseline hauler VMT without its proposed transfer station and the proposed hauler VMT with the proposed transfer station." (p.1) Columbia Environmental also provided a map with its previous submittal, showing the haulers' service areas.

1c. Difference in transportation savings

The tables in the original application and in the February 22 letter are analogous, with the original calculating savings in hours, and the newer one calculating savings in vehicle miles traveled. Both tables are based on the tonnage that could be expected once the transfer station is in full operation at the final phase of development and investment in capital infrastructure.

However, the applicant revised its proposal at Metro's suggestion to reduce the annual amount of wet waste received from 55,000 to 38,000 tons. Staff correctly notes that the table in the February 22 letter calculates VMT savings for the originally requested tonnage. Columbia Environmental has revised this table with new data for the reduced tonnage request. This obviously has the effect of reducing by nearly one-third the savings in vehicle miles traveled and the corresponding estimates for cost savings.

Per-mile operating cost is rarely used and much more difficult to estimate than per-hour cost, because of widely varying time demands between on-route vs. off-route travel. VMTs are more helpful as a way to understand regional benefits to road systems, and reductions in congestion and pollution. Studies that establish an accurate unit cost per-mile are difficult to find since this

figure is rarely used in the solid waste industry. \$9 per mile was an estimate based on a study done by the Oregon Sanitary Service Institute in the 1980s. \$15 per mile is an amount calculated internally by Argay Disposal and Eastside Recycling, based on routes within their service areas. The conservatively estimated \$70 per hour figure used in the original application is more commonly recognized as a cost of operation.

1d. Distances and locations

The table in the February 22 letter describes the distances traveled by the haulers and forecasts for mileage saved by a new facility. This table was accompanied by a hauler service area map submitted by the applicant. The miles saved are calculated by using the following equation:

(Yard to route to Metro to yard) – (Yard to route to Columbia Environmental to yard)

The first part of this equation, “yard to route. . .” is exactly the same on in both sides of the minus sign. Therefore, this trip leg cancels out. Regardless of the location of the hauler’s yard, this leg of the trip would be the same in both scenarios. This distance was not included in the table because it would make no difference to the desired result: the *difference* between current and future conditions. The information requested in the Metro letter is not relevant.

1e. Wet or dry loads

The table counts wet loads only.

1f. Number of loads

The time savings table in the original application and the VMT savings table in the February 22 letter account for approximately 9,200 loads of wet waste delivered to the site. Both tables use tonnages that could be expected once the transfer station is in full operation, at the final phase of development and investment in capital infrastructure.

At Metro’s suggestion, the applicant changed its proposal to reduce the annual amount of wet waste from 55,000 to 38,000 tons. Staff correctly notes that the table in the February 22 letter calculates VMT savings for the originally requested tonnage. In response, Columbia Environmental has updated this table with new data showing estimates for load distributions under the reduced tonnage request. Since waste loads will be accepted on a first-come, first-served basis, and Metro franchises require that the facility must be open to all haulers, the distributions listed on these tables are approximate. In any case, a lower tonnage cap for wet waste obviously has the effect of reducing the savings in vehicle miles traveled and the corresponding estimates for cost savings.

1g. Pass-through of transportation savings

As explained earlier in this letter, the template franchise agreements from both the City of Portland and the City of Gresham include a *de facto* limit on hauler profits. (City of Portland commercial hauling is the only category without this limit.) Local government rate setters use a

formula that derives a customer price from a “base” of allowable operating expenses plus a 9.5 percent profit. If hauler efficiency reduces transportation costs, this lowers allowable expenses, and changes the base, but haulers may not simply take this savings as additional profit. To do so would be a violation of their contract with the cities, and against the law. Lower operating costs lower the base, which then is returned to ratepayers as part of the rate-setting formula. The formula is calculated and rates are determined according to Generally Accepted Accounting Principles (GAAP). Local jurisdictions, not haulers, determine rates.

Bruce Walker from the City of Portland’s Office of Sustainable Development explained this process in detail in his testimony at the Metro Council hearing. The applicant is submitting under separate cover a standard franchise agreement that further explains this financial arrangement. Local jurisdictions have the authority to negotiate these contracts under ORS 459.065. City of Portland authority is through Portland City Code 17.102.050; City of Gresham authority is through Gresham Revised Code 7.25.070.

2a. Pertinence of California examples

The applicant’s field trip to facilities outside the Portland area, and the information provided about their operations, was a direct response to comments by Metro staff. In a meeting on December 21, 2004, Metro staff claimed there was “no way” the applicant could meet its projected recovery goals, and presented as evidence a list of recovery rates at Portland-area facilities. In response, the applicant researched newer, more innovative facilities outside the region to show that its projected recovery rates were reasonable. Columbia Environmental clearly stated the purpose of these examples in its February 22 letter to Metro (p.3):

“Metro staff initially expressed skepticism about Columbia Environmental’s aggressive approach to material recovery. Nevertheless, comparable facilities achieving similar results are operating successfully at other locations, and the proposed facility will use many of the same systems. The recovery rates described in the original application are feasible, reasonable, and will benefit Metro and the citizens of the region.”

Descriptions of these two facilities include detailed information about their location, size, volume of waste processed, mechanization, sorting line equipment, labor demands, and overall recovery rates. Proposed systems similar in type were also described for Columbia Environmental’s future facility. The applicant does not understand staff’s position that three pages of detailed data about operations of the facilities constitutes “insufficient information” to make a valid comparison. Frankly, the applicant does not know what more detail could be provided that would help this comparison.

2b. Recovery rates for dry waste

Metro staff’s table attached its March 8 letter omits important information provided by the applicant, and in doing so reaches an erroneous conclusion. Metro staff has incorrectly categorized the five different waste types listed in the applicant’s estimated recovery rates,

compressing them into two general categories: wet and dry. Staff's conclusion is that to obtain the stated recovery tonnages, dry waste recovery rates must be unrealistically high.

To clarify, the applicant has provided expanded tables (see attachments) that include *all* categories of waste listed in the February letter. The consequence of a 2002 Metro regulatory guidance document¹ is that many loads previously and incorrectly defined as "dry" will be redefined as "wet" because they contain more than a "trivial" amount of putrescible material.

The revised table for Phase 1 shows that previously stated results are achievable by using conservative recovery targets of 13 percent for all categories of wet waste and 42 percent for all categories of dry waste. These numbers are consistent with the "about 10 percent for wet waste and 45 percent for dry waste" estimate stated in the earlier February 22 letter to Metro. There is no discrepancy.

3. Structure and ownership of Columbia Environmental LLC

Metro Code and the application forms provided by Metro require only that the applicant provide the "name and address of the company owner or parent company." Columbia Environmental, L.L.C., owns the site on which the proposed facility would be built and is listed as the applicant. In July 2004, the applicant provided to Metro a detailed list of 40 independent haulers, companies, and individuals that make up Columbia Environmental. This information is more detail than Metro code requires. Nevertheless, in the interest of full disclosure, at Council request, the applicant will provide additional information about the organization.

Columbia Environmental is a limited liability corporation governed by a six-member board of managers, who set policy and direction for the company. This board has authority to make company decisions and to comply with franchise requirements. Two equal investment partners in Columbia Environmental contribute equally to this board: three members from KCDK, L.L.C., and three members from Oregon Recycling Systems. At this time, KCDK's representatives to the Columbia Environmental board are David Ross, Kirk Ross, and Ty Ross. Oregon Recycling System's representatives are Mike Miller, David McMahon, and Richard Cereghino. This board hires a Chief Executive Officer to manage day-to-day operations. The current C.E.O. of Columbia Environmental is Bryan Engleson. Oregon Recycling Systems operates the existing recycling processing facility on the Columbia Environmental site. ORS is itself governed by a seven-member board of managers, who are elected by the general membership, who are comprised of the haulers listed in the original application.

More detail about the internal finances of the organization, *i.e.*, how much money each investor has contributed to the partnership, or the details of its operating agreement, is a matter of private business. Public, on-the-record disclosure of this information would be detrimental to Columbia Environmental's position in the marketplace. Furthermore, this information is not relevant to its ability to fulfill Metro franchise requirements. Past applicants for franchises have not been asked

¹ Metro Solid Waste Regulatory Guidance, "Management of Putrescible Waste at Recycling Facilities (RFs) and Material Recovery Facilities (MRFs)", July 2002. Metro's "trivial" standard for putrescible materials that change the definition of a dry waste load is very restrictive: no more than 5% per load, by weight, not to exceed a maximum of 300 pounds.

to provide this kind of internal business details. The information provided above, combined with the original application's exhaustive list of participating partners, should be sufficient to allow an informed decision.

4a. Competitiveness of small haulers

The RSWMP directs Metro to consider facility ownership: "Metro shall encourage competition when making decisions about transfer station ownership or regulation of solid waste facilities in order to promote efficient and effective solid waste services" (RSWMP, Goal 4, Objective 4.6, p. 5-5).

The Columbia Environmental proposal will preserve the presence of small independent haulers in the Metro system. Because of hauler consolidation and the introduction into the marketplace of large, vertically-integrated, multi-national firms, there has been a precipitous drop in the number of small haulers serving Metro. Whereas there were more than 200 small independent haulers in 1988, there are fewer than 40 today. This change is industry-wide and not unique to Metro. The economies of scale that these large companies have, and their ownership control of every stage of the process—from neighborhood garbage trucks to landfill sites—gives them a powerful advantage. Small, locally-based haulers are being driven out of the system. Long-term, the lack of competition in waste disposal will take tons away from Metro transfer stations and drive up prices for all citizens of the region.

In order to compete and survive in this environment, the small haulers need to engage in some of the same scale advantages as the larger, vertically-integrated corporations. Individually, these companies are too small to provide their own processing or transfer station facilities. As a group, however, they can collectively compete for the waste and recycling business and remain viable in the marketplace. Recycling processing is a way that the coalitions of small haulers have maintained a revenue-generating activity that will allow them to grow. The best opportunity for small companies to participate in the waste business in the Metro region is for them to integrate processing, transfer, and hauling together, as this proposal does.

Healthy competition is a pre-condition for maintaining "service levels that provide reasonable access for residents, businesses and haulers." This is Metro's stated rationale for allowing new transfer stations (Metro Ordinance 00-865, revising the RSWMP). Approval of this application will encourage competition, support local businesses, increase waste diversion rates, expand hauler choice, decrease vehicle miles traveled, and drive down overall system costs.

4b. Innovative approach to recycling

If existing transfer facilities adopted the recovery model proposed by Columbia Environmental in this application, region-wide goals for recovery and recycling could be met in one year. The innovation of the proposed facility lies in three facts (previously outlined in a November 29, 2004 letter to Metro):

1. Columbia Environmental has a strong economic incentive to recover materials from the waste stream.

Because Columbia Environmental has no direct connection to a landfill—unlike other dominant, fully vertically-integrated firms operating in the region—it has a huge economic incentive to remove every possible pound of recoverable material from the waste stream. Recovery and recycling is a profit center for the company, whereas delivering waste to the landfill is an undesirable cost. This creates a market-based system for recovery and recycling that supports regional goals.

2. The new facility will operate using superior technology for sorting and recovery.

The new transfer facility will invest in cutting-edge mechanized systems for sorting and recovery. These systems are similar to the ones operating effectively in the two California facilities discussed in detail in the February 22 letter. These systems will maximize the amount of materials diverted from the landfill.

3. The transfer station will be immediately adjacent to a recycling processing facility.

The proposed facility is unique because of its proximity to existing recycling processing activities. This creates efficiencies for the processing of recovered materials. While not all materials can be processed on site, cardboard, waste paper, glass, metal, and other specialty materials will be brought to the main building and turned into marketable commodities. Unlike at other transfer facilities, no additional truck trips will be needed to bring these materials to a processing center.

In short, the key factors listed above—economic incentives for recovery, cutting edge sorting technology, and proximity to recycling processing—are innovative and unlike any transfer and recovery station in the region.

In conclusion, Columbia Environmental has provided more detailed information on the recovery and transfer station application, at the request of Metro staff and the Metro Council. The application meets the Council's factors for consideration as listed in Metro Code 5.01.070(f). We hope that as the process moves forward, we can work collaboratively with Metro. We appreciate the opportunity to provide this additional information and hope it provides sufficient detail for staff and Council to approve the application.

Sincerely,

WINTERBROOK PLANNING



Ben Schonberger

Columbia Environmental L.L.C.
Facility Recovery
Phase 1

<u>Category</u>	<u>Tons/Day</u>	<u>% Recovery</u>	<u>Tons/Day Recovered</u>	<u>Tons/Year Recovered</u>
Wet Waste				
Residential	95	5%	5	1,240
Commercial & Multi-Family	25	25%	6	1,631
Commercial Container & Boxes	<u>30</u>	30%	<u>9</u>	<u>2,349</u>
Total Wet Waste	<u>150</u>		<u>20</u>	<u>5,220</u>
Dry Waste				
Residential	10	50%	5	1,305
Commercial and C & D	<u>50</u>	40%	<u>20</u>	<u>5,220</u>
Total Dry Waste	<u>60</u>		<u>25</u>	<u>6,525</u>
Total Phase 1	<u>210</u>	<u>21%</u>	<u>45</u>	<u>11,745</u>

(Future) Phase 2

<u>Category</u>	<u>Tons/Day</u>	<u>% Recovery</u>	<u>Tons/Day Recovered</u>	<u>Tons/Year Recovered</u>
Wet Waste				
Residential	125	5%	6	1,631
Commercial & Multi-Family	30	30%	9	2,349
Commercial Container & Boxes	<u>45</u>	40%	<u>18</u>	<u>4,698</u>
Total Wet Waste	<u>200</u>		<u>33</u>	<u>8,678</u>
Dry Waste				
Residential	15	55%	8	2,153
Commercial and C & D	<u>85</u>	45%	<u>38</u>	<u>9,983</u>
Total Dry Waste	<u>100</u>		<u>47</u>	<u>12,137</u>
Total Phase 2	<u>300</u>	<u>27%</u>	<u>80</u>	<u>20,815</u>

(Future) Phase 3

<u>Category</u>	<u>Tons/Day</u>	<u>% Recovery</u>	<u>Tons/Day Recovered</u>	<u>Tons/Year Recovered</u>
Wet Waste				
Residential	170	5%	9	2,219
Commercial & Multi-Family	40	35%	14	3,654
Commercial Container & Boxes	<u>50</u>	50%	<u>25</u>	<u>6,525</u>
Total Wet Waste	<u>260</u>		<u>48</u>	<u>12,398</u>
Dry Waste				
Residential	20	55%	11	2,871
Commercial and C & D	<u>130</u>	50%	<u>65</u>	<u>16,965</u>
Total Dry Waste	<u>150</u>		<u>76</u>	<u>19,836</u>
Total Phase 3	<u>410</u>	<u>30%</u>	<u>124</u>	<u>32,234</u>

Columbia Environmental: Haulers Most Likely to Use Sandy Site

Route Identification	Distance To Metro Facility	Distance To Lot	Distance To Col. Env.	Distance To Lot	Difference	Original Request at 55,000 Tons				New Request at 38,000 Tons			
						Number Of Loads	Miles Saved Per Year	Miles Saved Residential	Miles Saved Commercial	Number Of Loads	Miles Saved Per Year	Miles Saved Residential	Miles Saved Commercial
Alberta	11.90	16.00	5.50	4.50	17.90	322	5,764	4,611	1,153	225	4,035	3,228	807
Argay	13.50	10.25	0.00	4.75	19.00	340	6,460	4,845	1,615	238	4,522	3,392	1,131
PDR-Baldwin	11.90	16.00	5.50	4.50	17.90	667	11,939	10,745	1,194	467	8,358	7,522	836
PDR-Blains	6.20	16.33	8.80	4.50	9.23	113	1,043	939	104	79	730	657	73
Borgens	13.25	16.33	6.80	4.00	18.78	236	4,432	3,989	443	165	3,102	2,792	310
City Sanitary	9.00	15.50	9.00	1.00	14.50	167	2,422	1,211	1,211	117	1,695	848	848
Cloudburst	6.25	6.50	8.00	0.00	4.75	167	793	0	793	117	555	0	555
Daves	10.25	20.00	10.00	0.00	20.25	260	5,265	4,212	1,053	182	3,686	2,948	737
Eastside Waste	15.00	17.50	2.50	5.00	25.00	667	16,675	10,005	6,670	467	11,673	7,004	4,669
Egger	9.50	11.00	4.50	4.00	12.00	114	1,368	1,300	68	80	958	910	48
Elmers	13.00	20.00	7.00	0.00	26.00	314	8,164	7,756	408	220	5,715	5,429	286
Flannery's						83	850	0	850	58	595	0	595
Eckert						83	850	0	850	58	595	0	595
Kiltow	16.00	16.33	10.25	4.00	18.08	282	5,099	4,844	255	197	3,569	3,391	178
Gresham						1,667	25,000	12,500	12,500	1,167	17,500	8,750	8,750
Heiberg						333	3,500	0	3,500	233	2,450	0	2,450
Irvington	13.00	16.00	7.00	4.00	18.00	110	1,980	1,881	99	77	1,386	1,317	69
Weisenfluh	11.00	14.00	4.50	4.00	16.50	291	4,802	4,321	480	204	3,361	3,025	336
Cloudburst-Schnell	6.03	6.50	8.00	0.00	4.53	80	362	326	36	56	253	228	25
Cloudburst-Lofink	6.50	6.50	8.00	0.00	5.00	80	400	360	40	56	280	252	28
PDR						1,333	16,000	12,800	3,200	933	11,200	8,960	2,240
PDR-Drop Box						70	1,000	0	1,000	49	700	0	700
Wooten	14.50	16.03	2.50	0.00	28.03	342	9,585	7,668	1,917	239	6,709	5,367	1,342
Trashco						834	9,000	0	9,000	584	6,300	0	6,300
Weber	16.00	18.00	5.50	4.00	24.50	435	10,658	8,526	2,132	305	7,460	5,968	1,492
						<u>9,390</u>	<u>153,409</u>	<u>102,838</u>	<u>50,571</u>	<u>6,573</u>	<u>107,386</u>	<u>71,986</u>	<u>35,400</u>

Evaluation Factors Summary - Revised by Columbia Environmental, April 2005

- Table 1 summarizes findings regarding whether or not the application submitted by Columbia Environmental meets the five Metro Code evaluation factors. Table 2 summarizes additional evaluation factors introduced by Councilor Park for consideration at the December 16, 2004 Council hearing on Ordinance No. 04-1063.

Table 1- Metro Code Evaluation Factors

Metro Code Evaluation Factors	Favorable	Neutral	Unfavorable	Findings on the Columbia Environmental Application
<p>1. <i>Consistent with the Regional Solid Waste Management Plan [Metro Code 5.01.070(f)(1)].</i></p> <p>Will there be a <i>Net Benefit</i> to the regional solid waste system?</p>	X			<p>On balance, the proposed facility is consistent with the RSWMP. The proposal will improve accessibility for haulers, reduce regional VMTs, support local business, bolster competition, and enhance regional material recovery capacity.</p>
<p><u>RSWMP considerations:</u></p>				
<ul style="list-style-type: none"> Accessibility 	X			<p>The proposed facility will increase access to the system for haulers serving the most populous area of the region. It will significantly increase efficiency for haulers by reducing travel times. Access to the only other transfer station in the area (Troutdale), is effectively restricted because this station already exceeds Metro's tonnage cap, and because it is owned by a competitor.</p>
<ul style="list-style-type: none"> Recovery 	X			<p>The new facility will recover of a significantly greater percentage of recyclable materials from the wet and dry waste streams than any other facility in the region. This furthers Metro's regional recovery goals. High recovery rates result from proximity to an existing recycling processing operation, innovative equipment and systems, and a strong economic incentive for recovery.</p>
<ul style="list-style-type: none"> Competition (competition also relates to Cost, which is discussed in Evaluation Factor #2) 	X			<p>The proposal allows a new, locally-based entrant into the market. Increased competition promotes efficiency, and could lower prices. The proposal will also preserve a competitive marketplace for independent waste haulers, which is threatened by large, vertically-integrated, multi-national firms. Over the long run, competition will hold down prices.</p>
<ul style="list-style-type: none"> Cost to regional ratepayers 		X		<p>Cost savings on all residential and some commercial routes are passed through to ratepayers. Depending on rate-setter decisions, this lowers consumer costs or holds down increases. Metro and other facilities may respond to lost market share by increasing fees, which could raise costs for others. Costs to regional ratepayers would rise faster without the proposed facility because industry consolidation will reduce competition.</p>
<ul style="list-style-type: none"> Capacity 			X	<p>The existing system has adequate capacity to accept, manage and transfer the region's waste well into the future. (See to Metro's Regional Transfer Capacity Analysis, April 2004).</p>

Table 1- Five Metro Code Evaluation Factors (continued)

<p><i>...continued...</i></p> <p align="center">The Five Metro Code Evaluation Factors For Solid Waste Franchise Applications</p>	<p align="center">Favorable</p>	<p align="center">Neutral</p>	<p align="center">Unfavorable</p>	<p align="center">Findings on the Columbia Environmental Application</p>
<p>2. <i>The effect on the cost of solid waste disposal and recycling services for the citizens of the region [Metro Code 5.01.070(f)(2)].</i></p> <p>(Cost relates to Competition, discussed on previous page Evaluation Factor #1- RSWMP consistency)</p>		<p align="center">X</p>		<p>If the application were approved, citizens of the region would see a mix of higher and lower costs. Actual savings will depend on the responses of Metro, other firms, and rate setters.</p> <p>In the first phase of development, lower dry waste tip fees at the facility result in a savings of \$300,000. Transportation savings will be between \$1.0 million and \$1.6 million annually—assuming costs of \$9 to \$15 per mile. Haulers must pass through transportation savings from residential routes, based on decisions made by local rate setters.</p> <p>Transportation savings from residential routes (and non-Portland commercial routes) are passed through to local ratepayers. Therefore, the potential annual benefit to ratepayers is <i>at least</i> \$0.6 to \$1.1 million. Government rate setters use formulas to determine whether savings translate into lower rates.</p> <p>Metro may choose to respond to lost market share by raising its wet waste tip fee. Other transfer stations may then respond to Metro's actions by raising their prices, too. Rate-setters would use this information in determining rates. Alternatively, Metro could re-capture lost market share by redistributing tonnage and changing the caps at other private facilities.</p> <p>In the long run, greater competition from small haulers will hold down costs in the system. Because the facility increases hauler efficiency, citizens also benefit from lower levels of roadway congestion, noise, and air pollution, which carry social costs.</p>
<p>3. <i>Unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents [Metro Code 5.01.070(f)(3)]</i></p>	<p align="center">X</p>			<p>The applicant can meet this standard.</p>
<p>4. <i>Unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood [Metro Code 5.01.070(f)(4)]</i></p>	<p align="center">X</p>			<p>The applicant can meet this standard.</p>
<p>5. <i>Comply with all requirements and standards and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise [Metro Code 5.01.070(f)(5)].</i></p>	<p align="center">X</p>			<p>The applicant can meet this standard.</p>

Table 2- Additional Council Evaluation Factors

The following additional five evaluation factors were introduced by Councilor Park for Council consideration at the December 14, 2004 Council hearing on Ordinance No. 04-1063.

Table 2 Additional Council Evaluation Factors	Favorable	Neutral	Unfavorable	Findings on the Columbia Environmental Application
6. <i>The ability for a significant number of small independent haulers to compete in this region and ensure their competitiveness in the ever-increasing vertically integrated system.</i>	X			The proposed facility would benefit affiliated haulers with transportation and tip fee savings. The proposed local transfer station would help the small independent haulers achieve better economies of scale, allowing them to remain competitive in a vertically integrated system.
7. <i>An innovative approach to increasing recycling through enhanced mechanization and by going after the significant amount of recyclable materials mingled in with multi-family wet waste.</i>	X			Increased mechanization, innovation, and an economic incentive to maximize recovery will result in significantly higher levels of recovery than any other regional facility. The applicant provided details about recovery systems expected to be in place at the facility.
8. <i>A significant reduction in truck VMT given Columbia Environmental's proximity to their customers.</i>	X			Annual truck VMT are reduced by 107,000 miles in the first phase as a result of this facility. Two thirds of these are from residential routes.
9. <i>Potential cost savings to ratepayers on the east side.</i>	X			The applicant has indicated that users of the facility will realize savings. Residential ratepayers may experience lower rates based on these savings as determined by local government rate setting formulas. Savings on residential routes, and some commercial routes, are passed through to customers as a consequence of the local government rate-setting process.
10. <i>Would provide a second transfer station in a watershed that currently generates about 130,000 tons a year.</i>	X			<p>Metro has designated six transfer station service areas (waste sheds) based on distance. The existing waste shed on the east side of the region cannot accommodate the volume of waste generated within its boundaries. The estimated annual wet waste service area tonnages and the facility tonnage caps are:</p> <p><u>Local Transfer Station Service Areas</u> Pride Recycling = 167,000 tons (65,000 ton cap). Troutdale Transfer Station = 131,000 tons (68,250 ton cap). Willamette Resources (WRI) = 19,000 tons (68,250 ton cap).</p> <p><u>Regional Transfer Station Service Areas</u> Forest Grove=52,000 tons (No cap. Accepted about 105,000 tons wet waste in 2004). Metro Central = 353,000 tons (no cap, accepted about 395,000 tons wet waste in 2004). Metro South = 160,000 tons (no cap; accepted about 172,000 tons in 2004).</p>



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Cost Impact Analysis

A number of assumptions underlie Metro staff's analysis of the impact on "the cost of solid waste disposal and recycling services for the citizens of the region." Those assumptions and associated calculations are detailed in the following pages.

Part 1. Summary of Findings. This table describes the sources and amounts of potential cost impacts of Columbia Environmental's Phase 1 operations. If Columbia Environmental's haulers realize savings, it is unlikely that 100% of those savings will be passed on to the ratepayers; therefore, a range of probable ratepayer impacts is included. The percentages can be interpreted approximately as the probability that the haulers' savings will be realized *by the ratepayer*. The "bottom line" for two (high & low) cases shows the product of the percentage probabilities and the total potential cost reductions, or, in other words, the expected value of ratepayer impact. Key simplifying assumptions are included at the bottom of the page.

Part 2. Supporting Calculations and Assumptions. These tables and notes identify the detailed tonnage, budget, and rate structure assumptions which underlie the cost impact analysis of Part 1.

Cost Impact Analysis

Part 1: Summary of Findings

Sources of Ratepayer Impact					
	CE Hauler Costs (based on information provided by CE)		Metro Tip Fees	Non-Metro Revenue Matching	Net Ratepayer Impact
	Transportation	Tip Fees			
Amount	(\$268,465)	(\$248,976)	\$400,834	\$478,489	
Ratepayer Portion	from 77% to 100%*	from 22% to 100%**	100%	from 74% to 100%	
Case 1: 77% of transportation, 22% of tip fees, 100% of Metro & non-Metro					
	(\$206,244)	(\$55,387)	\$400,834	\$478,489	<u>\$617,693</u>
Case 2: 100% of transportation, 100% of tip fees, 100% of Metro & 74% of non-Metro					
	(\$268,465)	(\$248,976)	\$400,834	\$354,808	<u>\$238,201</u>
	<i>Reduced Costs</i>		<i>Increased Prices</i>		

Notes:

* The lower estimate for transportation is most likely for year 1; the remainder is likely to be passed through to ratepayers over time as each CE hauler is sampled in the COP's rate setting process.

** In the City of Portland where most of CE's haulers operate, whether or not to pass through commercial dry waste tip fee savings will be at the discretion of the hauler. In general, the more savings haulers share with the ratepayer, the lower CE's and the haulers' profitability.

Assumptions:

CE's haulers realize \$517,441 annually in lower transportation and disposal costs.

CE's "residential" vs. "commercial" is equivalent to the City of Portland's franchised/unfranchised designation.

The City of Portland's rate setting process examines costs for 75% of garbage customers.

Commercial waste is primarily dry; residential waste is primarily wet.

No more than 10% of dry waste in Gresham is unfranchised (C&D).

April 22, 2005

Cost Impact Analysis

Part 2: Supporting Calculations and Assumptions

Effect of Tonnage Diversion on Metro's Per-ton Costs

53,600 tpy diversion

Transfer Operations Part of Tip Fee	12-mo. Budget (\$ millions)	Per-ton Cost		Diff (\$/ton)
		current tonnage*	tonnage w/ CE*	
New BFI Contract (BFI budget amount varies with tonnage)	5.4	\$9.63	\$9.69	0.06
WMI Disposal Contract (WMI budget amount varies with tonnage)	11.0	\$19.35	\$19.44	0.09
Subtotal, Variable Costs only \1\		28.98	29.13	0.15
Contribution to Renewal & Replacement	0.6	\$1.10	\$1.22	0.12
Scalehouse & Maint. (fully loaded)	2.1	\$3.75	\$4.14	0.39
Subtotal, Fixed Costs only \2\		4.85	5.36	0.51
Subtotal Metro Transfer Station Operations:		\$33.83	\$34.49	\$0.66
Programs & Gen. Govt. \3\				
Regional Programs (Regional System Fee)	19.6	\$15.09	\$15.17	0.08
General Fund (Metro Excise Tax) \4\	11.1	\$8.58	\$8.63	0.05
Subtotal Programs & Gen. Govt.		\$23.67	\$23.80	\$0.13
Total Impact on Metro's per-ton Costs:				\$0.78

* Revenue Bases (FY05-06 projected)

	Tons		1=lo; 0=hi	
	current tonnage	tonnage w/ new facility	1 Lo Diff	0 Hi Diff
Metro:	565,203	511,603	-53,600	-80,600
non-Metro:	732,311	778,991	46,680	70,980
Regional:	1,297,514	1,290,594	-6,920	-9,620

including: 15,600 dry tons
assumed improvement in recovery rates at CE for wet & dry waste, respectively: 10% 20%

Footnotes denoted with the \n\ symbol can be found on the reverse.

Cost Impact Analysis

Part 2 (continued): Supporting Calculations and Assumptions

Subtotal Regional Ratepayer Disposal Costs 53,600 tpy diversion

Transfer Operations

Metro	511,603	tons x \$0.15 =	<u>\$75,851</u>	
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Fixed Costs

Metro	511,603	tons x \$0.51 =	<u>\$260,053</u>	
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Programs & Gen. Govt.

Metro	511,603	tons x \$0.13 =	\$64,930	
Non-Metro	778,991	tons x \$0.13 =	<u>\$98,866</u>	
	1,290,594		<u>\$163,796</u>	

Non-Metro Revenue Matching Potential

Wet	389,817	tons x \$0.66 =	\$255,942	(all wet waste matches)
Dry	188,374	tons x \$0.66 =	<u>\$123,681</u>	(all dry waste matches) \5\
	578,191		<u>\$379,623</u>	(both wet & dry waste match)

Potential Cost to Ratepayers Annually:

between		\$755,642	(wet matches)
and		\$879,323	(wet & dry match) \6\

Notes

\1\ Changes in variable costs are based on current contract terms & the tonnage projection in the requested FY 05-06 budget.

\2\ Fixed costs: Contribution to R&R is the FY05-06 amount; Scalehouse costs are based on a \$7.50 transaction fee, assuming 2 tons/load.

\3\ Programs & General Gov't. figures are based on the FY04-05 per-ton RSF and Excise Tax, but FY05-06 tonnage.

\4\ A per-ton increase in excise tax would not occur until Year 2; all other increases likely would occur in Year 1.

\5\ Excluded from the total are about 218,000 tons of dry and special wastes delivered to the Washington Co. landfills, where a rate increase is less likely because those facilities are rate regulated by the county.

\6\ In recent years, the tip fees at private facilities have, on average, followed Metro's rate changes. For this reason, staff believe that the cost increases shown here have a high probability of being passed on to ratepayers regionwide.

April 22, 2005

Agenda Item Number 6.1

Resolution No. 05-3582, For the Purpose of Amending the Unified Planning Work Program to
Include the Development of a Regional Concept for Transportation Operations.

Metro Council Meeting
Thursday, May 26, 2005
Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE) RESOLUTION NO. 05-3582
UNIFIED PLANNING WORK PROGRAM)
TO INCLUDE THE DEVELOPMENT OF) Introduced by: Councilor Rex Burkholder
A REGIONAL CONCEPT FOR)
TRANSPORTATION OPERATIONS)

WHEREAS, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) initiated federal support for deployment of Intelligent Transportation System (ITS) technology throughout the nation to harness computer and digital communication technology to the improvement of surface transportation; and

WHEREAS, this federal ITS initiative was retained in the Transportation Equity Act for the 21st Century (TEA-21); and

WHEREAS, the Metro region was the recipient of an ITS early deployment grant that produced a 20-year plan (the Portland Regionwide Advanced Traffic Management System Plan, DKS, 1993) for deployment of traffic management technology throughout the region (hereafter, the ITS Plan); and

WHEREAS, the ITS Plan addresses freeway management, including ramp metering, incident detection systems, emergency dispatch and response systems (COMET Vehicles), driver communication systems and data archiving; and

WHEREAS, the ITS Plan addresses arterial surface street management, including signal system coordination, video monitoring, electronic message signs, emergency and transit vehicle signal preemption and data archiving; and

WHEREAS, the ITS Plan addresses transit system management, including computer aided vehicle tracking and dispatch, smart bus technology, on-board security systems, real-time transit-traveler information and data archive and analysis capabilities; and

WHEREAS, sub-regional implementation plans have been developed cooperatively by the Oregon Department of Transportation (ODOT), the City of Gresham, Multnomah County, the City of Portland, the City of Vancouver and Clark County Washington and additional sub-regional plans are being developed with regional funds for Clackamas and Washington Counties; and

WHEREAS, TriMet and C-TRAN and the Port of Portland have, or are preparing equivalent sub-regional ITS plans addressing transit, freight and airport access operations that expand the initial regional emphasis on use of ITS technology for traffic operations to the broader issues of multi-modal transportation systems management; and

WHEREAS, the TRANSPORT Subcommittee of TPAC has overseen development of a federally mandated Regional ITS Architecture to assure system and component level compatibility of multi-agency, multimodal ITS field devices, communications networks and computer hardware and software technologies; and

WHEREAS, the TRANSPORT Subcommittee has identified the need to improve coordination among ITS providers and update the regional strategy for a comprehensive approach to ITS;

WHEREAS, Metro and the City of Portland, on behalf of the TRANSPORT Committee has secured federal funding for the development of a Regional Concept for Transportation Operations; now, therefore

BE IT RESOLVED by the Metro Council;

1. The Unified Planning Work Program be amended to direct Metro and the City of Portland to develop a Regional Concept for Transportation Operations that strengthens and guides regional transportation operations collaboration and coordination.
2. That the Regional Concept for Transportation Operations presents an operations vision and direction for the future of transportation systems management and operations based on a holistic view of the region,
3. That the Regional Concept for Transportation Operations garners commitment from agencies and jurisdictions for a common regional approach to transportation management and operations, and
4. That the Regional Concept for Transportation Operations provides an opportunity to strengthen the linkage between regional planners and managers responsible for transportation operations by providing coherent operations strategy for consideration in the planning process.
5. That the TRANSPORT Subcommittee oversee development of the Regional Concept for Transportation Operations, and that reports on the development of the concept be made to TPAC, JPACT and the Metro Council.

ADOPTED by the Metro Council this _____ day of _____, 2005.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Regional Mobility Program – Congestion Management - ITS

PROGRAM

The 2004 Federal Update to the RTP identified hundreds of needed improvements throughout the region, including numerous capacity improvements and system-management projects aimed at relieving congestion in chronic traffic "hot spots." The RTP is also largely unfunded, which means that congestion-relief projects may not proceed in a timely manner. The Regional Mobility Program seeks to monitor the ongoing effects of congestion on livability and the regional economy, the degree to which delayed improvements are compounding these effects, and develop multi-modal strategies for coping with the gap in needed improvements.

MANDATES, AUTHORIZATIONS, CONSTRAINTS

The Regional Mobility Program encompasses federal mandates to maintain "congestion management" and "intelligent transportation" systems. These programs are largely incorporated into the RTP and include:

- Inventory of Congestion Hot Spots: Staff will work closely with TPAC, ODOT, the Port of Portland and local jurisdictions to develop and maintain an inventory of known congestion hot spots. This element will be conducted in concert with data inventory requirements of the Congestion Management System
- Ranking of Congestion Hot Spots: Metro will work with TPAC, ODOT and local jurisdictions to develop ranking criteria for evaluating the relative magnitude of known congestion hot spots, including measures addressing safety, system mobility and relative accessibility. These criteria will be used to develop a ranked list of congestion relief projects, incorporating existing RTP projects and others identified through this effort
- Congestion Action Plan: Working with JPACT and Metro Council, develop an action plan for implementing multi-modal congestion relief projects, including specific funding strategies for unfunded improvements. This work may be coordinated with a proposed regional transportation funding initiative in 2004
- Public Involvement: All activities require early, ongoing and responsive public involvement techniques, consistent with Metro public involvement policies. Newly-developed procedures to address environmental justice issues will be applied to this effort

The region's intelligent transportation activities are further guided by the TRANSPORT Committee, a multi-agency group of system providers involved in implementing intelligent transportation (ITS) policy. In early 2005, the role of this group as a Subcommittee of TPAC was formalized. In 2005-06, TRANSPORT will oversee a major update to the region's ITS program to incorporate a Regional Concept for Transportation Operations, a new tool for strengthening and guiding regional transportation operations collaboration and coordination. The Regional Concept for Transportation Operations will serve the following three key purposes:

- Presents an operations vision and direction for the future of transportation systems management and operations based on a holistic view of the region,
- Garners commitment from agencies and jurisdictions for a common regional approach to transportation and management and operations, and
- Provides an opportunity to strengthen the linkage between regional planners and managers responsible for transportation operations by providing coherent operations strategy for consideration in the planning process.

RESOLUTION NO. 05-3582 EXHIBIT 'A'

Regional Mobility Program – Congestion Management - ITS

The ITS program enhancement is funded through a special grant from the Federal Highway Administration, and will be administered by Metro in partnership with the City of Portland and the TRANSPORT Committee.

The 2004 Triennial Review identified a number of improvements to the Regional Mobility Program that will be implemented in FY 2005-06 through improvements to the RTP and through activities at the TRANSPORT Committee.

STAKEHOLDERS

- Metro Council
- Regional partner agencies and members of the public
- TPAC
- JPACT

OBJECTIVES/PRODUCTS/DELIVERABLES

Objectives for FY 2005-06 include:

- Prepare and map an inventory of congestion hot spots that affect the regional transportation system
- Develop criteria for ranking congestion hot spots. Prepare a ranked list of proposed congestion relief projects that improve movement of people and goods for review by JPACT and Metro Council
- Support JPACT and the Metro Council in their efforts to implement a financial strategy for completing improvements in a timely manner
- Develop a Congestion Management System procedure manual defining data collection and publication requirements
- Develop a Regional Concept for Transportation Operations, a new tool for strengthening and guiding regional transportation operations collaboration and coordination.

ACCOMPLISHMENTS OF THIS PROGRAM TO DATE

The RTP Update was completed in August 2000 with two purposes: first, it had to meet requirements set forth in the state TPR. Among other provisions, the rule seeks to reduce reliance upon the automobile and promote use of alternative modes of transportation. Second, revisions must reflect the ongoing Region 2040 planning effort and serve as the transportation element of the Regional Framework Plan. Together, these state and regional policy initiatives are expected to go far in slowing growth in travel demand and congestion in the region.

A new congestion policy in the 2000 RTP recognizes that different congestion measures should be applied in different areas. In the updated plan, the peak-hour congestion standard is relaxed in densely developed areas with high-quality transit, for example, since these areas are less dependent upon motor vehicles as a means of travel. The standard is higher in major statewide "through-traffic" corridors and key-freight connections.

RESOLUTION NO. 05-3582 EXHIBIT 'A'

Regional Mobility Program – Congestion Management - ITS

The remaining congestion relief projects within the 2000 RTP were developed subject to congestion management system provisions within the plan. These provisions require jurisdictions to consider other solutions, such as alternative mode improvements, before making capacity improvements to address congestion. These provisions resulted in a combination of capacity projects and alternative mode improvements in situations where alternative mode projects were not sufficient to meet projected travel need.

In 2003, a Federal Update to the 2000 RTP was completed, with an expanded system of projects eligible for federal funding and new revenues identified for future improvements. However, the RTP is still substantially under-funded, despite new revenues.

BUDGET SUMMARY

Requirements:

Personal Services	\$	111,646
Interfund Transfers	\$	31,834
Materials & Services	\$	4,420
 FY07 Carryover	 \$	 96,900

TOTAL	\$	244,800
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Resources:

PL	\$	5,591
STP/ODOT Match	\$	21,834
ODOT Support	\$	15,643
Section 5303	\$	3,000
 FHWA ITS Grant	 \$	 193,800
TriMet	\$	2,000
Metro	\$	2,932

TOTAL	\$	244,800
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Full-Time Equivalent Staffing

Regular Full-Time FTE	1.40
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TOTAL	1.40
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STAFF REPORT

FOR THE PURPOSE OF AMENDING THE UNIFIED PLANNING WORK PROGRAM TO INCLUDE THE DEVELOPMENT OF A REGIONAL CONCEPT FOR TRANSPORTATION OPERATIONS

Date: April 21, 2005

Prepared by: Tom Kloster

The purpose of this amendment is to enable the region to enhance existing transportation operations collaboration activities across numerous jurisdictions. This project will help demonstrate appropriate situations, conditions, and organizational approaches that can be applied to developing and using a Regional Concept for Transportation Operations. Metro will work with the City of Portland and the TRANSPORT Subcommittee of TPAC to observe and assess the process and organizational approaches needed to create and use the Regional Concept for Transportation Operations, and will help mainstream the Regional Concept for Transportation Operations into a regional transportation operations practice.

The Regional Concept for Transportation Operations will serve the following purposes:

- It presents an operations vision and direction for the future of transportation systems management and operations based on a holistic view of the region,
- It garners commitment from agencies and jurisdictions for a common regional approach to transportation management and operations, and
- It provides an opportunity to strengthen the linkage between regional planners and managers responsible for transportation operations by providing a coherent operations strategy for consideration in the planning process.

BACKGROUND

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) initiated a national commitment to develop and implement computer and communication technologies to improve efficiency of existing freeway, surface street (arterial) and transit systems. The Portland-area was awarded early deployment funding by the federal highway administration to prepare a comprehensive technology inventory and implementation plan called an Advanced Traffic Management System (ATMS) Plan. As the concept of computer aided travel management evolved, the term ATMS was replaced at the federal level with Intelligent Transportation Systems, or ITS.

The regional ITS Plan was completed by DKS Associates in October 1993 and reflected input of an interagency technical committee that included representatives of ODOT, Metro and most of the region's major operating agencies including the City of Portland, Tri-Met, the Port of Portland, the three counties and many of the other smaller cities in the region and the City of Vancouver, Clark County Washington and Washington DOT. This group continued to meet after completion of the ITS Plan and worked to implement Plan recommendations on a regionwide, bi-state, cooperative basis. Eventually, the ad-hoc committee adopted the name of TRANSPORT.

As sharing of operations data and communications infrastructure has expanded within the group of agencies that comprise TransPort, the group has evolved into the multi-modal ITS services coordinating body within the greater Portland-Vancouver metropolitan area. When the early deployment phase of the federal ITS initiative moved into its present emphasis on integration of modal infrastructure systems

(MDI grants), *TransPort* submitted successful applications for funding and has been cooperatively managing implementation of priority technology integration projects in the Portland-Vancouver region. In 2005, the committee's role as the leader on ITS matters was formalized when the group was and was established as a subcommittee of TPAC.

The focus of ITS activity in Portland over the past ten years has largely been to install needed core field devices and communication systems and to perfect the computer hardware and software tools needed to integrate and optimize operation of the devices. These systems help operating agencies maintain field equipment more cheaply and minimize the severity of recurrent system congestion and to identify and rapidly respond to accidents. It is estimated that incidents, such as stalled cars and accidents, account for as much as 40 percent of typical freeway congestion. Similar events on surface streets also dramatically impact transit and freight operations. Early detection and response dramatically reduce delays attributable to such events and these are the strategies targeted by the ATMS Plan for earliest attention and sustained commitment of regional resources.

National standards have been developed to assure that ITS hardware and software tools produced by different manufactures will all be compatible. The concept is very similar to audio equipment, where the consumer is able to purchase components of a sound system from multiple manufactures, plug them into one another and have them all work together. These same kinds of interchangeability are facilitated by development of both national, regional and project scale architecture schemes. The Transportation Equity Act for the 21st Century (TEA-21) requires that all MPOs develop a regional ITS architecture and to assure that all ITS-related projects using federal funds comply with the architecture. In 2000, *TransPort* initiated consultant development of a Draft ITS Architecture. This was necessary to secure federal funds for a variety of management system integration projects for which *TransPort* had applied on behalf of the state ITS program. The committee has continued refinement of the Architecture and has developed procedures for assuring project level compatibility with the information flows and standards, which are at the heart of the concept.

The purpose of this proposed Regional Concept for Transportation Operations is to enable the region to enhance existing transportation operations collaboration activities across numerous jurisdictions by demonstrating appropriate situations, conditions, and organizational approaches where an integrated system can be implemented. The Regional Concept for Transportation Operations will:

- present an operations vision and direction for the future of transportation systems management and operations based on a holistic view of the region,
- garner commitment from agencies and jurisdictions for a common regional approach to transportation and management and operations, and
- provide an opportunity to strengthen the linkage between regional planners and managers responsible for transportation operations by providing coherent operations strategy for consideration in the planning process.

The concept will be presented to TPAC, JPACT and the Council for approval as an operating plan for the region's ITS providers at the culmination of the project. Periodic updates on the project will also be provided.

ANALYSIS/INFORMATION

1. **Known Opposition.** There is no known opposition to this proposal.

2. **Legal Antecedents.** Metro is charged by TEA-21 with assuring compliance of all federally funded ITS activities with federal and regional ITS Architecture protocols and this responsibility would be delegated to the subcommittee.
3. **Anticipated Effects.** Establishment of a limited-duration 1.0 FTE Senior Transportation Planner at Metro (for two years) to implement the federal grant.
4. **Budget Impacts.** This position would be funded by a federal grant administrated and locally matched by the City of Portland, with Metro acting as a contractor. Metro would house the position using existing office space and equipment. Therefore, no additional effect on Metro's budget would result from adoption of this Resolution.

Agenda Item Number 7.1

Resolution No. 05-3558, Authorizing Issuance of a Request for Proposals 05-1146-SWR for Competitive Sealed Proposals to Procure Hazardous Waste Disposal Services; and Authorizing Execution of the Resulting Multi-Year Contracts.

Contract Review Board

Metro Council Meeting
Thursday, May 26, 2005
Council Chamber

BEFORE THE METRO CONTRACT REVIEW BOARD

AUTHORIZING ISSUANCE OF A REQUEST)	RESOLUTION NO. 05-3558
FOR PROPOSALS 05-11416-SWR FOR)	
COMPETITIVE SEALED PROPOSALS TO)	Introduced by Chief Operating Officer
PROCURE HAZARDOUS WASTE DISPOSAL)	Michael J. Jordan, with the concurrence of
SERVICES, AND AUTHORIZING EXECUTION)	Council President David Bragdon
OF THE RESULTING MULTI-YEAR)	
CONTRACTS		

WHEREAS, Metro operates a hazardous waste collection program, which includes two permanent household hazardous waste facilities, a series of roundup collections around the region, and a conditionally exempt generator (CEG) program; and

WHEREAS, Metro's current contracts for transportation and disposal of wastes collected in the hazardous waste program expire on September 30, 2005; and

WHEREAS, the proposed FY 2005-06 budget of the Solid Waste and Recycling Department authorizes expenditures of a total of \$729,000 for hazardous waste transportation and disposal; and

WHEREAS, pursuant to Metro Code Section 2.04.026(a), Council approval is required for any contract which commits Metro to the expenditure of appropriations not otherwise provided for in the current fiscal year budget at the time the contract is executed and which has a significant impact on Metro; and

WHEREAS, the Metro Council considers the contracts for transportation and disposal of waste collected in hazardous waste programs to have a significant impact on Metro; and

WHEREAS, this resolution was submitted to the Chief Operating Officer for consideration and was forwarded to the Council for approval; now therefore

BE IT RESOLVED

1. That the Metro Council authorizes the release of a request for proposals substantially similar to RFP #05-1146-SWR for Transportation and Disposal of Waste Collected in Metro's Hazardous Waste Programs, attached as Exhibit A; and
2. That the Metro Council authorizes the Chief Operating Officer to execute multi-year contracts for Transportation and Disposal of Hazardous Wastes Collected in Metro's Hazardous Waste Collection Program with the most qualified proposers.

ADOPTED by the Metro Council this _____ day of _____, 2005.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

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REQUEST FOR PROPOSALS
for
TRANSPORTATION AND DISPOSAL
OF WASTES COLLECTED IN METRO'S
HAZARDOUS WASTE PROGRAM

(RFP # 05-11416-SWR)

May 2005

Metro
Solid Waste & Recycling
600 NE Grand Avenue
Portland, OR 97232



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REQUEST FOR PROPOSALS FOR TRANSPORTATION AND DISPOSAL
OF WASTES COLLECTED IN METRO'S HAZARDOUS WASTE PROGRAM

I. INTRODUCTION

The Solid Waste and Recycling Department of Metro, a metropolitan service district organized under the laws of the State of Oregon and the Metro Charter, is requesting proposals for the transport, recycling, treatment, storage, and disposal of materials collected in Metro's Household Hazardous Waste and Conditionally Exempt Generator Waste Collection Programs (RFP - SWR). Proposals will be due no later than 3:00 p.m., Friday July 1, 2005, in Metro's business offices at 600 NE Grand Avenue, Portland, Oregon, 97232-2736, Attention: Jim Quinn, Solid Waste and Recycling Department.

Metro has divided waste into 26 categories. Metro intends to award a single contract for transportation and disposal of all 26 categories.

Further details concerning the project and proposal are contained in this document.

II. BACKGROUND

Metro is the agency responsible for household hazardous waste management in the Portland metropolitan area. In order to provide for convenient disposal of household hazardous waste for residents of the region, Metro has established permanent collection facilities at each of the two Metro-operated solid waste transfer stations. The first facility opened to the public in February of 1992, and is located at the Metro South Transfer Station, 2001 Washington Street in Oregon City, Oregon. The second facility, located at the Metro Central Transfer Station, at 6161 NW 61st Street in Portland, Oregon, opened in November of 1993.

Metro also conducts a program of one to two-day satellite collections of household hazardous waste in various locations in the Metro region, a conditionally exempt small quantity generator (CEG) collection program, a load check program in which hazardous waste is isolated from incoming solid waste, and a paint retailer takeback program at two paint stores.

During 2004 a total of about 4.7 million pounds of wastes were collected at Metro's facilities.

Waste types received:

Flammables	32%
Latex Paint and related	41%
Motor Oil, Car Batteries, Antifreeze	8%
Pesticides	5%
Aerosols	3%
Acids, bases and oxidizers	3%
Cleaners & water-based wastes	3%
Miscellaneous *	5%

*The miscellaneous category includes household batteries, asbestos, fire extinguishers, propane and other compressed gas cylinders, organic peroxides, reactives, explosives, radioactives, sharps, and PCB-containing fluorescent ballasts.

Permanent Collection Facilities

Metro's Household Hazardous Waste (HHW) Facilities are housed in state-of-the-art hazardous materials handling and storage buildings. Because household hazardous waste is exempt from RCRA regulation throughout collection and disposal [per 40CFR261.4 (b) (1)], the facilities are not regulated as TSD facilities, although they meet many of the physical and operational requirements for TSD's.

All receiving, sorting and packaging of wastes at the Metro's HHW Facilities are performed by Metro personnel. Materials are packaged in DOT approved containers, to the specifications of the transportation contractor and disposal facility. In addition, the facilities have rooms equipped for consolidation of flammable paints and other materials into 55 gallon quantities. Metro obtains drums and other packaging materials under separate contract.

Within each facility, segregated storage areas are utilized to store full drums prior to shipment. Storage areas dedicated to flammables, poison/pesticides, alkalis, acids and oxidizers can store approximately one week's worth of drummed waste.

All latex paint processing is done in a dedicated latex paint recycling facility operated by Metro. Latex paint is carefully sorted, and good quality paint is screened, bulked, and packaged in 5 gallon buckets and 1 gallon cans for sale.

In addition to the physical storage limitations, the facilities have time limits on storage of wastes collected as mandated by Oregon DEQ.

The facilities have laboratories for identifying unknown materials, and use a customized system for identification of unlabeled materials.

The facilities are open to the public Monday through Saturday, from 9:00 a.m. to 4:00 p.m. Pickup of drummed waste for disposal is generally conducted before 8 a.m.

"Roundup" Program

During the contract period, Metro plans to conduct short-duration collections of household hazardous wastes at various sites within the Metro region, known as roundups. This may require pickup of drummed wastes at sites other than Metro's household hazardous waste facilities.

Conditionally Exempt Generator Waste

Hazardous wastes generated by conditionally exempt small quantity generators (generally referred to as CEG's in Oregon) are exempt from RCRA per 40CFR261.5. In July of 1992 the EPA clarified that CEG waste could be commingled with household hazardous waste at approved household hazardous waste facilities, and that the resulting mixture would retain its RCRA-exempt status.

Waste from CEG's may be received at Metro's Hazardous Waste Facilities from one of three sources:

1. Waste generated at one of Metro's facilities that are classified as CEG's. This includes Metro Regional Center, where the map center and the print shop generate small amounts of waste, Metro Washington Park Zoo, where small amounts of a variety of waste are generated, and Blue Lake and Oxbow Parks, which are operated by Metro. In addition, waste generated in the course of identifying unknowns in Metro's hazardous waste facilities are, in fact, CEG waste.
2. Abandoned waste from the transfer station tipping floor and illegal dump site cleanups. Hazardous and otherwise unacceptable waste are routinely found mixed with solid waste in Metro transfer stations, and occasionally found at cleanups of illegal trash dumping sites. When the generator cannot be identified, the waste may be managed in Metro's hazardous waste facilities.
3. Collected by appointment from generators in Metro's CEG collection program. This program was started because of the limited options available for CEG's wanting to safely and legally dispose of their waste.

This RFP addresses combined HHW/CEG wastes.

Load Check Program

Metro conducts a load check program at Metro's transfer stations. Under this program the mixed solid waste received at the transfer stations is monitored in order to minimize the quantity of hazardous and other unacceptable waste received. When unacceptable waste is discovered, the generator is identified if possible, and the waste is returned to the generator. However in some cases the generator is unable or unwilling to pick up the waste, and in some cases the generator cannot be identified. In either of these situations, Metro is left to properly package, store and dispose of the waste. Metro has developed a screening process, approved by DEQ, to insure that these wastes are not generated by RCRA-regulated small quantity generators (SQG's) or large quantity generators (LQG's). All screened wastes that are not returned to the generator are brought to the hazardous waste facilities and commingled with HHW/CEG waste for disposal.

Disposition of Wastes

Metro's use of in-house hazardous waste staff and utilization of the bulking room and other features of the permanent facilities allow considerable flexibility in the packaging of wastes collected. This in turn facilitates the development of new transportation, recycling and disposal opportunities. Metro's hazardous waste staff are committed to continuously seeking out new waste management opportunities, considering cost as a primary factor, but also putting considerable emphasis on environmental criteria, such as the degree of beneficial reuse/recycling, the environmental impact of disposal options, and the environmental record of proposed disposal facilities.

III. PROPOSED SCOPE OF WORK

1. Contractor shall pick up wastes of selected categories and remove them from Metro HHW facilities or collection sites as needed. Contractor shall pick up all properly packaged and labeled wastes that are included in a current approved profile when requested by Metro.
2. Metro will provide at least one week notice for establishing a pickup date. Metro will provide details of waste types and quantities to be picked up at least two days prior to pickup date. Contractor shall bring a vehicle suitable to pick up the quantity of waste specified at the prescribed date and time. Metro may require waste pickups on weekends or evenings for special events.
3. Contractor shall provide a filled out Uniform Hazardous Waste Manifests for Metro signature for each waste shipment. Metro will provide proper shipping names including constituents one day prior to pickup date.
4. Contractor shall arrange for delivery to recycling, treatment, storage, and disposal facilities that are approved by Metro. A list of facilities that are approved by both Metro and Contractor will be developed.
5. For all wastes that would be fully-regulated hazardous wastes if it were not for the household waste or CEG waste exemption, all final disposal facilities shall be DEQ or EPA registered hazardous waste recycling facilities, or fully permitted hazardous waste treatment storage and disposal facilities (TSDF's). All wastes that are sent from Metro directly to permitted TSDF's shall be transported using a hazardous waste manifest. Metro shall be considered the generator for manifesting purposes. Contractor shall ensure that TSDF's send signed manifest copies to Metro within standard processing times.
6. Final disposal facilities that are permitted TSDF's shall have Environmental Impairment Liability in the amount, per site, of \$2,000,000 per occurrence, covering emissions, discharges, dispersals, disposal, releases, escapes or seepages of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids, gases, waste materials, irritants, and contaminants that spoil the land, atmosphere, or water.
7. Metro reserves the right to remove any facility from the list of approved facilities. Categories of waste that were designated to go to a facility that has been removed from the approved list may be sent to any other currently approved facility. When this occurs Contractor may negotiate new pricing for these categories. If Contractor is unable to dispose of any category of waste due to Metro's objection, contractor may return that waste to Metro.
8. If Contractor wishes to ship wastes to a facility not currently approved by Metro, Contractor shall notify Metro thirty days in advance of Contractor's intention to ship to the unlisted facility. Metro shall inform Contractor of non-approval within thirty days of notification. If Metro does not object, the facility shall be added to the approved facilities

list.

9. By mutual agreement additional categories of waste, along with agreed upon pricing and approved disposal facilities, may be added to the schedule of disposal categories.
10. Contractor shall assist Metro with obtaining approved waste profiles when required.
11. Contractor shall supply a 24-hour response number on manifests in accordance with 49CFR173.600-606
12. For every manifest of waste picked up from Metro by Contractor, Contractor shall provide a written report certifying disposition of the waste. This report shall include the manifest number, the date picked up from Metro, the Metro facility or event site it was shipped from, the name and location of the recycling, treatment, storage or disposal facility that the waste was transported to, and the disposal method. Each report shall be signed by a responsible company representative.

If the waste is transported to its final recycling, treatment or disposal facility under the Metro-generated manifest, the report shall include the final waste management date for each line item on the manifest. The report shall be submitted to Metro no more than 270 days from the date the waste was picked up from Metro.

If the waste is transported to an intermediate treatment or storage facility, and later shipped to a final recycling, treatment or disposal facility under a new manifest, the report shall include for each line item the name and location of the final waste management facility that the waste was shipped to, the date it was shipped to that facility, and the manifest number or a unique identifying number that can be referred to. This intermediate report shall be submitted to Metro no more than 270 days from the date the waste was picked up from Metro. In addition, a certificate of final waste management shall be submitted to Metro, signed by a responsible official at the final waste management facility, referring to the manifest number or identifying number in the intermediate report. The final waste management certificate shall be submitted to Metro no more than 360 days from the date the waste was picked up from Metro.

If a report for any manifest is not received within the timelines specified above, then all payment invoices received by Metro after the report deadline shall be deemed not acceptable to Metro, and shall not be paid unless and until the late report is received.

Metro will withhold \$5,000 of the final payment due to the contractor (as determined by Metro), until all reports are received. If the final payment is less than \$5,000, the entire payment will be retained.

13. For all TSCA-regulated PCB-containing wastes, Contractor shall comply with all reporting and other requirements in state and federal regulations addressing PCB materials.
14. Metro shall identify all unknown wastes using Metro's identification system, based on "HazCat" and other qualitative identification systems. Contractor shall handle wastes so

identified in the same manner as other wastes are handled, or shall inform Metro of the reasons for the unacceptability of the identification, and of the nature of further testing requirements.

16. CONTRACTOR shall purchase and maintain at CONTRACTOR'S expense, the following types of insurance covering the CONTRACTOR, its employees and agents.
- A. Broad form commercial general liability insurance covering personal injury, property damage, and bodily injury with automatic coverage for premises and operation and product liability with a minimum of limit \$1,000,000 per occurrence.. The policy must be endorsed with contractual liability coverage. **Metro, its elected officials, departments, employees and agents shall be named as an ADDITIONAL INSURED.**
 - B. Automobile bodily injury and property damage liability insurance with MCS 90 and CA 99 48 09 02 endorsements. Insurance coverage shall be a minimum of limit \$5,000,000 per occurrence.
 - C. Environmental Impairment Liability insurance in the amount of \$5,000,000 per occurrence, covering emissions, discharges, dispersals, disposal, releases, escapes or seepages of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids, gases, waste materials, irritants, and contaminants that spoil the land, atmosphere, or water.
 - D. Workers' Compensation insurance complying with ORS 656.017 including employer's liability limits of at least \$500,000 per claim.

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. Notice of any material change or policy cancellation shall be provided to METRO thirty (30) days prior to the change.

CONTRACTOR shall provide METRO with a certificate of insurance complying with this article including required additional insured status within fifteen (15) days of execution of this Contract or twenty-four (24) hours before services under this Contract commence, whichever date is earlier.

15. Contractor shall perform all services in accordance with all applicable federal, state and local laws, rules, regulations and orders, including, but not limited to: the Resource Conservation and Recovery Act (RCRA), and regulations, rules and orders of the United States Environmental Protection Agency, the U. S. Department of Transportation, Oregon's Department of Environmental Quality, state and federal Occupational Health and Safety authorities, the Oregon Department of Transportation, and any local regulations relating to the wastes managed under this contract.
16. Contractor shall designate one individual as Metro's primary contact for all matters

relating to this contract. Metro will designate specific Metro staff persons as approved contacts for Contractor to communicate with on matters relating to this contract.

17. Contractor shall allow Metro representatives to visit any facility owned or operated by Contractor that receives waste pursuant to this contract, up to two visits per year per facility. Contractor shall provide access to all areas where Metro wastes are stored or processed, and all paperwork files relating to Metro waste.
18. In the event Metro wishes for Contractor to provide services or materials after the maximum contract price has been reached, Contractor shall provide such services or materials pursuant to amendment at the same unit prices that Contractor utilized as of the date of this Agreement, and which Contractor utilizes to submit requests for payment pursuant to this Scope of Work. Metro may, in its sole discretion and upon written notice to Contractor, extend the term of this contract for a period not to exceed 12 months. During such extended term all terms and conditions of this contract shall continue in full force and effect.

IV. PROPOSAL INSTRUCTIONS

Submission of Proposal

Please submit 5 copies of the proposal to Metro, addressed to:

Jim Quinn
Hazardous Waste Project Manager
Solid Waste and Recycling Department
Metro
600 NE Grand Avenue
Portland, Oregon, 97232-2736,

Deadline

Proposals will not be considered if received at Metro's business office, 600 NE Grand Avenue, Portland, Oregon, 97232-2736, Attention Jim Quinn, Solid Waste and Recycling Department, after 3:00 p.m. on Friday July 1, 2005.

RFP as Basis for Proposals

This RFP represents the most definitive statement Metro will make concerning information upon which proposals are to be based. Any verbal information which is not contained in this RFP, or in addenda to this RFP, will not be considered by Metro in evaluating proposals.

If any Proposer has a question about this RFP or needs any clarification with regard to any portion of the RFP, inquiries must be made in writing to Jim Quinn, and received no later than June 17, 2005. If Metro determines that a question asked is important and merits a response, the question and Metro's answer will be sent to all parties on the list of proposers (those parties who have received a copy of the RFP) on or before June 21, 2005. Any Proposer who has submitted a proposal and who subsequently receives an addendum, may supplement their proposal as they consider appropriate, provided that the supplementary material is provided on or before the due date for proposals.

In addition to the above, Metro may issue addenda to clarify or add to the RFP. In such an event, additional time to respond to the RFP or to provide supplementary material will be provided as appropriate.

Proposal Security

Each proposal must be accompanied by a certified or cashier's check or proposal bond executed on the prescribed form (see Attachment 2), payable to Metro, in the amount of one thousand dollars (\$1,000.00). This shall serve as a guarantee that the proposer will not withdraw the proposal for a period of ninety (90) days after the submittal date, and if awarded a contract will execute the Metro contract and furnish all bond(s) as required and within the time frame specified herein. Proposal bonds shall be returned to proposers subsequent to final contract selections by Metro.

Performance/Labor and Materials Bond

Successful proposers shall execute and deliver to Metro a Performance and Labor and Materials Bond or a Letter of Credit conditioned upon the faithful performance of the Contract and the payment of all persons supplying labor and materials as prescribed under the terms of the contract. The Initial Bond or Letter of Credit shall be for the term of the Contract, and shall be delivered to Metro along with signed Contract. The Performance and Labor and Materials Bond or the Letter of Credit shall be in the amount of **one million dollars (\$1,000,000.00)** and be in a form specified by Metro.

The Surety or Banking Institution furnishing this Bond or Letter of Credit, as provided on the attached Surety Form (Attachment 3), shall have a rating of at least A and be of the appropriate class for the relevant bond amount according to Best's Key Rating System and shall otherwise have a sound financial standing and a record of service satisfactory to Metro and shall be authorized to do business in the state of Oregon. The Attorney-in-Fact (Resident Agent) who executes this Bond or Letter of Credit on behalf of the Surety or Banking Institution must attach a notarized copy of his/her Power of Attorney as evidence of his/her authority to bind the Surety or Banking Institution on the date of execution of each Bond or Letter of Credit.

Contract Type

Metro intends to enter into a Public Contract with all selected Contractors. A copy of the standard contract form approved by the Office of the Metro Attorney is attached for review prior to submitting a proposal.

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.

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.

Copies of that document are available from the Purchasing and Contracts Division of Finance and Administrative Services, Metro, Metro Regional Center, 600 NE Grand Avenue, Portland, OR 97232 or call (503) 797-1816.

V. PROPOSAL CONTENTS

The proposal should be submitted on recyclable, double-sided recycled paper (post consumer content). No waxed page dividers or non-recyclable materials should be included in the proposal.

1. A transmittal letter stating that the proposal will be valid for ninety (90) days after the submittal date; include the name, title, address, and telephone number of an individual or individuals with authority to contractually bind the company during the period in which Metro is considering proposals.
2. The names and resumes of one or more individuals who will serve as Contractor's Key Staff during the contract period, as well as the role of each Key Staff person in interacting with Metro. Key Staff includes any technical or sales staff that will have significant contact with Metro while carrying out work under the contract.
3. Describe your firm's experience with transportation and disposal of hazardous wastes in general, and with household hazardous wastes and CEG wastes specifically. Describe any experience specific to the Pacific Northwest. Describe your experience also with managing commingled household and CEG wastes, if any. Include in the descriptions the number of years of experience, the varieties of waste handled, and the number of different programs or clients served.
4. Include a list of at least two (2) present or former customers of your firm who can attest to your firm's performance in transportation and disposal of household and CEG hazardous wastes. If possible these customers should be familiar with Key Staff proposed in # 2 above. Include contact person and phone number.
5. List all regulatory permits currently held by your firm that apply to transportation, handling, or disposal of hazardous materials and hazardous waste. Provide the name, address, telephone number, and if possible a contact person for all regulatory agencies that oversee compliance for these permits.
6. Proposal Price Forms (Attachment 1) filled for each category. Additional instructions on filling out the Proposal Price Forms can be found at the beginning of the Proposal Price Forms section, (Attachment 1).
7. Describe all other fees or costs that would be incurred in the course of performing duties described in the scope of work, including but not limited to: transportation charges, profiling fees, surcharges for unusually small or large shipments, etc.
8. Proposal Security in the form of a certified or cashier's check or completed Proposal Bond Form (Attachment 2). See Proposal Instructions for more information.
9. Surety Form for Performance/ Labor and Materials Bond (Attachment 3). See Proposal Instructions for more information

10. Optional exceptions and comments section. To facilitate evaluation of proposals, Metro requires that all responding firms adhere to the format outlined within this RFP. Firms wishing to take exception to, or comment on, any specified criteria within this RFP are encouraged to document their concerns in a distinct section of their proposal. Exceptions or comment should be succinct, thorough and organized.

VI. GENERAL CONDITIONS

1. Limitation and Award: 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.
2. Billing Procedures: Proposers are informed that the billing procedures of the selected firm are subject to the review and prior approval of Metro before reimbursement of services can occur. Contractor's invoices shall include an itemized statement of the work done during the billing period, and will not be submitted more frequently than once a month. Metro shall pay Contractor within 30 days of receipt of an approved invoice.
3. Cancellation of Procurement/Rejection of Proposals. Metro may cancel the procurement or reject any or all proposals in accordance with ORS 279B.100
4. Validity Period and Authority: The proposal shall be considered valid for a period of at least ninety (90) days and shall contain a statement to that effect. The proposal shall contain the name, title, address, and telephone number of an individual or individuals with authority to bind any company contacted during the period in which Metro is evaluating the proposal.
5. Conflict of Interest. A Proposer filing a proposal thereby certifies that no officer, agent, or employee of Metro or Metro has a pecuniary interest in this proposal or has participated in contract negotiations on behalf of Metro; that the proposal is made in good faith without fraud, collusion, or connection of any kind with any other Proposer for the same call for proposals; the Proposer is competing solely in its own behalf without connection with, or obligation to, any undisclosed person or firm.

VII. EVALUATION

Evaluation Procedure

Proposals received that conform to the proposal instructions and respond to the scope of work will be evaluated. Proposals will be reviewed by a selection committee. The basis for evaluation will follow the criteria identified below.

The evaluation committee will select the highest ranking Proposer for negotiations. Negotiations will focus on details of the Proposer's submittal, including: key staff, waste category specifications, and waste disposal methods, as well as the scope of work proposed above. If negotiations result in mutually agreeable contract terms, the Proposer will be issued a Notice of Conditional award. A copy of this notice will be provided to each firm that submitted a proposal.

If negotiations are unsuccessful, negotiations will be terminated with the first Proposer, and new negotiations will begin with the second highest ranked Proposer. This process will continue until agreement with a Proposer is reached.

Evaluation Criteria

The criteria used for evaluation of all responsive Proposals shall be as follows:

- Proposer's experience and qualifications, including qualifications of Key Staff **(30 points)**. This will be rated by the evaluation committee based on items 2,3,4 & 5 in the Proposal Contents section above.
- Total costs for transportation and disposal of wastes, based on expected quantities generated **(50 points)**. This will be rated by the evaluation committee based on per unit disposal prices provided in Proposals, along with any extra labor, material or other costs which would be incurred by Metro in preparing and shipping each waste type. Additional information may be found in the instructions for the Proposal Price Forms, Attachment 1.
- Environmental soundness of disposal method **(20 points)**. Environmental soundness of disposal methods will be rated by the evaluation committee, based on the waste reduction hierarchy shown in the instructions section of the Proposal Price Forms, Attachment 1.

VIII. ATTACHMENTS

1. Proposal Price Forms
2. Proposal Bond Form
3. Surety Form
4. Metro Standard Contract

Attachment 1-
PROPOSAL PRICE FORMS

Instructions:

All waste categories described in the following pages contain waste from household sources and/or from conditionally exempt generators (CEG's). In the Notes, changes: section Proposer should indicate any changes to the category description or to packaging requirements, including types of wastes acceptable, contaminant limits, drum type, liquid quantity restrictions, container type and size limitations, drum list requirements, etc. Any other comments on disposal of a particular category should also be noted in the Notes/Changes section.

Proposer's price information must be filled out for each category. If proposer intends to charge any costs beyond those shown in the Proposal Price forms, proposer must indicate them as described in the Proposal Contents section, item #7.

Indicated quantity generated per year are estimates only; Metro guarantees no minimum quantities in any category.

Disposal methods. In each category proposer must specify at least one disposal method, along with pricing for that method. Proposer need not use the disposal method identified as the current method used by Metro. Proposers should either use one of the disposal methods from the waste reduction hierarchy, shown below, or if proposer indicates a disposal method not on this list, proposer should provide a detailed explanation of the disposal method

At proposer's option two or more disposal methods and associated pricing may be proposed for a single category. In this case the evaluation committee will compare the options proposed and select the most desirable to use in the overall cost analysis. Selection of the most desirable option when two or more are provided by one proposer will be determined by the evaluation committee, weighing cost as 50 points and disposal method as 35 points.

Disposal facility. In each category proposer must specify the final disposal facility, not intermediate transfer and storage facilities, for each disposal method.

Waste reduction hierarchy, (ordered from most desirable to least desirable):

Reuse- beneficial use of the waste, generally in a manner similar to that which the product was originally intended for, with minimal processing before use.

Recycle- processing of the waste to extract or reclaim components that may be beneficially used.

Energy Recovery- use of a high-BTU material as a fuel in an industrial facility. Does not include use to fuel combustion in a destructive incineration facility .

Treatment- a process that alters the characteristics of a hazardous waste in order to render it less hazardous or non-hazardous prior to final disposal through municipal waste landfilling, discharge to POTW, or other methods.

Incineration- destructive incineration in which energy is not recovered. Includes use to fuel combustion in destructive incineration.

Landfill- land disposal in a permitted hazardous waste landfill.

Categories:

AF1	A-Fuel Liquids
AF2	A-Fuel Solids
AFM	A-Fuel, mixed liquids/solids
AFP	A-Fuels, high PCB's
AFL	A-Fuel loosepacks
C	Chlorinated solvents
G	Latex/water-based waste & cleaners
K	Acids
L	Alkalis
M	Oxidizers
N	Pesticides & poisons
N4	Packing group I pesticides
N5	Fertilizer, dry
KB	Acids, bulk
LB	Bases, bulk
MB	Oxidizers, bulk
NB	Pesticides, bulk
P1	Non-TSCA ballasts
P2	TSCA ballasts
Q1	Aerosols- flammable
Q2	Aerosols- corrosive
Q3	Aerosols- poison
R1	Organic peroxides
R2	Reactives
V	Contaminated debris
W	Mercury Products

Category AF1 A-Fuel Liquids

Quantity generated per year: 1200 drums

Description: Pumpable flammable liquids, BTU value greater than 6000 BTU/pound. Includes oil-based paints and paint related materials, paint thinners, gasoline, halogenated and non-halogenated solvents, etc. No debris, no known isocyanates, pesticides, or PCB's.

Current packaging specifications: UN 1A1 drum, bulk.

Current disposal method: Energy Recovery

Proposer's price for this method: _____/55-gallon drum

Additional charge per gallon of non-pumpable material, if any: _____/gallon

Proposed disposal facility:

Proposer's price for alternate method _____/55-gallon drum

Disposal method:

Disposal facility:

Notes, changes:

Category AF2 A-Fuel Solids

Quantity generated per year: 400 drums

Description: Non-pumpable flammable materials. Includes all items under category AF1, as well as semi-solid solvent-based adhesives and caulks, tars and other roofing compounds. Asbestos-containing materials acceptable. No debris, no known pesticides or PCBs.

Current packaging specifications: UN 1A2 drum, bulk.

Current disposal method: Energy Recovery

Proposer's price for this method: _____/55-gallon drum

Proposed disposal facility:

Proposer's price for alternate method _____/55-gallon drum

Disposal method:

Disposal facility:

Notes, changes:

Category AFM A-Fuel Mixed Solids/Liquids Quantity generated per year: 900 drums

Description: A combination of categories AF1 and AF2 above, in a proportion of approximately 2:1 AF1 to AF2, although this will vary from drum to drum.

Current packaging specifications: UN 1A2 drum, bulk.

Proposer's price: _____/55-gallon drum

Additional charge per gallon of non-pumpable material, if any: _____/gallon

Disposal method:

Disposal facility:

Proposer's price for alternate method _____/55-gallon drum

Disposal method:

Disposal facility:

Notes:

Category AFP Flammables- high PCB's Quantity generated per year: 10 drums

Description: Drums shipped as AF1 or AF2 that are determined to be high in PCB's after being received by the disposal contractor.

Current packaging specifications: UN 1A1 or 1A2 drum, bulk.

Current disposal method: Incineration

Proposer's price for this method: _____ 55-gallon drum

Proposed disposal facility:

Proposer's price for alternate method _____/55-gallon drum

Disposal method:

Disposal facility:

Notes, changes:

Category AFL Flammables, loosepack

Quantity generated per year: 400 drums

Description: Containers 1 gallon or smaller of solvent-based materials that are too labor-intensive to bulk, including metal, plastic and glass containers, as well as squeeze tubes and other oddly shaped-containers. All materials in categories AF1 and AF2 are acceptable.

Current packaging specifications: UN 1A2 drum, loose pack.

Current disposal method: Energy Recovery

Proposer's price for this method: _____/55-gallon drum

Proposed disposal facility:

Proposer's price for alternate method _____/55-gallon drum

Disposal method:

Disposal facility:

In addition, Metro may from time to time wish to ship non-bulked solvent-based materials in DOT-approved cubic yard boxes or equivalent palletized boxes. This includes all materials in categories AF1, AF2, and AFM in all sizes 5 gallons or less.

Proposer's price for Energy Recovery: _____/box

Dimensions of boxes:

Can contractor provide boxes?:

Box included in price?:

If not, price for box:

Proposed disposal facility:

Notes, changes:

Category C Chlorinated Solvents- bulk

Quantity generated per year: 25 drums

Description: Bulk halogenated solvents, such as methylene chloride, 1,1,1-trichloroethane, Freon TF, etc. No debris, no known pesticides or PCBs.

Current packaging specifications: UN 1A1 drum, bulk

Current disposal method: Energy recovery

Proposer's price for this method: _____/55-gallon drum

Disposal facility:

Proposer's price for alternate method _____/55-gallon drum

Disposal method:

Disposal facility:

Notes, changes:

Category G Water-based waste

Quantity generated per year: 20 drums

Description: water-based low-hazard materials including: glues, polishes, inks, dyes, sheetrock mud, etc.; pH 3-11 water-based cleaners, disinfectants and surfactants; as well as inert inorganic materials such as calcium carbonate and titanium dioxide.

Current packaging specifications: UN 1A2 drum, bulk.

Current disposal method: Solidification/Landfill

Proposer's price for this method: _____/55-gallon drum

Disposal facility:

Proposer's price for alternate method _____/55-gallon drum

Disposal method:

Disposal facility:

Notes, changes:

Category K Acids

Quantity generated per year: 400 drums

Description: This category is currently separated into four categories for shipping purposes. K1 includes acids that are also flammable; K2 includes organic acids, such as: acetic acid, citric acid, formic acid, gallic acid, lactic acid, oxalic acid, potassium biphthalate, potassium bitartrate, stannous oxalate, tartaric acid, toluene sulfonic acid compounds, trichloroacetic acid, etc.; K3 includes inorganic acids, such as: hydrochloric acid, sulfuric acid, phosphoric acid, etc; K4 is dedicated to nitric acid (concentration less than or equal to 70%, not red fuming).

Current packaging specifications: UN 1A2 drum, liner required, lab pack (Maximum 20 gallons of liquid total, inside glass containers maximum of one gallon of liquid, other containers maximum five gallons liquid, drum at least 90% full).

Current disposal method: Landfill

Proposer's price for this method: _____/55-gallon drum

Proposed disposal facility:

Proposer's price for alternate method _____/55-gallon drum

Disposal method:

Disposal facility:

Notes, changes:

Category L Alkalies

Quantity generated per year: 400 drums

Description: Cleaners and disinfectants pH 12-14, photo developers, sulfur, etc.

Current packaging specifications: UN 1A2 drum, liner required, lab pack (Maximum 20 gallons of liquid total, inside glass containers maximum of one gallon of liquid, other containers maximum five gallons liquid, drum at least 90% full).

Current disposal method: Landfill

Proposer's price for this method: _____/55-gallon drum

Proposed disposal facility:

Proposer's price for alternate method _____/55-gallon drum

Disposal method:

Disposal facility:

Notes, changes:

Category M Oxidizers

Quantity generated per year: 90 drums

Description: Nitrates, chlorates, chromates, hydrogen peroxide solution, etc.

Current packaging specifications: UN 1A2 drum, liner required, lab pack (Maximum 20 gallons of liquid total, inside glass containers maximum of one gallon of liquid, other containers maximum five gallons liquid, drum at least 90% full).

Current disposal method: Landfill

Proposer's price for this method: _____/55-gallon drum

Proposed disposal facility:

Proposer's price for alternate method _____/55-gallon drum

Disposal method:

Disposal facility:

Notes, changes:

Category N Pesticides & poisons

Quantity generated per year: 1000 drums

Description: A wide variety of pesticide products, as well as various poisons including cyanides, heavy metal compounds, etc. These are divided into three categories for shipping purposes: N1 includes flammable pesticides and liquid isocyanates, N3 includes acidic pesticides, and N2 includes all other non-acidic, non-flammable pesticides and poisons.

Current packaging specifications: UN 1A2 drum, liner required, lab pack (Maximum 20 gallons of liquid total, inside glass containers maximum of one gallon of liquid, other containers maximum five gallons liquid, drum at least 90% full).

Current disposal method: Landfill

Proposer's price for this method: _____/55-gallon drum

Proposed disposal facility:

Proposer's price for alternate method _____/55-gallon drum

Disposal method:

Disposal facility:

Notes, changes:

Category N4, Packing group I pesticides Quantity generated per year: 25 drums

Description: Pesticides and poisons that meet the definition of packing group I per DOT.
Includes, depending on concentration, strychnine, warfarin, disulfoton, bromdifacoum, cyanide compounds, selenium dioxide, etc.

Current packaging specifications: packaged according to DOT 6.1 packing group I requirements, in 10 gallon DOT approved drum.

Current disposal method: Landfill

Proposer's price for this method: _____/10-gallon drum

Disposal facility:

Proposer's price for alternate method _____/10-gallon drum

Disposal method:

Disposal facility:

Notes, changes:

Category N5 Dry fertilizers

Quantity generated per year: 350 drums

Description: dry fertilizer products, including "Weed 'n Feed" type fertilizers.

Packaging specifications: UN 1A2 drum, must be lined, loose bags in drum.

Proposers price: _____/55-gallon drum

Proposed disposal method:

Proposed disposal facility:

Proposer's price for alternate method _____/55-gallon drum

Disposal method:

Disposal facility:

Notes:

Category KB Acids- bulk

Quantity generated per year: 10 drums

Description: Bulk acids, separated into organic and inorganic acids.

Current packaging specification: UN1A2 drum, bulk.

Proposed disposal method:

Proposer's price for this method: _____/55-gallon drum

Prices for smaller drums, if available:

Proposed disposal facility:

Wastes acceptable for this method:

Alternate disposal method:

Proposer's price for alternate method _____/55-gallon drum

Prices for smaller drums, if available:

Proposed disposal facility:

Wastes acceptable for this method:

2nd alternate disposal method:

Proposer's price for 2nd alternate method _____/55-gallon drum

Prices for smaller drums, if available:

Proposed disposal facility:

Wastes acceptable for this method:

Notes, changes:

Category LB Bases- bulk

Quantity generated per year: 10 drums

Description: Bulk alkaline materials, such as sodium hydroxide and alkaline cleaners.

Current packaging specification: UN1A2 drum, bulk.

Proposed disposal method:

Proposer's price for this method: _____/55-gallon drum

Prices for smaller drums, if available:

Proposed disposal facility:

Wastes acceptable for this method:

Alternate disposal method:

Proposer's price for alternate method _____/55-gallon drum

Prices for smaller drums, if available:

Proposed disposal facility:

Wastes acceptable for this method:

2nd alternate disposal method:

Proposer's price for 2nd alternate method _____/55-gallon drum

Prices for smaller drums, if available:

Proposed disposal facility:

Wastes acceptable for this method:

Notes, changes:

Category MB Oxidizers- bulk

Quantity generated per year: 10 drums

Description: Bulk oxidizing materials, such as sodium chlorate, sodium hypochlorite, etc.

Current packaging specification: UN1A2 drum, bulk.

Proposed disposal method:

Proposer's price for this method: _____/55-gallon drum

Prices for smaller drums, if available:

Proposed disposal facility:

Wastes acceptable for this method:

Alternate disposal method:

Proposer's price for alternate method _____/55-gallon drum

Prices for smaller drums, if available:

Proposed disposal facility:

Wastes acceptable for this method:

2nd alternate disposal method:

Proposer's price for 2nd alternate method _____/55-gallon drum

Prices for smaller drums, if available:

Proposed disposal facility:

Wastes acceptable for this method:

Notes, changes:

Category NB Pesticides- bulk

Quantity generated per year: 10 drums

Description: Drums of various sizes, greater than 5-gallons up to 55-gallons, containing bulk pesticide liquids.

Current packaging specification: UN1A2 drum, bulk.

Proposed disposal method:

Proposer's price for this method: _____/55-gallon drum

Prices for smaller drums, if available:

Proposed disposal facility:

Wastes acceptable for this method:

Alternate disposal method:

Proposer's price for alternate method _____/55-gallon drum

Prices for smaller drums, if available:

Proposed disposal facility:

Wastes acceptable for this method:

2nd alternate disposal method:

Proposer's price for 2nd alternate method _____/55-gallon drum

Prices for smaller drums, if available:

Proposed disposal facility:

Wastes acceptable for this method:

Notes, changes:

Category P1 PCB's- non-TSCA regulated

Quantity generated per year: 15 drums

Description: Pre-1979 fluorescent ballasts and electronic capacitors that are non-leaking, with total volume less than 100 cubic inches, or with total volume up to 200 cubic inches and total weight less than 9 lbs.

Current packaging specifications: UN 1A2, loose-packed, drum at least 90% full.

Current disposal method: Landfill

Proposer's price for this method: _____/55-gallon drum

Disposal facility:

Proposer's price for alternate method _____/55-gallon drum

Disposal method:

Disposal facility:

Notes, changes:

Category P2 PCB's - TSCA-regulated

Quantity generated per year: 5 drums

Description: Ballasts, capacitors or transformers that are regulated under TSCA regulations, as well as containers of PCB-contaminated liquids. Note: Contractor must comply with all relevant provisions of 40CFR761.

Current packaging specifications: UN 1A2 drum

Current disposal method: Incineration

Proposer's price for this method: _____/55-gallon drum

Disposal facility:

Proposer's price for alternate method _____/55-gallon drum

Disposal method:

Disposal facility:

Notes, changes:

Category Q1 Aerosols- flammable

Quantity generated per year: 50 drums

Description: All aerosols that are not pesticides, alkaline cleaners, or isocyanates. Cans will vary in size from 4 oz. to 24 oz. We have an on-site puncturing process for many of the flammable aerosols that we receive, generally this category will consist of those that are not suitable for our puncturing apparatus. At times this category may contain all flammable aerosols, not just those unsuitable for our on-site puncturing process.

Current packaging specifications: UN 1A2, drum, loose pack.

Current disposal method: Energy recovery

Proposer's price for this method: _____/55-gallon drum

Proposed disposal facility:

Proposer's price for alternate method _____/55-gallon drum

Disposal method:

Disposal facility:

Notes, changes:

Category Q2 Aerosols- corrosive Quantity generated per year: 20 drums

Description: Aerosols containing alkaline cleaning products.

Current packaging specifications: UN 1A2 drum with liner, loose pack.

Current disposal method: Incineration

Proposer's price for this method: _____/55-gallon drum

Proposed disposal facility:

Proposer's price for alternate method _____/55-gallon drum

Disposal method:

Disposal facility:

Notes, changes:

Category Q3 Aerosols- poisons

Quantity generated per year: 100 drums

Description: Pesticide-containing aerosols and aerosol-type isocyanate foams.

Current packaging specifications: UN 1A2 drum, loose pack.

Current disposal method: Incineration

Proposer's price for this method: _____/55-gallon drum

Proposed disposal facility:

Proposer's price for alternate method _____/55-gallon drum

Disposal method:

Disposal facility:

Notes, changes:

Category R1 Organic peroxides

Quantity generated per year: 500 pounds

Description: Organic peroxides fitting the description of DOT Organic Peroxides Type C, D, E, and F, including methyl ethyl ketone, benzoyl peroxide, cumene hydroperoxide, and others. Metro staff will package these materials to DOT and contractor's specifications in containers 1 gallon to 55 gallons in size.

Current disposal method: Incineration

Disposal price per pound: _____

Pricing is per net pound or gross including all packaging? _____

Disposal facility: _____

Are Type B peroxides acceptable as well?: _____

Notes, changes: _____

Category R2 Reactives

Quantity generated per year: 1000 pounds

Description: Water reactive, air reactive, and other materials, such as: ammonium sulfide, calcium carbide, metal hydrides, calcium, sodium, lithium and potassium metal, collodion, cyanuric chloride, cyanogen bromide, dimethyl sulfate, dinitrophenylhydrazine, hydrazine, lithium batteries, perchloric acid >50%, phosphorous 1-2%, picric acid solution, silanes, titanium tetrachloride, sodium hydrosulfite, sodium azide, sodium peroxide, zinc phosphide > 2%, poison inhalation hazards (PIH) materials, and others.

Metro staff will package these materials to DOT and contractor's specifications, in containers 1 gallon to 55 gallons in size.

Current disposal methods: Incineration

Disposal price per pound Incineration: _____

Pricing is per net pound or gross including all packaging? _____

Any minimum charge per container? _____

Disposal facility: _____

Proposer's price per pound for Treatment _____

Pricing is per net pound or gross including all packaging? _____

Any minimum charge per container? _____

Disposal facility: _____

Wastes that may be disposed of using this method: _____

Notes, changes: _____

Category V Contaminated debris Quantity generated per year: 25 drums

Description: Used test tubes, droppers, test papers, etc. from facility labs, contaminated soil and debris, contaminated PPE, no free liquids.

Current packaging specifications: UN 1A2 drum drum.

Current disposal method: Landfill

Proposer's price for this method: _____/55-gallon drum

Disposal facility:

Proposer's price for alternate method _____/55-gallon drum

Disposal method:

Disposal facility:

Notes, changes:

Category W Mercury Products

Quantity per year: 25 5-gallon buckets

Description: Metallic mercury, contaminated metallic mercury, inorganic mercury contained in glass such as thermometers and barometers, inorganic mercury contained in metal and glass such as switches and flow meters. Less than 10% plastic in containers, BTU/lb less than 1000, VOCs less than 500 ppm

Current packaging specifications: UN 1H2 5-gallon bucket, or UN 1A2 10 gallon drum.

Current disposal method: Recycle

Proposer's price for this method: _____/5-gallon bucket, _____/10 gallon drum

Disposal facility:

Proposer's price for alternate method _____/5-gallon bucket, _____/10 gallon drum

Disposal method:

Disposal facility:

Notes, changes:

Attachment 2

PROPOSAL BOND

(NOTE: PROPOSERS MUST USE THIS FORM, NOT A SURETY COMPANY FORM)

KNOW ALL MEN BY THESE PRESENTS:

We the undersigned, _____ as PRINCIPAL,
and _____ corporation organized and existing under and by virtue of the laws of the state of _____ and duly authorized to do surety business in the state of Oregon and name on the current list of approved surety companies acceptable on federal bonds and conforming with the underwriting limitations as published in the Federal Register by the audit staff of the Bureau of Accounts and the U.S. Treasury Department and is of the appropriate class for the bond amount as determined by Best's Rating System, as SURETY, hereby hold and firmly bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, unto METRO, as OBLIGEE, in the sum of \$ _____ in lawful money of the United States of America, for the payment of which sum well and truly to be made as agreed and as liquidated damages.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT whereas the PRINCIPAL has submitted to METRO a certain Proposal for work required for the Transportation of Wastes Collected in Metro's Household Hazardous Waste and Conditionally Exempt Generator Waste Collection Programs, which work is specifically described in the accompanying Proposal;

NOW, THEREFORE, if Metro does not award a contract to the PRINCIPAL within the time specified in the Instructions to Proposers for the work described in said Proposal, or in the alternate , if said Proposal shall be accepted and the PRINCIPAL, within the time and in the manner described under the Contract Documents, enters into a written contract in accordance with the Proposal, files the two bonds, one guaranteeing faithful performance of the work to be done and the other guaranteeing payment for labor and materials as required by law, and files the required certified copies of insurance policies and certificates of insurance, then the obligation shall be null and void; otherwise, the same shall remain in full force and effect.

The SURETY, for value received, hereby stipulates and agrees that the obligation of said SURETY and this bond shall be in no way impaired or affected by any extension of the time within which Metro may accept such Proposal; and said SURETY does hereby waive notice of any such extension.

If more than one surety is on this bond, each surety hereby agrees that it is jointly and severally liable for all obligations on this bond.

IN WITNESS WHEREOF, we have hereunto set our hands and seals ____ day of _____, 20__.

SURETY

PRINCIPAL

By: _____

By: _____

Title: _____

Title: _____

Attachment 3

SURETY

If the Proposer is awarded a Contract on this Proposal, the surety or sureties who provide(s) the Performance Bond and Labor and Materials Bond will be:

SURETY

ADDRESS

1. _____
2. _____

ATTACHMENT 4
SAMPLE STANDARD PUBLIC CONTRACT

THIS Contract is entered into between Metro, a metropolitan service district organized under the laws of the State of Oregon and the Metro Charter, whose address is 600 NE Grand Avenue, Portland, Oregon 97232-2736, 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 the Scope of Work attached hereto as Attachment A. 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 _____, 20____ through and including _____, 20____.

ARTICLE III

CONTRACT SUM AND TERMS OF PAYMENT

METRO shall compensate the CONTRACTOR for work performed and/or goods supplied as described in the Scope of Work. METRO shall not be responsible for payment of any materials, expenses or costs other than those which are specifically included in the Scope of Work.

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, consequential damages or any other 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.

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 shall be a minimum of \$1,000,000 per occurrence. The policy must be endorsed with contractual liability coverage. **Metro, its elected officials, departments, employees and agents shall be named as an ADDITIONAL INSURED.**

B. Automobile bodily injury and property damage liability insurance. Insurance coverage shall be a minimum of \$1,000,000 per occurrence. **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 additional 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.

CONTRACTOR shall not be required to provide the liability insurance described in this Article only if an express exclusion relieving CONTRACTOR of this requirement is contained in the Scope of Work

ARTICLE VII

PUBLIC CONTRACTS

All applicable provisions of ORS chapters 187 and 279A & B, 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. 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.

For public work subject to ORS 279C.800 to 279C.870, the Contractor shall pay prevailing wages and shall pay an administrative fee to the Bureau of Labor and Industries pursuant to the administrative rules established by the Commissioner of Labor and Industries. Contractors must promptly pay, as due, all persons supplying to such contractor labor or material used in this contract. If the contractor or first-tier subcontractor fails, neglects, or refuses to make payment to a person furnishing labor or materials in connection with the public contract for a public improvement within 30 days after receipt of payment from the public contracting agency or a contractor, the contractor or first-tier subcontractor shall owe the person the amount due plus shall pay interest in accordance with ORS 27C.515. If the contractor or first-tier subcontractor fails, neglects, or refuses to make payment, to a person furnishing labor or materials in connection with the public contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580. Contractor must pay any and all contributions and amounts due to the Industrial Accident Fund from contractor or subcontractor and incurred in the performance of the contract. No liens or claims are permitted to be filed against Metro on account of any labor or material furnished. Contractors are required to pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

For public improvement work all contractors must demonstrate that an employee drug-testing program is in place.

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

Unless otherwise provided herein, all documents, instruments and media of any nature produced by Contractor pursuant to this agreement are Work Products and are the property of Metro, including but not limited to: drawings, specifications, reports, scientific or theoretical modeling, electronic media, computer software created or altered specifically for the purpose of completing the Scope of Work, works of art and

photographs. Unless otherwise provided herein, upon Metro request, Contractor shall promptly provide Metro with an electronic version of all Work Products that have been produced or recorded in electronic media. Metro and Contractor agree that all work Products are works made for hire and Contractor hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such Work Products.

A. Contractor and subcontractors shall maintain all fiscal records relating to such contracts in accordance with generally accepted accounting principles. In addition, Contractor and subcontractors shall maintain any other records necessary to clearly document:

1. The performance of the contractor, including but not limited to the contractor's compliance with contract plans and specifications, compliance with fair contracting and employment programs, compliance with Oregon law on the payment of wages and accelerated payment provisions; and compliance with any and all requirements imposed on the contractor or subcontractor under the terms of the contract or subcontract;
2. Any claims arising from or relating to the performance of the contractor or subcontractor under a public contract;
3. Any cost and pricing data relating to the contract; and
4. Payments made to all suppliers and subcontractors.

B. Contractor and subcontractors shall maintain records for the longer period of (a.) six years from the date of final completion of the contract to which the records relate or (b.) until the conclusion of any audit, controversy or litigation arising out of or related to the contract.

C. Contractor and subcontractors shall make records available to Metro and its authorized representatives, including but not limited to the staff of any Metro department and the staff of the Metro Auditor, within the boundaries of the Metro region, at reasonable times and places regardless of whether litigation has been filed on any claims. If the records are not made available within the boundaries of Metro, the Contractor or subcontractor agrees to bear all of the costs for Metro employees, and any necessary consultants hired by Metro, including but not limited to the costs of travel, per diem sums, salary, and any other expenses that Metro incurs, in sending its employees or consultants to examine, audit, inspect, and copy those records. If the Contractor elects to have such records outside these boundaries, the costs paid by the Contractor to Metro for inspection, auditing, examining and copying those records shall not be recoverable costs in any legal proceeding.

D. Contractor and subcontractors authorize and permit Metro and its authorized representatives, including but not limited to the staff of any Metro department and the staff of the Metro Auditor, to inspect, examine, copy and audit the books and records of Contractor or subcontractor, including tax returns, financial statements, other financial documents and any documents that may be placed in escrow according to any contract requirements. Metro shall keep any such documents confidential to the extent permitted by Oregon law, subject to the provisions of section E.

E. Contractor and subcontractors agree to disclose the records requested by Metro and agree to the admission of such records as evidence in any proceeding between Metro and the Contractor or subcontractor, including, but not limited to, a court proceeding, arbitration, mediation or other alternative dispute resolution process.

F. Contractor and subcontractors agree that in the event such records disclose that Metro is owed any sum of money or establish that any portion of any claim made against Metro is not warranted, the

Contractor or subcontractor shall pay all costs incurred by Metro in conducting the audit and inspection. Such costs may be withheld from any sum that is due or that becomes due from Metro.

G. Failure of the Contractor or subcontractor to keep or disclose records as required by this document or any solicitation document may result in disqualification as a bidder or proposer for future Metro contracts as provided in ORS 279B.130 and Metro Code Section 2.04.070(c), or may result in a finding that the Contractor or subcontractor is not a responsible bidder or proposer as provided in ORS 279B.110 and Metro Code Section 2.04.052.

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 procurement documents including, but not limited to, the Advertisement for Bids, Proposals or responses, General and Special Instructions to Bidders, Proposal, 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

COMPLIANCE

CONTRACTOR shall comply with federal, state, and local laws, statutes, and ordinances relative to the execution of the work. This requirement includes, but is not limited to, non-discrimination, safety and health, environmental protection, waste reduction and recycling, fire protection, permits, fees and similar subjects.

ARTICLE XVI

ASSIGNMENT

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

CONTRACTOR NAME

METRO

By _____

By _____

Date _____

Date _____

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STAFF REPORT

AUTHORIZING ISSUANCE OF REQUEST FOR PROPOSALS 05-11416-SWR FOR COMPETITIVE SEALED PROPOSALS TO PROCURE HAZARDOUS WASTE DISPOSAL SERVICES, AND AUTHORIZING EXECUTION OF THE RESULTING MULTI-YEAR CONTRACTS

Date: May 13, 2005

Prepared by: David Biedermann and Jim Quinn

BACKGROUND

The Metro Solid Waste and Recycling Department contracts with a qualified vendor to haul and dispose of hazardous waste gathered in its various collection programs. Approximately 4.7 million pounds of hazardous waste were collected in 2004.

The current contract is on the FY04-05 Budget Contract list as "Existing". As the contract expires in early FY05-06, it is appropriate to now to re-advertise, solicit proposals and award a new contract. The new contract is not listed in the FY04-05 budget and the FY05-06 budget is in review and there is no legal appropriation as yet. No legal authority currently exists to issue the request-for-proposal and award the contract.¹

The new contract will be for two years and is estimated to cost \$1,500,000 over that period. The department expects to execute a contract with a start date soon after the beginning of the FY05-06 fiscal year.

The 10-day letter was issued to the Council on March 4 2005 notifying the Council of the contract. Councilors Park and McLain subsequently requested this contract be considered "significant impact" and action be brought before the Metro Council.

Metro's hazardous waste program includes two permanent household hazardous waste collection facilities, roundup collection events held at various locations around the region, and a small business collection program. The number of customers using Metro's program and the amount of waste handled each year increased steadily in the thirteen years that the program has been operating. Annual waste volumes have increased an average of 15 percent each year, growing from about 1 million pounds in FY92-93 to over 4.7 million pounds in FY03-04.

Program staff continually develop new ways to increase both efficiency and revenue, resulting in dramatic decreases in the net cost for managing each pound of waste received. For example, in FY03-04 the program handled more two and half times as

¹ (Metro Code 2.04.026 (a), "The Chief Operating Officer...must obtain authorization by the Council prior to execution of the following types of contracts:

Any contract which commits the Metro to the expenditure of appropriations not otherwise provided for in the current fiscal year budget at the time the contract is executed and which has a significant impact on Metro)."

much waste as it did in FY95-96, but net operating costs increased by only 20% in that same timeframe.

The Solid Waste and Recycling Department's requested budget for FY05-06 includes \$729,000 for hazardous waste disposal services. Under Metro's new contracting rules procurement of public contracts exceeding \$100,000 may be awarded using competitive sealed proposals. Hazardous Waste Program staff has drafted an RFP for this procurement, attached.

A committee will evaluate proposals received. Evaluation will be based on the following criteria: Cost (50 points), proposer's experience and qualifications (30 points), and environmental soundness of disposal methods (20 points).

The Contract awarded to the successful proposer will include the standard contract termination language, which allows Metro to terminate the contract with seven days notice.

ANALYSIS/INFORMATION

1. **Known Opposition:** None.
2. **Legal Antecedents:** Metro Code 2.04
3. **Anticipated Effects:** Award of 2 year contract for transport and disposal of hazardous waste collected by the Solid Waste and Recycling Department.
4. **Budget Impacts:** A 2-year \$1.5 million contract, of which \$729,000 is in the proposed FY05-06 Metro budget.

RECOMMENDED ACTION

Chief Operating Officer recommends passage of Resolution 05-3558.

MINUTES OF THE METRO COUNCIL MEETING

Thursday, May 19, 2005
Metro Council Chamber

Councilors Present: David Bragdon (Council President), Susan McLain, Robert Liberty, Rex Burkholder, Carl Hosticka, Rod Park, Brian Newman

Councilors Absent:

Council President Bragdon convened the Regular Council Meeting at 2:02 p.m.

1. INTRODUCTIONS

There were none.

2. CITIZEN COMMUNICATIONS

There were none.

3. OREGON ZOO VOLUNTEER PACKY AWARD WINNERS

Council President Bragdon acknowledged the Packy Award Winners: Erma Henrie, Katherine Floyd-Knox, Kathy Larsen, Sharron Bradshaw, and Scott Boring. He spoke to the qualities that embodied these volunteer award winners and the contributions they have made to the Oregon Zoo. Each of the volunteers talked about their experience at the Zoo. Councilor Newman thanked the award winners for their efforts. He said there were 1.3 million people who went through the gates at the Zoo every year. He asked what the one thing the citizens would like to have at the Zoo. Ms. Bradshaw said many people liked the lions. Ms. Henrie talked about the parades they held at the Zoo. Council President Bragdon noted the upcoming Starlight Parade and again thanked the volunteers.

4. NATURE IN NEIGHBORHOODS – HABITAT FRIENDLY DESIGN SOLUTIONS

Paul Ketcham, Planning Department, talked about the Nature in Neighborhoods initiative goals. An important element of this program was to promote habitat friendly design solutions. He reviewed what those designs included. They had contracted with consulting groups to demonstrate how design could include habitat friend design. He acknowledged the consultant groups working with Metro. Today, they would be looking at the MacKenzie Lands Case Study. He provided a brief overview of the case study. He shared photographs where the consultants had used avoid and minimize practices. Councilor Newman asked about the green roof picture and how realistic it was on a single-family dwelling. Mr. Ketcham responded to his question. Councilor Liberty asked Mr. Ketcham about the goals of the case study. Mr. Ketcham responded to his question. Councilor Liberty summarized, we were testing the development types and how the Model Code would work. Mr. Ketcham said he was giving a brief overview and the consultants would be back to provide further detail. He then talked about a case study that was demonstrating residential and mixed-use habitat friendly designs. Councilor Hosticka asked him about mixed-use design habitat protection. Councilor Liberty asked about transfer of density standards. He asked, were there more housing units with more protection? Mr. Ketcham responded by sharing a drawing and said the Model Code allowed for less density but this example showed more density with more protection.

He then provided scenarios for new urban development such as Damascus. He noted the objective of this case study, which included cluster development. He talked about Option 2, which clustered all of the development on the west side. He noted that there was a variety of home types and the benefits of this design type. Councilor Park asked about connectivity and allowance for walking traffic. Mr. Ketcham responded to his question. The option featured trails to natural areas. He shared where access was allowed to open space.

The last two illustrations were for industrial lands. Industrial redevelopment represented an opportunity to restore habitat and streamside areas. The new design included residential, commercial and industrial development. He spoke to the goals of the redevelopment. Councilor Newman asked about parking. Mr. Ketcham shared where parking was on the schematic. They complied with required standards.

Geraldine Moyle, Group MacKenzie, provided an overview of the Industrial Use design type (a copy of the design is included in the meeting record). She noted key findings, mitigation issues, Habitat Conservation Areas on site, and other habitat friendly design issues such as conservation areas and connectivity. Councilor Burkholder asked about parking constraints and the reduction of parking spaces. Ms. Moyle said it was dependent upon the operational use of the facility. She provided other options, which would reduce impervious pavement areas further. Councilor Newman asked about costs of impervious payment. Ms. Moyle said it cost more particularly in areas that you had a lot of truck traffic. Councilor Park asked about green roof technology. Ms. Moyle said it was more expensive but was possible. Councilor Liberty asked about development cost comparisons. Ms. Moyle talked about cost per square foot. Conventional design was close to clear and objective. Landscape costs were increased but everything else was comparable. She provided findings on all of the design options. Councilor Newman said this was extremely useful for him and illustrated some of the lessons learned. He was hopeful that the future presentations would provide as much detail. Councilor Burkholder talked about parking minimums and employment density. Councilor McLain suggested that we utilize these presentations beyond just presenting to Council. Councilor Liberty flagged three issues, parking issues and flexibility, waiving density maximums, and looking at adjoining properties. He spoke to Measure 37 issues and maintaining the value of the property with these design types. Councilor Park talked about large trucks and access. Mr. Ketcham clarified the mitigation issues, which was preferred on site.

5. WASTE REDUCTION EDUCATION UPDATE

Frieda Sherburne, Solid Waste and Recycling Department, said she was representing the waste reduction crew. As educators they were trying to find new and innovative ways to present information on waste reduction. They were presenting a video, which highlighted what they provided to schools in the area. She provided statistics on the program. She spoke to links to other areas such as conserving nature resources. Councilor McLain acknowledged staff's efforts and how many people they touched. Councilor Park spoke to the benefits of the outreach. Councilor Newman asked about the education efforts and did all school districts in the region participate? Ms. Sherburne said they had tried targeting schools that they hadn't been to in the past. All school districts had been open to presentations.

6. THIRD QUARTERLY REPORT

Bill Stringer, Chief Financial Officer, and Kathy Rutkowski, Budget Manager, presented the Quarterly Report, Third Quarter, January through March 2005 (a copy of the report is included in the record). Mr. Stringer summarized the highlights of the report including an overview of operating funds, capital funds, and excise tax. He provided a summary of the budget

appropriations versus expenditures. Finally, he spoke to the outstanding audit report summary found on page 62. Councilors asked questions and made suggestions about revenues and expenditures. Mr. Stringer responded to their questions and suggestions. Councilor Newman asked about the cost for the exit incentive program. Ms. Rutkowski said they were in the process of analyzing those costs and would be bringing a budget amendment to Council in June.

7. CONSENT AGENDA

7.1 Consideration of minutes of the May 12, 2005 Regular Council Meetings.

Motion:

Councilor Newman moved to adopt the meeting minutes of the May 12, 2005 Regular Metro Council.
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Vote:

Councilors Burkholder, McLain, Liberty, Park, Newman, Hosticka and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.

8. ORDINANCES – FIRST READING

8.1 Ordinance No. 05-1080, For the Purpose of Amending Metro Code Chapter 5.02 To Establish Metro's Solid Waste Disposal Charges and System Fees For Fiscal Year 2005-06.

Council President Bragdon assigned Ordinance No. 05-1080 to Council.

8.2 Ordinance No. 05-1081, Amending Metro Code Chapter 5.05 to Include Cedar Grove Composting, Inc. on the List of Designated Facilities; and Declaring an Emergency.

Council President Bragdon assigned Ordinance No. 05-1081 to Council.

8.3 Ordinance No. 05-1083, Amending Metro Code Chapter 5.05 to Include The Weyerhaeuser Regional Landfill on the List of Designated Facilities; And Declaring an Emergency.

Council President Bragdon assigned Ordinance No. 05-1083 to Council.

9. ORDINANCES – SECOND READING

9.1 Ordinance No. 05-1079, For the Purpose of Amending the FY 2004-05 Budget and Appropriations Schedule Recognizing a Land Donation from the Wetlands Conservancy, Amending the FY 2004-05 through FY 2008-09 Capital Budget; and Declaring an Emergency.

Motion:	Councilor Burkholder moved to adopt Ordinance No. 05-1079.
Seconded:	Councilor Park seconded the motion

Councilor Burkholder explained the amendment to the budget and recognition of the land donation. He said the value of the donation was \$320,000. He urged support. He thanked the Wetlands Conservancy for their donation.

Council President Bragdon opened a public hearing on Ordinance No. 05-1079. No one came forward. Council President Bragdon closed the public hearing.

Vote:

Councilors Park, Hosticka, Burkholder, McLain, Newman, Liberty and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.

9.2 **Ordinance No. 05-1084**, Amending the FY 2004-05 Budget and Appropriations Schedule for the Purpose of Adopting a Supplemental Budget for the Metropolitan Exposition Recreation Commission for the Fiscal Year Beginning July 1, 2004 and Ending June 30, 2005; and Declaring an Emergency.

Motion:	Councilor Park moved to adopt Ordinance No. 05-1084.
Seconded:	Councilor Burkholder seconded the motion

Councilor Park said this was a good news amendment, which recognized additional revenue from purchases of food and beverages at the Convention Center. He urged an aye vote.

Council President Bragdon opened a public hearing on Ordinance No. 05-1084. No one came forward to testify. Council President Bragdon closed the public hearing.

Vote:

Councilors Park, Hosticka, Burkholder, McLain, Newman, Liberty and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.

10. RESOLUTIONS

10.1 **Resolution No. 05-3563**, For the Purpose of Amending the Transit-Oriented Development (TOD) Program Work Plan to Apply Additional Selection Criteria to TOD Program Frequent Bus Line Projects.

Motion:	Councilor Liberty moved to adopt Resolution No. 05-3563.
Seconded:	Councilor McLain seconded the motion

Councilor Liberty said this resolution would add additional selection criteria for frequent bus line projects. He talked about two projects on high frequency bus lines over the past year. The TOD Committee had recommended additional criteria. He recommended adoption. Councilor Newman said he would be supporting this resolution. He spoke to concerns and the need to have an additional conversation about narrowing the scope. Councilor Burkholder suggested adding criteria, changing bus line to bus stops. Councilor McLain said they were very interested in this program and found value in it. She suggested looking at the term "spreading ourselves too thin" and what that meant. They also wanted to make sure these projects were reactive to possible changes that we might have in the future. Councilor Park made further suggestions. Council President Bragdon said he would support this resolution, tightening up the criteria was a good idea. Councilor Liberty acknowledged the work that had been done by staff and the fact that future discussions would include information based on additional experience.

Vote:

Councilors Park, Hosticka, Burkholder, Newman, McLain, Liberty, and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.

10.2 Resolution No. 05-3585, For the purpose of Confirming the Appointment Of Margaret Bax, Jesse Beason, Mark Coffey, Martha McLennan, Fr. Michael Maslowski and Mike Swanson to the Region Housing Choice Task Force.

Motion:	Councilor Liberty moved adoption of Resolution No. 05-3585A which included Ramsay Weit.
Seconded:	Councilor Hosticka seconded the motion

Councilor Liberty reviewed the nominees for this Task Force. Councilor McLain suggested having a task and a timeline. She asked, did these folks understand the task and have a timeline. Councilor Burkholder said they would be reviewing the task and timeline under Councilor Communication.

Vote:	Councilors Park, Hosticka, Burkholder, Newman, McLain, Liberty, and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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10.3 Resolution No. 05-3586, For the Purpose of Endorsing the Formation of the Oregon Metropolitan Planning Organization Consortium.

Motion:	Councilor Burkholder moved to adopt Resolution No. 05-3586.
Seconded:	Councilor Liberty seconded the motion

Councilor Burkholder spoke to the MPOs that existed in Oregon. They thought it was important to have the leaders of these MPOs have an opportunity to get together and share issues. He acknowledged Metro's resources. He recommended agreeing to the bylaws for establishing a new organization. He spoke to the goals of the consortium. He urged support. Councilor McLain spoke to strength of Metro's land use and transportation connection. She asked if the Metropolitan Planning Organization weakened our recognition by the federal government. Dan Cooper, Metro Attorney, responded to her question. This organization was being formed to deal with issues of common interest. Councilor McLain said she was happy to vote for something that will bring better communication. Councilor Liberty, Councilor Park and Council President Bragdon thanked Councilor Burkholder for taking the lead on this issue. They noted additional opportunities to deal with issues of growth and transportation planning. Councilor Burkholder said there was a large population living within these MPOs and they haven't had a voice about what issues they faced differently from cities and counties. They were organizing themselves so they could be more effective.

Vote:	Councilors Park, Hosticka, Burkholder, Newman, McLain, Liberty, and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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11. OREGON LEGISLATIVE UPDATE

Mr. Cooper reported that SB 245 did not move out of committee. They anticipated that the bill would include a seven-year cycle with no other provisions. SB 431, single appeal bill, was going to be on the consent agenda for the House unamended from the bill that was passed in the Senate. Land Use Board of Appeals (LUBA) had dismissed the appeal of the 2002. Councilor Newman asked about the other litigants. Mr. Cooper said they were still waiting for a response for the Court of Appeals.

12. CHIEF OPERATING OFFICER COMMUNICATION

Michael Jordon, COO, had nothing to report.

13. COUNCILOR COMMUNICATION

Councilor McLain provided an update on the Neighboring Cities project. They had sent out letters to the various jurisdictions and had some call back requesting meetings. Second, she reported on Regional Solid Waste Management Plan (RSWMP) project. They were working on the update of the waste reduction area and the disposal system planning.

Councilor Park updated the Council on the Oregon Convention Center shortfall and the convention hotel discussion. He also talked about the Disposal System Plan and the proposed work plan, which would be coming back to Council at a later date. They had looked at different models of governance. Councilors asked questions about the convention center hotel. Council President Bragdon provided a summary of what had happened over the past week.

Councilor Burkholder reported on the Housing Choice Task Force (a copy of the work plan was included in the record). He noted a short description about some of the activities they were going forward on.

Councilor Liberty reviewed the Measure 37 Task Force progress. Their meetings had been primarily spent talking about projects on the ground. He noted the increase in claims. They had been in a learning mode to date. He said they needed to move back to the main charge of the task force. They would also be looking at claims process. He would like some feedback from Council about tools for implementation of Measure 37 and 2040 Growth Concept. Councilor Hosticka added his comments about the Task Force and the claims process.

Councilor Newman shared Zoo updates. This Saturday, May 21st would be the opening of the Wing Wonder Exhibit. The Zoo Animal Presenters project just received two grants. He said the Zoo Foundation would be asking the Council to have a joint meeting followed by a dinner. The joint MERC/Council meeting that had occurred several weeks ago inspired them.

Council President Bragdon said tomorrow, May 20th Portland State University was convening all of the mayors to talking about regional decision-making. Several of the Councilors would be in attendance.

Councilor McLain talked about the Contract List for next year. She urged Councilors' review. Mr. Jordan suggested providing their comments to Kim Bardes, his assistant.

14. ADJOURN

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 4:55 p.m.

Prepared by

Chris Billington
Clerk of the Council

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF MAY 19, 2005

Item	Topic	Doc Date	Document Description	Doc. Number
7.1	Minutes	5/12/05	Metro Council Meeting Minutes of May 12, 2005	051905c-01
10.1	Exhibit A	5/19/05	Replacement Exhibit A for Resolution No. 05-3563	051905c-02
10.2	Resolution No. 05-3585A	5/19/05	Resolution No. 05-3585A, For the purpose of Confirming the Appointment Of Margaret Bax, Jesse Beason, Mark Coffey, Martha McLennan, Fr. Michael Maslowski and Mike Swanson to the Region Housing Choice Task Force.	051905c-03
13	Work Plan Report	5/19/05	To: Metro Council From: Geri Uba, Planning Department Re: Work Plan for HCTF	051905c-04
4	Habitat Field Design Solutions	5/19/05	To: Metro Council From: Geraldine XXXX, MacKenzie Group Re: Industrial use Nature in Neighborhoods Habitat Friendly Design types	051905c-05
6	Quarterly Report	January through March 2005	To: Metro Council From: Bill Stringer, CFO Re: Fiscal Year 04-05, Quarterly Report Third Quarter	051905c-06