



METRO

Memorandum

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

DATE: May 28, 1992
MEETING: METRO COUNCIL
DAY: Thursday
TIME: 5:30 p.m.
PLACE: Metro Council Chamber

Approx.
Time*

Presented
By

5:30
(5 min.)

ROLL CALL/CALL TO ORDER

- 1. INTRODUCTIONS**
- 2. CITIZEN COMMUNICATIONS TO THE COUNCIL ON NON-AGENDA ITEMS**
- 3. EXECUTIVE OFFICER COMMUNICATIONS**

5:35
(5 min.)

- 4. CONSENT AGENDA** (Action Requested: Motion to Adopt the Consent Agenda)

4.1 Consideration of April 23, 1992 Minutes

REFERRED FROM THE FINANCE COMMITTEE

- 4.2 Resolution No. 92-1623, For the Purpose of Authorizing Issuance of a Request for Proposals for (Bond Counsel) Services for the Period July 1, 1992 to June 30, 1995**

5. ORDINANCES, FIRST READINGS

URBAN GROWTH BOUNDARY ORDINANCE

5:40
(20 min.)

- 5.1 Ordinance No. 92-461, An Ordinance Amending Metro Ordinance No. 92-444A, For Contested Case No. 91-2: Forest Park Public Hearing (Action Requested: Hearing Only at This Meeting)**

McFarland/
Hansen

6:00
(10 min.)

- 5.2 Ordinance No. 92-456, For the Purpose of Amending the Regional Solid Waste Management Plan to Incorporate the Household Hazardous Waste Management Plan and to Update Plan Policy 2.2. (Action Requested: Referral to Solid Waste Committee)**
- 5.3 Ordinance No. 92-462, An Ordinance Amending Ordinance No. 91-390A Revising the FY 1991-92 Budget and Appropriations Schedule for the Purpose of Funding Increases in the Solid Waste Revenue Fund Operating Account and Modifications to the Rehabilitation and Enhancement Fund (Action Requested: Referral to Finance Committee)**
- 5.4 Ordinance No. 92-460, An Ordinance Amending Ordinance No. 91-390A Revising the FY 1991-92 Budget and Appropriations Schedule for the Purpose of Funding Unanticipated Costs for the Use of the Lexis System for Legal Research (Action Requested: Referral to Finance Committee)**
- 5.5 Ordinance No. 92-457, An Ordinance Amending Ordinance No. 91-390A Revising the FY 1991-92 Budget and Appropriations Schedule for the Purpose of Transferring Appropriations Within the Insurance Fund (Action Requested: Referral to Finance Committee)**

McFarland/
Hansen

(Continued)

* All times listed on this agenda are approximate; items may not be considered in the exact order listed.

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5. ORDINANCES, FIRST READINGS (Continued)

- 5.6 Ordinance No. 92-459, An Ordinance Amending Ordinance No. 91-390A Revising the FY 1991-92 Budget and Appropriations Schedule for the Purpose of Funding Upgrades and Enhancements to the Financial System and the Purchase of a High Capacity Tape Drive (Action Requested: Referral to Finance Committee)**
- 5.7 Ordinance No. 92-458, An Ordinance Amending Ordinance No. 91-390A Revising the FY 1991-92 Budget and Appropriations Schedule for the Purpose of Transferring Appropriations within the Oregon Convention Center Operating Fund and Spectator Facilities Operating Fund for Increased Metro ERC Operations (Action Requested: Referral to Finance Committee)**
- 5.8 Ordinance No. 92-463, An Ordinance Amending Ordinance No. 91-390A Revising the FY 1991-92 Budget and Appropriations Schedule for the Purpose of Transferring Appropriation within the Council Department (Action Requested: Referral to Finance Committee)**

6. ORDINANCES, SECOND READINGS

- 6:10 (10 min.) 6.1 Ordinance No. 92-453, For the Purpose of Granting a Franchise to Pemco, Inc. For the Purpose of Operating a Petroleum Contaminated Soil Processing Facility and Declaring an Emergency Public Hearing (Action Requested: Motion to Adopt the Ordinance)**
- 6:20 (20 min.) 6.2 Ordinance No. 92-454, For the Purpose of Granting a Franchise to Sonas Soil Resource Recovery of Oregon, Inc. For the Purpose of Operating a Petroleum Contaminated Soil Processing Facility and Declaring an Emergency Public Hearing (Action Requested: Motion to Adopt the Ordinance)**

7. NON-REFERRED RESOLUTIONS

- 6:40 (5 min.) 7.1 Resolution No. 92-1624, For the Purpose of Proclaiming Tualatin River Discovery Day and Supporting Its Goals of Recreation and Preservation (Action Requested: Motion to Adopt Resolution)**
- 6:45 (30 min.) 7.2 Resolution No. 92-1613, For the Purpose of Approving an RFP for a Financial Impact Study of a Tri-Met/Metro Merger (Action Requested: Motion to Adopt the Resolution)**
- 7.3 Resolution No. 92-1628, Describing the Process for a Mutual Metro/Tri-Met Examination of Issues Related to Merger (Action Requested: Motion to Adopt the Resolution)**

(Continued)

* All times listed on this agenda are approximate; items may not be considered in the exact order listed.

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8. RESOLUTIONS

REFERRED FROM THE TRANSPORTATION & PLANNING COMMITTEE

- | | | | |
|-------------------|------------|--|---------------|
| 7:15
(10 min.) | 8.1 | Resolution No. 92-1580A, A Resolution Adopting Bylaws to Establish the Metro Committee for Citizen Involvement (CCI) (Action Requested: Motion to Adopt the Resolution) | McLain |
| 7:25
(10 min.) | 8.2 | Resolution No. 92-1616, For the Purpose of Declaring Intent to Seek Voter Approval of Authority and Financing for Acquisition, Development, Maintenance and Operation of Regional Greenspaces (Action Requested: Motion to Adopt the Resolution) | Devlin |
| 7:35
(10 min.) | 8.3 | Resolution No. 92-1617, For the Purpose of Adopting a Policy on Highway Bridge Replacement Funds (Action Requested: Motion to Adopt the Resolution) | |
| 7:45
(10 min.) | 8.4 | Resolution No. 92-1610, For the Purpose of Establishing the TPAC Transportation Demand Management Subcommittee (Action Requested: Motion to Adopt the Resolution) | |
| 7:55
(10 min.) | 8.5 | Resolution No. 92-1621, For the Purpose of Releasing a Request for Proposals for Biological Monitoring in Smith & Bybee Lakes Management Area and Allowing Executive Officer to Execute the Contract (Action Requested: Motion to Adopt the Resolution) | |

8:05 9. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS

8:15 ADJOURN

Meeting Date: May 28, 1992
Agenda Item No. 4.1

MINUTES

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

April 23, 1992

Council Chamber

Councilors Present: Presiding Officer Jim Gardner, Deputy
Presiding Officer Judy Wyers, Larry
Bauer, Roger Buchanan, Tanya Collier,
Richard Devlin, Ed Gronke, Sandi Hansen,
Ruth McFarland, Susan McLain, George Van
Bergen and Ed Washington

Councilors Absent: None

Also Present: Executive Officer Rena Cusma

Presiding Officer Jim Gardner called the regular meeting to order
at 5:31 p.m.

Presiding Officer Gardner announced that Agenda Item No. 7.4,
Resolution No. 92-1607, For the Purpose of Maintaining the
Existing Household Hazardous Waste Facility, Building an
Additional Facility, and Developing a Mobile Capacity, had been
removed from the agenda. He noted the Solid Waste Committee
considered the resolution on April 21 and did not recommend it to
the full Council for adoption.

1. SWEARING IN OF ED GRONKE AS DISTRICT 5 COUNCILOR

Presiding Officer Gardner announced General Counsel Dan Cooper
would administer the oath of office to Mr. Gronke. Councilor
Gronke was sworn in and seated as Metro Councilor for District 5.
Presiding Officer Gardner presented Councilor Gronke with a
framed copy of Resolution No. 92-1604 which appointed him to the
vacant District 5 seat.

2. INTRODUCTIONS

None.

3. CITIZEN COMMUNICATIONS TO THE COUNCIL ON NON-AGENDA ITEMS

None.

4. EXECUTIVE OFFICER COMMUNICATIONS

None.

5. CONSENT AGENDA

5.1 Resolution No. 92-1593, Authorizing Release of an RFP for Advertising Agency Services at Metro Washington Park Zoo

5.2 Resolution No. 92-1599, Authorizing Release of an RFP for a Non-Budgeted Contract for Group Sales Services at Metro Washington Park Zoo

5.3 Resolution No. 92-1605, For the Purpose of Authorizing the Procurement Process for Acquiring the Computer Equipment and Software Necessary for the Upgrade of the A-Series Mainframe Computer and Improving Report Generation Capability

Motion: Councilor McFarland moved, seconded by Councilor Wyers, for adoption of the Consent Agenda.

Vote: Councilors Bauer, Buchanan, Collier, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington, Wyers and Gardner voted aye. Councilor Devlin was absent. The vote was unanimous and the Consent Agenda was adopted.

6. ORDINANCES, SECOND READINGS

6.1 Ordinance No. 92-445, An Ordinance Amending Ordinance No. 91-390A Revising the FY 1991-92 Budget and Appropriations Schedule for the Purpsoe of Funding the 3.25 Cost of Living Adjustment (Public Hearing)

• The Clerk read the ordinance for a second time by title only.

Presiding Officer Gardner announced Ordinance No. 92-445 was first read on April 9, 1992, and referred to the Finance Committee for consideration. The Finance Committee considered the ordinance on April 16 and recommended it to the full Council for adoption.

Motion: Councilor Wyers moved, seconded by Councilor Hansen, for adoption of Ordinance No. 92-445.

Councilor Wyers gave the Finance Committee's report and recommendations. She explained the ordinance would transfer appropriations necessary to fund the 3.25 percent COLA approved by the Council via resolution February 27, 1992. She said savings in fringe line items totalling \$235,823 would be used to offset total costs and that the total cost impact of the ordinance was \$406,536.

Presiding Officer Gardner opened the public hearing. No citizens appeared to testify and the public hearing was closed.

Vote: Councilors Bauer, Buchanan, Collier, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington, Wyers and Gardner voted aye. Councilor Devlin was absent. The vote was unanimous and Ordinance No. 92-445 was adopted.

6.2 Ordinance No. 92-452, An Ordinance Amending Ordinance No. 91-390A Revising the FY 1991-92 Budget and Appropriations Schedule for the Purpose of Transferring Appropriations Within the Zoo Operating Fund

The Clerk read the ordinance for a first time by title only.

Presiding Officer Gardner announced Ordinance No. 92-452 was first read on April 9, 1992, and referred to the Regional Facilities and Finance Committees for consideration. The Regional Facilities Committee considered the ordinance on April 14, the Finance Committee considered it on April 16, and both committees recommended the ordinance to the full Council for adoption.

Motion: Councilor Washington moved, seconded by Councilor Wyers, for adoption of Ordinance No. 92-452.

Councilor Washington gave the Regional Facilities Committee's report and recommendations. He explained because Zoo activities exceeded staff's original projections, expenditures to support those activities were up by 20 percent due to increased attendance, food costs and higher participation in the Zoo Boo.

Presiding Officer Gardner opened the public hearing. No citizens appeared to testify and the public hearing was closed.

Vote: Councilors Bauer, Buchanan, Collier, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington, Wyers and Gardner voted aye. Councilor Devlin was absent. The vote was unanimous and Ordinance No. 92-452 was adopted.

7. RESOLUTIONS

7.1 Resolution No. 92-1584, For the Purpose of Requesting Greater Flexibility in the Use of the I-205 Buslane Funds

Motion: Councilor McLain moved, seconded by Councilor Hansen, for adoption of Resolution No. 92-1584.

Councilor McLain gave the Transportation & Planning Committee's report and recommendations. She explained the Committee voted 3 to 2 in favor on April 14 to recommend the resolution to the full Council for adoption and that the Committee conducted a lengthy discussion of the resolution. She said Andy Cotugno, Director of Planning, explained the resolution would: 1) Request congressional action for greater flexibility in spending \$16.3 million in I-205 buslane funds for alternative transit projects in the region; 2) Continue the Joint Policy Advisory Committee on Transportation's (JPACT) commitment to use the funds for I-205 lightrail corridor transit projects; 3) Set parameters under which funds may be used for alternative purposes, including JPACT approval and replacement of funds; and 4) Provided that final allocation of funds be based on the outcome of the I-205/Milwaukie Preliminary Alternatives Analysis study together with an implementation funding strategy.

Councilor McLain said the Committee's concerns centered primarily on Be It Resolved Section No. 4 and whether the \$16 million would be replaced for use in the I-205 Corridor. She noted Presiding Officer Gardner attended the Committee meeting also and clarified that the alternatives analysis study would determine one of two corridors, either I-205 or Milwaukie, and that the only issue resolved to-date was that Clackamas County would be the next regional area to receive lightrail.

Councilor McLain said she voted for the resolution at committee because the greater flexibility would provide better transportation options, supported lightrail and Clackamas County, and continued necessary studies.

Councilor Buchanan stated for the record that he opposed the resolution because there was no guarantee the replacement funds would be applied to the I-205 Corridor.

Councilor Van Bergen said he accepted the policy of partnership for lightrail for the region and that flexibility could be applied to I-205 funding, but said the resolution did not represent a good partnership approach. He believed all parties involved would act in good faith and that the next priority for lightrail was the I-205 Corridor. He said Clackamas County would get the funds back.

Councilor Devlin stated Regional Transportation Plan (RTP) policy with regard to lightrail. He said all parties had agreed that the next corridor would have a terminus in Clackamas County. He said the two corridors under consideration were I-205 and Milwaukie. He said whatever corridor was selected had to be acceptable to Clackamas County to maintain the regional

partnership. He said the best interests of the region would be addressed with regard to the corridor not selected. He said the Port of Portland and Clackamas County would express interest in the disposition of the \$16 million. He said the resolution asked for flexibility with regard to those funds only.

Councilor Gronke noted a letter from Brian Campbell, Planning Manager, Port of Portland, dated April 23, 1992 regarding I-205 buslane funds distributed to the Council. Councilor Gronke read the letter for the record: "Council Resolution No. 92-1584 on tonight's agenda requests flexibility in the use of the I-205 Buslane Funds. The Port supported adoption of the resolution at JPACT earlier this month because it accomplishes the important goal of greater flexibility in the short term use of those funds, while ensuring that an equal amount will be available for a light rail improvement on I-205 later. We do have concerns about this approach. If the Pre-Alternatives Analysis does not show a need for light rail in the I-205 corridor in the foreseeable future, further action will have to be taken to allocate the money to some other use. We firmly believe that the money needs to be reserved to solve problems in the corridor for which it was intended - I-205 between the Columbia River and Foster Road. If that is not light rail, then it should go for an alternative transit or roadway improvement. Others may not find that use appropriate, which could lead to serious disagreements at that time. Ideally, we would like to see this money committed now to a project (or projects) which would address existing and future corridor problems. However, since we will not know what those projects are until after the Pre-Alternative Analysis, this resolution is the best we can do at this time. In order to move forward on this issue, with our legislative delegation in Washington, the consensus language of this resolution should be approved by the Metro Council.

Vote: Councilors Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington, Wyers and Gardner voted aye. Councilors Bauer and Buchanan voted nay. The vote was 10 to 2 in favor and Resolution No. 92-1584 was adopted.

Presiding Officer Gardner recessed the Council of the Metropolitan Service District and convened the Contract Review Board of the Metropolitan Service District to consider Agenda Item No. 7.2.

7.2 Resolution No. 92-1557A, For the Purpose of Authorizing the Issuance of a RFP for a Study of Weight-Based Collection Rates as Economic Stimulus for Recycling and Entering into Multi-Year Contracts with the Most Qualified Proposers

Motion: Councilor Hansen moved, seconded by Councilor Wyers, for adoption of Resolution No. 92-1594A.

Councilor Hansen gave the Solid Waste Committee's report and recommendations. She said the resolution had been scheduled for Council consideration at an earlier meeting, but was referred back to the Solid Waste Committee for further work at the request of hauling industry representatives. She explained the resolution would authorize a 10-month study during which garbage from 2,000 commercial accounts would be weighed. She said the study assist commercial haulers to reduce the amount of waste shipped to the landfill. She said local governments and haulers expressed concern that Metro was moving too quickly toward implementation of a weight-based collection rate system. She said those groups had been assured this study was for data base purposes only.

Councilor Gronke asked what the data would tell Metro. John Houser, Council Analyst, said the first element of the study would weigh the 2,000 commercial accounts; the second element of the study would divide those businesses into "control" and "test" groups to determine if a weight-based collection rate would act as an incentive for additional recycling or waste reduction by businesses. He said vendors had indicated they were willing to accept data results from Metro. Councilor Gronke asked if \$50,000 would be spent to weigh solid waste only. Councilor Hansen noted part of the contract cost would pay for scale equipment. She said Metro could use the data to discuss solid waste disposal alternatives with local governments. Councilor McFarland said Metro's tipping fees were based on weight rather than contents. Presiding Officer Gardner said the study would not answer the question of whether charging by weight would cause a change in behavior. Councilor Van Bergen agreed with Presiding Officer Gardner, but said he voted aye on the resolution at committee because the study could produce data with valuable data. He said such a study could lead to reduction of waste at the source, including loads with excess water processed at the transfer stations.

Vote: Councilors Bauer, Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington, Wyers and Gardner voted aye. The vote was unanimous and Resolution No. 92-1557A was adopted.

Presiding Officer Gardner adjourned the Contract Review Board and reconvened the Council of the Metropolitan Service District.

7.3 Resolution No. 92-1594A, For the Purpose of Adopting Program Activities for Year Three of the Annual Waste Reduction Program for Local Government

Motion: Councilor Wyers moved, seconded by Councilor Van Bergen, for adoption of Resolution No. 92-1594A.

Councilor Wyers gave the Solid Waste Committee's report and recommendations. She explained the resolution would approve Year 3 of the five year waste reduction program and its coordination efforts with local governments. She said the program would encourage local governments to emphasize reduction of household hazardous waste products; encourage development of recycling depots for rural communities without curbside programs and/or for recycling of lesser recycled materials; promote precycling, or the use of products with less packaging; and add additional materials to curbside recycling programs. She said the resolution was amended to set a date certain on when governments should offer recycling opportunities to multi-family apartment units. She said that last option was complex because of fire department regulations and other considerations. She said staff would continue to collect data from community waste audits and noted a Recycling Advocates representative testified in favor of the resolution at committee.

Vote: Councilors Bauer, Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington, Wyers and Gardner voted aye. The vote was unanimous and Resolution No. 92-1594A was adopted.

7.4 Resolution No. 92-1607, For the Purpose of Maintaining the Existing Household Hazardous Waste Facility, Building an Additional Facility, and Developing a Mobile Capacity

Removed from the agenda. Councilor Wyers explained the work called for in the resolution would be performed, but the Committee determined a resolution was not necessary for completion of the work.

8. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS

Councilor Van Bergen noted the Budget Committee had completed consideration of the Proposed FY 1992-93 Budget. He thanked Council and Executive Management staff for their work and said a

balanced budget would be delivered to the Council for consideration on time.

Councilor McFarland thanked Rate Review Committee members for their hard work on the solid waste budget.

8.1 Report from Governmental Affairs Committee on RFP for Financial Impact Study on Tri-Met/Merger

Councilor Collier, Governmental Affairs Committee chair, said that committee voted to refer the Request for Proposal Financial Impact Study: Tri-Met/Metro Merger to the full Council for consideration per the Executive Officer's request. She said Councilor Gronke commented that the RFP language made it appear Metro was planning to merge with Tri-Met rather than pursue the financial impact study issues only. She said RFP language was clarified to reflect that. Councilor Collier asked for a suspension of the Council's rules to consider Resolution No. 92-1613, For the Purpose of Approving an RFP for a Financial Impact Study of a Tri-Met/Metro Merger.

Councilor Collier explained what the resolution/RFP would do. She said the RFP, at a cost of \$40,000, would seek answers to five questions: 1) What would the effect of merger be on the long-term financial position of the Metropolitan Service District and Tri-Met? 2) What are the actual short-term costs for both agencies relative to merger? 3) What are the actual costs associated with merger of the retirement and pension systems of the two agencies? 4) What are the opportunities to restructure the revenue generating capacity of each entity? 5) What are the opportunities for increased efficiencies and reduction in the common costs of administration and overhead? She said those questions would be asked in relation to three organizational alternatives. She said the five questions should be answered whether or not the merger ever took place and stated that pursuing solutions to the five questions did not presume a merger would take place.

Councilor Collier gave background history and details for the benefit of new Councilors. She said the Council had analyzed the issues off and on for approximately 10 years. She said approximately one and one-half years ago (September 1990), the Council approved funds for a study to address merger issues. She said at the same time, full funding issues for lightrail were current, and the Council was asked by JPACT, Tri-Met and local governments not to pursue Metro/Tri-Met merger issues until the UMTA full funding agreement was signed. She said the public pressured the Council to do the merger and not wait for the study's results. She said those entities agreed not to alter the

statutory language allowing the merger to occur. She said the full funding agreement was supposed to have been signed by September 1991.

Councilor Collier said circumstances had changed because the Charter Committee voted to alter Metro's statutory authority to merge with Tri-Met by requiring the advice and consultation of JPACT in its current configuration. She said that provision was acceptable, but that the Charter Committee also voted to continue the incumbent Tri-Met board with successor appointments to be made by the regional government. She said that represented a major change from current statutory language. She said another new requirement per the Charter Committee was that the merger could take place via ordinance, subject to referendum, with the prohibition of an emergency clause. She said that provision also represented a major change from current language. She said currently the Council could authorize a merger by order.

Councilor Collier said the Charter Committee had acted without the benefit of the answers to the five questions in the RFP. She said the full funding agreement was now not expected to be signed until fall 1992. She said if Metro's Charter was put on the ballot in November, the financial questions would not be answered. She said because of Metro's acquiescence to Tri-Met and other entities not to pursue information-seeking efforts, the Council had precluded its own efforts.

Councilor Collier discussed outstanding issues. She noted the full funding agreement was included in the Surface Transportation Act (STA) and had not yet been signed. She said Tri-Met currently had expenditures of approximately \$2.5 million per month based on the understanding those funds would be reimbursed once the full funding agreement was signed. She discussed the letter from Tri-Met which stated a proposed merger would jeopardize Tri-Met's status in the bond market. She said Tri-Met did not have a bond rating while Metro had the highest bond rating possible. She said she had been asked if Tri-Met's current labor dispute had led to proposed issuance of the RFP. She said that was not true, but encouraged Tri-Met representatives to settle labor disputes as quickly as possible. Councilor Collier noted a letter dated April 15, 1992, from Senator Mark O. Hatfield and Representative Les AuCoin, members of the U.S. Senate Committee on Appropriations, to Presiding Officer Gardner asking Metro not to pursue merger issues with Tri-Met at this time. She said pursuing financial impact questions did not mean Metro was pursuing the merger. She said the study and the merger were two separate issues.

Motion to Suspend the Rules: Councilor Collier moved, seconded by Councilor Buchanan, to suspend the Council's rules requiring resolutions be referred by committee to consider Resolution No. 92-1613.

Vote on Motion to Suspend the Rules: Councilors Bauer, Buchanan, Collier, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington, Wyers and Gardner voted aye. Councilor Devlin voted nay. The vote was 11-1 and the motion to suspend the rules passed.

Main Motion: Councilor Collier moved, seconded by Councilor Wyers, for adoption of Resolution No. 92-1613.

Councilor Collier referred the Council to Be It Resolved language: "That the Council of the Metropolitan Service District authorizes the issuance of a Request for Proposals for a financial impact study of a Tri-Met/Metro merger, in substantially the same form as Exhibit A (attached), with a cost not to exceed \$40,000, and authorizes the Executive Officer to execute the contract with the contractor chosen through the competitive bid process."

Councilor Van Bergen said Tri-Met's request to wait on the RFP reflected the opinion of his constituents. He expressed concern about the letter from Senator Hatfield and Representative AuCoin. He said their sentiments were not new and had been expressed by JPACT over the last 10 years. He said the congressional delegation had indicated a merger would jeopardize federal funding. He said during 10 years of discussion on the issues, all opinions had been expressed. He did not believe the Charter Committee had full consensus on the issues they had debated to date.

Presiding Officer Gardner opened a public hearing.

Councilor Gronke asked if the RFP could be let later on. Councilor Collier said the Metro Charter could be on the ballot before Metro had a chance to answer the five questions listed in the RFP. Councilor Devlin asked how the RFP related to Resolution No. 91-1561 which stated 11 items would be pursued for answers. Councilor Collier said a number of those issues were being studied when the Council was asked to stop researching those issues. She said the primary questions to be asked at this time were related to financial issues. She said public hearings could be held to ascertain public opinion on the other, non-financial issues.

Councilor Bauer said the Council was considering the RFP only at this time solely to determine if such a merger would mean a financial benefit for citizens.

Councilor McLain said the issues were raised at the last JPACT meeting. She said she spoke in support of the collection of accurate information. She said since that time, she did not know if Metro could collect desired information if timing issues would be so difficult. She said there were perceptions that could cause Metro problems using the information gained from the study. She discussed the full funding agreement and said in 1990 the Council did not know about the Charter Committee and a related ballot issue. She said the issues should be separated. She said citizens could choose to vote separately on the issues themselves. She said Metro had already been flexible on the full funding agreement. She said she could not support going forward with the RFP at this time.

Councilor Gronke concurred with Councilor McLain. He said the study would not alter circumstances very much and the final decision would probably go to a referendum.

Councilor Buchanan said the Council needed facts and information to make decisions. He said fact building would not destroy any infrastructure currently in place, but would assist Metro in regional planning efforts. He supported the resolution.

Councilor Gronke concurred with Councilor Buchanan, but said other entities' perceptions of the issues were important as well, especially in Clackamas County. He said the Council made a previous commitment not to release a RFP. He said the Charter Committee's most recent actions did not relieve the Council of that promise.

Councilor Wyers said the perceptions of elected officials had been talked about, but that the Council should also look at the perceptions of citizens. She said the issue was about accountability to citizens. She said if the Council could approve a \$50,000 study on weight reduction, it could approve a \$40,000 study on financial merger issues.

Presiding Officer Gardner said the Council stated in December 1990 it would pursue a merger upon resolution of the UMTA full-funding agreement. He said the five questions needed answers. He said information provided could state the merger would be too costly. He said Tri-Met's expenditures to date would be reimbursed. He said timing issues were very sensitive and the Council's actions tonight would be used by both parties. He expressed concern about Charter Committee language also. He said

such language would suppress real solutions to land use and transportation problems in the region. He said if the Charter Committee did prevent the Council from a merger, the Council could act on a merger before the Charter went on the ballot. He asked for input from Tri-Met representatives and expressed disappointment that they had not testified they would not ask the Charter Committee to change its draft language.

Councilor Hansen said the Council had not heard from Tri-Met on when the appropriate time would be to hold the study. She said Metro worried about perceptions, but noted Metro did not cause Tri-Met's labor disputes. She asked what would happen if the full funding agreement took another 18 months to conclude. She asked when Metro could pursue a study it already had the authority to pursue. She said pursuing the financial merger issues represented good government.

Don McLave, president, Portland Chamber of Commerce, said the merger should not take place without a lot of study. He said Tri-Met was one of the more successful transit agencies in the country. He said the financial impact questions should be studied later because of possible impact on current labor negotiations; the commitment the Council made in Resolution 90-1561 not to pursue a study until the full-funding agreement was signed; that the study pursued at this time was different than the one already funded; and because the project was politically delicate because the region did not meet all federal density criteria. He suggested the Council delay the study and that Metro and Tri-Met agree on a mutual topic to study at a date certain to be considered separately from current issues. He said Metro's motives would be questioned if it pursued the study now. He did not support current Charter Committee draft language and supported current statutory language. He suggested Metro and Tri-Met pursue merger issues in five years to depoliticize the situation. He said by then Westside lighttrail would be well under way.

Councilor Collier said timing had never been considered correct at any time. She said in discussions with various persons she told those persons she would be happy not to pursue the RFP if the marriage clause language was not changed. She said she had not been told there were plans to change statutory language. She asked Mr. McLave if he would be willing to work to change draft language. Mr. McLave promised he would if the RFP was not released. Councilor Collier said if the draft language stayed in the Charter, citizens would be voting on the issue without any information. Councilor Collier asked why the Chamber would not support answering the five questions which the public would need the answers to for an informed vote. Mr. McLave said the draft

Charter language was inappropriate because it was an authority Metro already had. He said the Charter Committee should not be dealing with authorities Metro already had. He thought it would take at least two years to completely answer all financial questions

Councilor Collier said again the timing had never been right. She did not know what else could come up to prevent the study and said answers to the study could settle issues further. Mr. McLave said Metro and Tri-Met could work together on the study and arrive at a mutually agreeable time frame.

Councilor Hansen noted labor relations issues might not be settled in two years and full-funding issues could still be pending. Mr. McLave reiterated circumstances were still uncertain and a longer time frame was preferable because of political circumstances and the magnitude of the issues needed to be addressed.

Councilor McLain noted Mr. McLave said the study should not happen now and should occur in five years. She believed the timing was wrong also, but said the study was a first step only to bring the issues to the table. Councilor Wyers said the Council had been told continually the timing would be wrong. She asked if the date certain was to be approved by Tri-Met and asked what would happen if Tri-Met never approved the date certain.

Councilor Devlin said Mr. McLave's proposal was to take 18 months to two years to study the issues and noted it had been previously agreed a merger would take two to three years, or even five years for a merger to be completed. Mr. McLave reiterated timing issues were important. He said the Board of the Portland Chamber of Commerce voted not to support the issuance of the RFP until the full funding agreement was resolved.

Tom Walsh, general manager, Tri-Met, discussed UMTA funding and said the metro region was the only area in the country to receive 75 percent in transportation funding. Mr. Walsh gave a history of congressional activity on transportation funding for the region to-date. He suggested the Council, Executive Officer and himself hold joint meetings with Executive Officer Cusma to discuss and resolve the issues.

Councilor Hansen asked when Mr. Walsh anticipated the full funding agreement to be signed. He said in approximately two months. Councilor Hansen asked if it would be appropriate then for the Council to issue the RFP. Mr. Walsh said it would be within Metro's authority to issue the RFP.

Councilor Collier noted Metro's agreement not to issue an RFP was not only dependent on the full funding agreement, but also on the Tri-Met's and other governments' commitment not to tamper with current statutory language. She asked Mr. Walsh what he thought of the five questions. He said he did not disagree with the five questions.

Councilor Devlin said full funding could be possible by August 1 and Tri-Met could commit to mutual research on the issues. Mr. Walsh said he had already suggested the Executive Officer, Council and he could develop a work plan for submittal to the Tri-Met Board of Directors. Councilor Devlin asked if that could be done in 30 days. Mr. Walsh said it could be developed in 30 days. Councilor Bauer and Mr. Walsh discussed full funding agreement details. Councilor Bauer said the Council's intent was not to jeopardize the full funding agreement, but to ascertain real information. Mr. Walsh said the issues would probably take two years to research.

Motion to Replace Main Motion: Councilor Devlin moved, seconded by Councilor Wyers, to delay Council action on Resolution No. 92-1613 until the May 28 meeting; to direct Executive Officer Cusma work with Mr. Walsh to come back with an agreement in the same general terms as the issues discussed at this Council meeting so that both agencies could work together towards resolution of the issues; directing the Executive Officer to work closely with the Council during that time and to include the Presiding Officer in all those deliberations; to jointly come forward at the May 28 meeting under the "Executive Officer Communications" agenda item to present that proposal to the Council if one was forthcoming; that the Council would have the choice to act on that proposal which should be in resolution form and that the Presiding Officer should refer it to the appropriate Committee for consideration, and that if the Council chose at that time not to act on the resolution, this motion contained the directive that Resolution No. 92-1613 be placed on the May 28 Council agenda for the Council to act on instead.

Councilor Devlin said the Council did not have the authority to direct Tri-Met, but hoped for cooperative action. Councilor Hansen supported the amendment. Councilor Collier asked for a commitment that those present would work to restore statutory language removed by the Charter Committee. Mr. Walsh pledged to work with the Charter Committee on restoring old language.

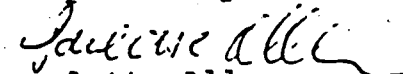
Councilor McFarland said this was the first time Tri-Met had promised to work cooperatively with Metro.

The Council discussed the amendment further. Councilor McLain supported the amendment because it delayed the study and fostered interpersonal relations. Councilor Gronke stated for the record he would review the outcome of those meetings closely. Councilor Van Bergen supported the amendment, but said Councilors should go to Charter Committee meetings themselves instead of relying on others to change draft language. Presiding Officer Gardner said Executive Officer Cusma could help with Charter Committee communications. Councilor Van Bergen said the issues did not involve Tri-Met alone and said the Portland Chamber of Commerce did not represent the counties.

Vote on Motion to Replace Main Motion: Councilors Bauer, Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington, Wyers and Gardner voted aye. The vote was unanimous and the motion passed.

All business having been attended to, Presiding Officer Gardner adjourned the meeting at 8:55 p.m.

Respectfully submitted,


Paulette Allen
Clerk of the Council

Meeting Date: May 28, 1992
Agenda Item No. 4.2

RESOLUTION NO. 92-1623



METRO

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

Memorandum

DATE: May 22, 1992

TO: Metro Council
Executive Officer
Interested Parties

FROM: Paulette Allen, Clerk of the Council

RE: AGENDA ITEM NO. 4.2; RESOLUTION NO. 92-1623

The Finance Committee report will be distributed to Councilors before the Council meets to consider the above referenced resolution and copies of the committee report will be available at the meeting May 28, 1992.

**BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT**

FOR THE PURPOSE OF AUTHORIZING	)	RESOLUTION NO. 92-1623
ISSUANCE OF A REQUEST FOR)	
PROPOSALS FOR BOND COUNSEL	)	Introduced by Rena Cusma,
SERVICES FOR THE PERIOD JULY 1, 1992,	)	Executive Officer
TO JUNE 30, 1995)	

WHEREAS, From time to time the District has the need to obtain specialized legal services for Bond Counsel for bonds and other obligations of the District; and

WHEREAS, In the past, the District has obtained such Bond Counsel services on a per issue or department basis; and

WHEREAS, It is more efficient and desirable to enter into an agreement for Bond Counsel services for a definite time period for the entire District; and

WHEREAS, The Request for Proposals and contract form attached hereto would provide a means for procuring such services for the period July 1, 1992, through June 30, 1995; and

WHEREAS, Council approval of this RFP and any subsequent agreement for Bond Counsel services is required pursuant to Metro Code Section 2.04.033(a)1; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District authorizes issuance of the Request for Proposals for Bond Counsel Services for the period July 1, 1992, to June 30, 1995, in a form substantially similar to the attached Exhibit A.

ADOPTED by the Council of the Metropolitan Service District this _____ day of _____, 1992.

**_____
Jim Gardner, Presiding Officer**

**METROPOLITAN SERVICE DISTRICT
REQUEST FOR PROPOSALS
BOND COUNSEL SERVICES**

INTRODUCTION

The Metropolitan Service District (Metro) is a regional government responsible for the management of the Metro Washington Park Zoo; St. Johns Landfill, Metro South Station, Metro Central Station, Metro Composter Facility; urban growth and transportation planning; Oregon Convention Center, Portland Center for the Performing Arts, Civic Stadium, and Memorial Coliseum.

Metro is soliciting written proposals for Bond Counsel Services to be utilized on an as needed basis for future financings. Possible future financings include contemplated measures for urban Greenspaces acquisitions, solid waste transfer station(s), and an End of the Oregon Trail facility. It is also possible that no financings may occur.

PROPOSAL INFORMATION

Proposals will be received at the business office of the Metropolitan Service District, Office of General Counsel, 2000 S.W. First Avenue, Portland, OR 97201-5398, to the attention of Daniel B. Cooper, General Counsel, until 5:00 p.m. PDT,

_____. Proposals submitted prior to that date should be delivered to the Office of General Counsel marked "Proposal - Bond Counsel Services."

The contract period will be from approximately July 1, 1992, through June 30, 1995.

Each proposal must be submitted in a form as described in this proposal document.

The FY 1992-93 Metro budget does not contain an appropriation for this contract but the Office of Finance and Management Information has estimated \$_____ is the maximum amount for expenditure during the life of the contract. As individual financings are identified and authorized a specific dollar amount will be agreed to as the Project Budget for Bond Counsel Services.

SCOPE OF WORK

Provide necessary Bond Counsel Services including advice regarding structure and preparation of necessary Bond ordinances and documents, publication of required legal notices and furnishing of all required legal opinions regarding the validity and tax exempt status of the issuance of bonds or other financial obligations on an "as needed" basis for future financings of Metro during the three-year period.

MINIMUM REQUIREMENTS

Proposers must meet the following minimum requirements in order to be considered a Proposer:

1. Be licensed to practice law in the state of Oregon; and
2. Be an attorney or firm of attorneys of recognized national standing in the field of law relating to municipal bonds.

EVALUATION CRITERIA

- | | |
|---|-----------|
| 1. Experience with municipal bond issues and similar bond matters | 20 points |
| 2. Experience, training, and qualifications of attorney(s) | 15 points |
| 3. References and reputation in financial community | 15 points |
| 4. Cost for services | 10 points |

- | | | |
|----|---|------------|
| 5. | Location and ease of access to Metro staff | 10 points |
| 6. | Knowledge of and experience with regional governments | 10 points |
| 7. | Evidence of creative and innovative approaches to public finance | 10 points |
| 8. | Knowledge and understanding of key public financial issues facing governments in the Portland metropolitan area | 10 points |
| | Total Possible Points | 100 |

PROPOSAL INSTRUCTIONS

1. **Deadline and Submission of Proposals:**

Three copies of the Proposal shall be furnished to Metro addressed to:

Daniel B. Cooper, General Counsel
Office of General Counsel
Metropolitan Service District
2000 S.W. First Avenue, Suite 410
Portland, OR 97201-5398

and clearly marked "Proposal - Bond Counsel Services."

Proposals will not be considered if received after 5:00 p.m. PDT,

_____, 1992. Postmarks are not acceptable.

2. **Basis for Proposals:**

This Request for Proposals represents the most definitive statement Metro will make concerning the information upon which Proposals are to be based. Any verbal information which is not addressed in this Request for Proposals will not be considered by Metro in evaluating the Proposal. All questions relating to the Request for Proposals should be addressed to Daniel B. Cooper, General Counsel. Any questions, which in the opinion of Metro, warrant a written

reply or Request for Proposals amendment will be furnished to all parties receiving this Request for Proposals.

3. General Proposal and Contract Conditions:

Limitation and Award -- This Request for Proposals 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 accept any or all Proposals received as the result of this request, to negotiate with all qualified sources, or to cancel all or part of this Request for Proposals.

4. Contract Type:

Metro intends to award a Personal Services Agreement with the selected firm for this project. A copy of the standard agreement form which the successful consultant will be required to execute is attached.

5. Validity Period and Authority:

The Proposal shall be considered valid for a period of at least 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 firm contracted during the period in which Metro is evaluating the Proposal.

TERMS OF AGREEMENT

The initial term of this contract shall be from approximately July 1, 1992, through and including June 30, 1995, or completion of the issue.

PROPOSAL CONTENT

All Proposals must be submitted in the format described below. Submissions which do not address all questions posed or are otherwise incomplete will be deemed nonresponsive and not considered as part of this competitive process.

General Information:

1. Provide name, address of provider, date established, and brief description of attorney or firm's background.
2. State the number of personnel in your firm and their general duties.
3. Describe the experience and professional credentials of the staff who would be assigned to perform the work for Metro. Resumes of individuals proposed for this contract may be attached.
4. Provide a copy of your firm's Affirmative Action Plan.
5. Give a brief written explanation of your understanding of the effort needed to complete the Scope of Work, and why you should be considered to be the most qualified proposer. Responses should be organized in a fashion that addresses each of the evaluation criteria specified herein.
6. Describe your proposed fee structure and arrangements including hourly billing rates for attorneys and other staff as applicable, and other proposed alternative fee structures if any are to be considered.

gl

1089

Attachment - Personal Services Agreement

Project _____
Contract No. _____

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is between the METROPOLITAN SERVICE DISTRICT, a municipal corporation organized under ORS Chapter 268, referred to herein as "Metro," located at 2000 S.W. First Avenue, Portland, OR 97201-5398, and _____, referred to herein as "Contractor," located at _____.

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

1. Duration. This personal services agreement shall be effective _____, and shall remain in effect until and including _____, unless terminated or extended as provided in this Agreement.

2. Scope of Work. Contractor shall provide all services and materials specified in the attached "Exhibit A -- Scope of Work," which is incorporated into this Agreement by reference. All services and materials shall be provided by Contractor in accordance with the Scope of Work, in a competent and professional manner. To the extent that the Scope of Work contains additional contract provisions or waives any provision in the body of this Agreement, the Scope of Work shall control.

3. Payment. Metro shall pay Contractor for services performed and materials delivered in the maximum sum of _____ AND ____/100THS DOLLARS (\$ _____), in the manner and at the time specified in the Scope of Work.

4. Insurance.

a. Contractor shall purchase and maintain at the Contractor's expense, the following types of insurance, covering the Contractor, its employees, and agents:

(1) Broad form comprehensive general liability insurance covering personal injury and property damage, with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and

(2) Automobile bodily injury and property damage liability insurance.

b. Insurance coverage shall be a minimum of \$500,000 per occurrence, \$250,000 per person, and \$50,000 property damage. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.

- c. Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSURED. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.
- d. Contractor, its subcontractors, if any, and all employers working under this Agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Contractor shall provide Metro with certification of Workers' Compensation insurance including employer's liability.
- e. If required by the Scope of Work, Contractor shall maintain for the duration of this Agreement professional liability insurance covering personal injury and property damage arising from errors, omissions, or malpractice. Coverage shall be in the minimum amount of \$500,000. Contractor shall provide to Metro a certificate of this insurance, and 30 days' advance notice of material change or cancellation.
5. Indemnification. Contractor shall indemnify and hold Metro, its agents, employees and elected officials harmless 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 Agreement, with any patent infringement arising out of the use of Contractor's designs or other materials by Metro and for any claims or disputes involving subcontractors.
6. Maintenance of Records. Contractor shall maintain all of its records relating to the Scope of Work on a generally recognized accounting basis and allow Metro the opportunity to inspect and/or copy such records at a convenient place during normal business hours. All required records shall be maintained by Contractor for three years after Metro makes final payment and all other pending matters are closed.
7. Ownership of Documents. All documents of any nature including, but not limited to, reports, drawings, works of art and photographs, produced by Contractor pursuant to this Agreement are the property of Metro, and it is agreed by the parties that such documents are works made for hire. Contractor hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such documents.
8. Project Information. Contractor shall share all project information and fully cooperate with Metro, informing Metro of all aspects of the project including actual or potential problems or defects. Contractor shall abstain from releasing any information or project news without the prior and specific written approval of Metro.
9. Independent Contractor Status. Contractor shall be an independent contractor for all purposes and shall be entitled only to the compensation provided for in this Agreement. Under no circumstances shall Contractor be considered an employee of Metro. Contractor shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified in the Scope of Work. Contractor is solely responsible for its performance under this

- Agreement and the quality of its work; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified in the Scope of Work; and for meeting all other requirements of law in carrying out this Agreement. Contractor shall identify and certify tax status and identification number through execution of IRS form W-9 prior to submitting any request for payment to Metro.

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

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

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

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

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

15. Modification. This Agreement is the entire agreement between the parties, and may only be modified in writing, signed by both parties.

CONTRACTOR

METROPOLITAN SERVICE DISTRICT

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 92-1623 FOR THE PURPOSE AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS FOR BOND COUNSEL SERVICES FOR THE PERIOD JULY 1, 1992 TO JUNE 30, 1995

Date: May 21, 1992

Presented by: Dan Cooper
Christopher Scherer

BACKGROUND

Bond financing requires legal advice from outside counsel with specific expertise in public finance and related matters including federal tax laws. Each bond issuance requires an opinion of Bond Counsel certifying that the interest on bonds qualifies for federal tax-exempt status and whether or not the bonds are "private activity bonds" as defined in Internal Revenue Code. Metro also benefits from outside legal advice on an ongoing basis regarding compliance with the covenants in its various bond ordinances, the tax laws regarding arbitrage rebate and financial decisions that may affect Metro's financial structure as defined in Metro's bond ordinances.

In the past, Metro has retained the services of a Bond Counsel by contract on each specific bond issue. We now have four bond issues outstanding and anticipate additional activity in the bond market during the next fiscal year. Possible bond financings include funding the east Washington County transfer station, the Metropolitan Greenspaces program, and the End of the Oregon Trail Interpretative Center.

Staff believes it is a matter of necessity to retain the services of a Bond Counsel on an ongoing basis to provide legal advice regarding its current outstanding debt and assistance in developing the financing strategy, documents, and fulfilling the legal requirements related to possible future financings. It is proposed that Bond Counsel be retained for a three years by contract. Resolution No. 92-1623 approves issuance of an Request for Proposal for Bond Counsel services.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 92-1623.

Meeting Date: May 28, 1992
Agenda Item No. 5.1

ORDINANCE NO. 92-461

STAFF REPORT

CONSIDERATION OF AN ORDINANCE AMENDING METRO ORDINANCE NO. 92-444A, FOR CONTESTED CASE NO. 91-2:FOREST PARK

May 15, 1992

Staff: Ethan Seltzer

BACKGROUND AND ANALYSIS:

On February 27, 1992, the Metro Council adopted Ordinance No. 92-444A, amending the Metro Urban Growth Boundary (UGB) for Contested Case No. 91-2:Forest Park. Contested Case No. 91-2 was a petition from the City of Portland and HGW, Inc. for a trade of lands into and out of the urban growth boundary (UGB). Trades are considered by Metro under MC 3.01 as a locational adjustment to the UGB. The property proposed for inclusion in the UGB (labelled parcel A) totaled approximately 120 acres and is located southeast of NW Skyline Boulevard and north of NW Laidlaw and NW North Roads in Multnomah County. The property proposed for removal from the UGB (labelled parcel D) is located at the northern end of Forest Park, southeast of Newberry Road, in Multnomah County. The City of Portland has taken a position in support of the petition and Multnomah County has decided to not take a position either in favor of or opposition to the petition.

This is a complex matter involving a third property (referred to as the "Ramsey property" below) in addition to the lands proposed for addition to and removal from the UGB. This petition is part of a larger "3-way" transaction involving the City of Portland, HGW, Inc., and the Ramsey family. In brief, the Ramsey family owns about 120 acres of land within Forest Park that, if developed, could cause significant disruption to wildlife corridors and existing and planned park trail networks. HGW, Inc., owns 120 acres outside and south of the park that could be developed with up to 12 dwellings under the current rural zoning. If the HGW, Inc., property could be brought within the UGB, it could be developed with up to 60 dwellings, although about 40 would be more likely given steep slopes on the site. However, there is currently not a need within the existing UGB for additional residential land.

By trading land owned by the City of Portland out of the UGB, there would be no net change in the land area within the UGB. In fact, Metro's locational adjustment process includes a trade procedure in recognition of the fact that land now designated for urban use may be less well suited for urban development than land currently outside and adjacent to the UGB. In exchange for the City's willingness to remove some of its property from the UGB, and recognizing the increase in development potential that would result if parcel A was brought inside the UGB, HGW, Inc., has agreed to purchase the Ramsey property and convey it to the City. Therefore, although the trade before the Council technically only concerned parcels A and D, it is really part of this larger transaction involving the Ramsey property as well. If the Ramsey property was not involved in the transaction, the City of Portland would not be an applicant and there would have been no trade proposal before the Metro Council.

Metro Hearings Officer Chris Thomas concluded that the petition complied with the applicable standards in MC Chapter 3.01, but recommended that the approval not take affect unless, within 90 days of passage of the Ordinance, the Council received written notification that the portion of the transaction involving the Ramsey property has been or will be completed to the City's satisfaction. One exception to the decision was filed, which subsequently became the basis for Council's amendment to the Hearings Officer's recommendation, making the basis for determining "satisfaction" on the part of the City more explicit.

Following adoption of Ordinance No. 92-444A on February 27, 1992, the City and HGW, Inc., had until May 27, 1992, to complete the transaction consistent with the conditions of the UGB amendment. In the ensuing months, both the City and HGW, Inc., have been unable to complete the transaction with the Ramsey family. Nonetheless, the City has reason to believe that it can now pursue the completion of the transaction in a manner that will meet the requirements of the condition if it can have an extension beyond the 90-day time limit imposed by Ordinance No. 92-444A. In addition to an extension for the time limit, the City would also like Section 3 of Ordinance No. 92-444A amended to reflect that the Ramsey property will be acquired by the City in a manner that may not include simple donation.

On or about May 8, 1992, the City of Portland requested that Metro amend Ordinance No. 92-444A to allow more time for completing the transaction as specified in Section 3 of that Ordinance. The City requested that the Metro Council act on May 14, 1992, at its regularly scheduled meeting, in order to amend the Ordinance before the expiration of the 90-day period on May 27. However, in addition to having missed the agenda deadline for the May 14 Council meeting, the amendment of an Ordinance requires an ordinance, which would entail a second reading no sooner than May 28, 1992, one day after the end of the 90-day period.

The request from the City raises both procedural and substantive issues for Metro. In the past, the Council has avoided attaching conditions to its UGB decisions. The request of the City represents a request for an amendment to a condition, something that our code is silent on. Therefore, in order to adequately prepare the way for Council consideration of the request in a manner that would not prejudice future Council actions, Metro staff advised the City to submit a second letter, received on May 18, 1992, requesting that the 90-day "clock" be stopped in order to allow the Council sufficient time to consider the request.

Executive Officer's Recommendation

The request from the City of Portland for an amendment to Section 3 of Ordinance No. 92-444A will not change the final specifications for the overall transaction or the participation of the City of Portland as an applicant in Metro's UGB proceeding. The Metro Council should adopt Ordinance No. 92-461, granting the request of the City of Portland for amendments to Section 3 of Metro Ordinance No. 92-444A allowing more time and enabling other forms of acquisition besides donation to be used to complete the transaction.

ES/es

**BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT**

**AN ORDINANCE AMENDING METRO)
ORDINANCE NO. 92-444A, FOR)
CONTESTED CASE NO. 91-2:FOREST)
PARK)**

ORDINANCE NO. 92-461

**THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY
ORDAINS:**

Section 1. On Thursday, February 27, 1992, the Metro Council held a second reading for and adopted Ordinance No. 92-444A, amending the Metro Urban Growth Boundary for Contested Case No. 91-2: Forest Park. The order was adopted upon the condition that the Ramsey portion of the overall transaction has been or will be completed in a manner that assures the donation to the City of 73 acres referred to as Parcel A; and, at a minimum, the donation to the City of a 20.7 acre portion of Parcel B which is deepest into Forest Park and furthest away from NW Skyline Blvd., or that portion of Parcel B which was designated as "EP" zone as of December 2, 1991. If the Metro Council received no written notification that this condition was met within 90 days of the passage of this ordinance, then no amendment of the urban growth boundary would occur and the petition would be rejected. The 90th day for purposes of this condition falls on May 27, 1992.

Section 2. On or about May 8, 1992, the City of Portland notified Metro and all parties to the case that it needed an extension of the 90-day time limit to complete the Ramsey portion of the transaction. The City stated its belief that additional time would result in the completion of the transaction as envisioned by Ordinance No. 92-444A.

Section 3. On May 18, 1992, the City of Portland formally requested that Metro extend the period for completing the transaction by 180 days, change the word "donation" in Section

3 of Ordinance No. 92-444A to "acquisition" to acknowledge that the City would be more actively involved, and stop the 90-day "clock" in order to allow the Metro Council time to take the actions requested.

Section 4. Metro Ordinance No. 92-444A, Section 3, is hereby amended to read:

"Section 3. The District Urban Growth Boundary, as adopted by Ordinance No. 79-77, will be amended as shown in Exhibit A of this Ordinance, which is incorporated by this reference, upon receipt by the Metro Council of written notification from the City of Portland that the Ramsey portion of the overall transaction has been or will be completed in a manner that assures the ~~donation to acquisition~~ by the City of 73 acres referred to as Parcel A; and, at a minimum, the ~~donation to acquisition~~ by the City of a 20.7 acre portion of Parcel B which is deepest into Forest Park and furthest away from NW Skyline Blvd., or that portion of Parcel B which was designated as "EP" zone as of December 2, 1991. If no such written notification is received ~~within 90 days of the passage of this ordinance~~ by December 11, 1992, then no amendment of the urban growth boundary shall occur and the petition will be rejected. "

Section 5. Parties to Contested Case No. 91-2 may appeal this Ordinance under Metro Code Section 205.05.050 and ORS Ch. 197.

ADOPTED by the Council of the Metropolitan Service District this _____ day of _____, 1992.

Jim Gardner, Presiding Officer

ATTEST:

Clerk of the Council

ES/es3/15/92



CITY OF PORTLAND
BUREAU OF PARKS AND RECREATION

1120 S.W. 5TH, ROOM 1302
PORTLAND, OREGON 97204-1933
(503) 796-5193



MIKE LINDBERG, Commissioner

CHARLES JORDAN, Director

May 8, 1992

Ethan Seltzer
Land Use Supervisor
Metropolitan Service District
2000 S.W. 1st Avenue
Portland, OR 97201

RE: Amendment of Metro Urban Growth Boundary (UGB), Contested Case
91-2, Authorized by Metro Ordinance No. 92-444.

Dear Mr. Seltzer:

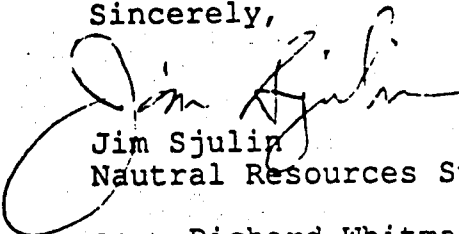
The City of Portland and HGW, Inc., co-applicants for the above referenced Amendment of Metro UGB, request that the period allowed for filing the written notification of satisfaction by the City be extended by an additional 90 days.

Metro Ordinance No. 92-444 provided a 90 day period from the date of passage by the Metro Council. This period will terminate on May 24, 1992. The City and HGW are presently working on a final agreement which will require further City Council authorization. But due to the need for additional actions and negotiations by the City, and due to City Council's schedule, it is necessary to request an extension now. After the City and HGW execute the final agreement, there will be a clear and certain path for the City to obtain satisfaction as anticipated by the Metro Ordinance.

The City and HGW, Inc. request that Metro Council grant this needed 90 day extension at its regular meeting of May 14, 1992. Richard Whitman (representing HGW) and I will be available to attend the Council meeting and will be prepared to respond to any questions or concerns from Metro Council.

Please contact Harry Auerbach at 823-4047 or me at 796-5122 if you have any questions about this matter.

Sincerely,


Jim Sjulian
Natural Resources Supervisor

c: Richard Whitman



CITY OF PORTLAND
BUREAU OF PARKS AND RECREATION

1120 S.W. 5TH, ROOM 1302
PORTLAND, OREGON 97204-1933
(503) 796-5193



MIKE LINDBERG, Commissioner

CHARLES JORDAN, Director

May 18, 1992

TO: Ethan Seltzer
Metropolitan Service District
Land Use Supervisor

FROM: Jim Sjulín
Bureau of Parks and Recreation
Natural Resources Supervisor

RE: Amendment of Metro Urban Growth Boundary (UGB), Contested
Case 91-2, Authorized by Metro Ordinance No. 92-444A.

The City of Portland, co-applicant with HGW, Inc. in the above land use action, requests that an immediate stop be placed on the 90 day period established as a special condition for the UGB amendment. The suspension of the clock will allow Metro Council the opportunity to consider an amendment to the condition which extends the period by another 180 days and makes a minor language change. The suspension of the clock also will allow Portland City Council the opportunity to authorize needed action in connection with the condition and the opportunity to execute the action.

The City also requests that Metro staff prepare an amendment to the aforementioned condition which extends the period by an additional 180 days and which changes the word "donation" to "acquisition" within the condition (Section 3 of Metro Ordinance No. 92-444A).

ugbmem.001

Certified True Copy of the Original Hereof
Pauline Allen
Clerk of the Council

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE ADOPTING A FINAL
ORDER AND AMENDING THE METRO
URBAN GROWTH BOUNDARY FOR
CONTESTED CASE NO. 91-2:FOREST
PARK

ORDINANCE NO. 92-444A

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. On Wednesday, October 2, 1991, Metro Hearings Officer Chris Thomas held a public hearing for Contested Case No. 91-2:Forest Park. Based on testimony received at that hearing and on written materials submitted in conjunction with the petition, the Hearings Officer has recommended that Metro approve the petition for amendment of the Urban Growth Boundary provided that within 90 days of the passage of this ordinance, the Metro Council receive written notification that the Ramsey portion of the overall transaction has been completed or provided for in a manner satisfactory to the City of Portland.

Section 2. The Council of the Metropolitan Service District hereby accepts and adopts as the Final Order in Contested Case No. 91-2 the Hearings Officer's Report and Recommendations in Exhibit B of this Ordinance, which is incorporated by this reference.

Section 3. The District Urban Growth Boundary, as adopted by Ordinance No. 79-77, will be amended as shown in Exhibit A of this Ordinance, which is incorporated by this reference, upon receipt by the Metro Council of written notification from the City of Portland that the Ramsey portion of the overall transaction has been or will be completed in a manner that

assures the donation to the City of 73 acres referred to as Parcel A; and, at a minimum, the donation to the City of a 20.7 acre portion of Parcel B which is deepest into Forest Park and furthest away from NW Skyline Blvd., or that portion of Parcel B which was designated as "EP" zone as of December 2, 1991. If no such written notification is received within 90 days of the passage of this ordinance, then no amendment of the urban growth boundary shall occur and the petition will be rejected.

Section 4. Parties to Contested Case No. 91-2 may appeal this Ordinance under Metro Code Section 205.05.050 and ORS Ch. 197.

ADOPTED by the Council of the Metropolitan Service District this 27th day of February, 1992.


Jim Gardner, Presiding Officer

ATTEST:


Clerk of the Council

ES/es
2/27/92

STAFF REPORT

CONSIDERATION OF AN ORDINANCE ADOPTING A FINAL ORDER AND AMENDING THE METRO URBAN GROWTH BOUNDARY FOR CONTESTED CASE 91-2:FOREST PARK

Date: January 24, 1992

Presented By: Ethan Seltzer

BACKGROUND

Contested Case No. 91-2 is a petition from the City of Portland and HGW, Inc. for a trade of lands into and out of the urban growth boundary (UGB). Trades are considered by Metro under MC 3.01 as a locational adjustment to the UGB. The property proposed for inclusion in the UGB (labelled parcel A) totals approximately 120 acres and is located southeast of NW Skyline Boulevard and north of NW Laidlaw and NW North Roads in Multnomah County. The property proposed for removal from the UGB (labelled parcel D) is located at the northern end of Forest Park, southeast of Newberry Road, in Multnomah County. The City of Portland has taken a position in support of the petition and Multnomah County has decided to not take a position either in favor of or opposition to the petition.

As will be described below, this is a complex matter involving a third property (referred to as the "Ramsey property" below) in addition to the lands proposed for addition to and removal from the UGB. Metro Hearings Officer Chris Thomas held a hearing on this matter on October 2, 1991, in the Metro Council Chambers. Testimony was received from both the petitioner and from concerned citizens. The Hearings Officer's Report and Recommendation, attached as Exhibit B to the Ordinance, concludes that the petition complies with the applicable standards in MC Chapter 3.01, but recommends that the approval not take affect unless, within 90 days of passage of the Ordinance, the Council receives written notification that the portion of the transaction involving the Ramsey property has been or will be completed to the City's satisfaction. One exception to the decision has been filed and is attached to this staff report for your review.

Following presentation of the case by the Hearings Officer, and comments by the petitioner, the parties to the case will be allowed to present their exceptions to the Council. The petitioner will be given the opportunity to respond to the exceptions posed by parties. The Hearings Officer will be available to clarify issues as they arise.

At its meeting on the 13th of February, 1992, Council can, following the public hearing, pass the Ordinance on to second reading or remand the findings to staff or the Hearings Officer for modification. Since all properties affected by this petition are presently within the Metro District boundary, no action by the Boundary Commission is required prior to final Council action.

ANALYSIS

This petition is part of a larger "3-way" transaction involving the City of Portland, HGW, Inc., and the Ramsey family. In brief, the Ramsey family owns about 120 acres of land within Forest Park that, if developed, could cause significant disruption to wildlife corridors and existing and planned park trail networks. HGW, Inc., owns 120 acres outside and south of the park that could be developed with up to 12 dwellings under the current rural zoning. If the HGW, Inc., property could be brought within the UGB, it could be developed with up to 60 dwellings, although about 40 would be more likely given steep slopes on the site. However, there is currently not a need within the existing UGB for additional residential land.

By trading land owned by the City of Portland out of the UGB, there would be no net change in the land area within the UGB. In fact, Metro's locational adjustment process includes a trade procedure in recognition of the fact that land now designated for urban use may be less well suited for urban development than land currently outside and adjacent to the UGB. In exchange for the City's willingness to remove some of its property from the UGB, and recognizing the increase in development potential that would result if parcel A was brought inside the UGB, HGW, Inc., has agreed to purchase the Ramsey property and convey it to the City.

Therefore, although the trade before the Council technically only concerns parcels A and D, it is really part of this larger transaction involving the Ramsey property as well. If the Ramsey property was not involved in the transaction, the City of Portland would not be an applicant and there would be no trade proposal before the Metro Council. Currently, Metro considers petitions for trades according to the criteria outlined in MC Chapter 3.01. The standards for considering a trade are:

- 1) The trade results in a net of no more than 10 vacant acres being added or 50 acres being removed. In this case, a net of 19 acres would be removed, satisfying this requirement.
- 2) Each City or County with jurisdiction has taken a position in favor, in opposition, or declining to express an opinion. The City of Portland has taken a position in support of the proposed trade, and Multnomah County, for reasons discussed below, has taken a position of "no comment. Therefore, the petition satisfies this requirement.
- 3) The petition must be filed by a city whose planning area is contiguous with the sites, or by a group of not less than 50 percent of the property owners who own more than 50 percent of the land area in each site involved in the trade. With the City of Portland as an applicant and HGW, Inc. the sole owner of the proposed addition to the UGB, this petition meets this requirement. However, as noted by the Hearings

Officer, the City of Portland would not be an applicant if the Ramsey property were not a part of the overall transaction. Therefore, if the Ramsey property is not conveyed to the City by HGW, Inc., the transaction cannot be completed, the City would no longer be an applicant, and this petition would not meet this requirement.

4) The petition must meet the strict requirements of MC Chapter 3.01.040(a)(4) and (c)(1) for the preservation of agricultural land. The property proposed for addition is currently zoned MUF-19 which, under Multnomah County zoning, is intended to be protected for forest use. Multnomah County has taken a position of "no comment" largely because of its concern regarding the preservation of forest land and its conclusion that parcel A is capable of supporting and suitable for forest use. However, Multnomah County, in a previous action to which Metro was a party, determined that the property was not suitable for agricultural use. For reasons stated in his report, the Hearings Officer has determined that the petition meets this requirement because agricultural land, as envisioned in the Metro Code and Statewide Land Use Planning Goals, is not affected by the proposed action.

5) The land proposed for inclusion in the UGB must be more suitable for urbanization than the land proposed for removal. The Hearings Officer, based on factual testimony in the record, has concluded that the land proposed for addition to the UGB is better suited for urbanization than the lands to be removed.

6) Nearby agricultural land either won't be affected or can be protected from the affects of urbanizing the lands proposed for addition to the UGB. The Hearings Officer has concluded that the petition meets this requirement.

Hence, the Hearings Officer has concluded that the petition meets the requirements for trades, as long as the transaction involving the Ramsey property is successfully completed. His recommendation, therefore, is conditioned on the completion of the overall transaction.

The exception filed by Mr. Rochlin agrees with the Hearings Officer's conclusion but proposes stricter conditions pertaining to the exact nature of the property to be conveyed by HGW, Inc., to the City of Portland.

Executive Officer's Recommendation

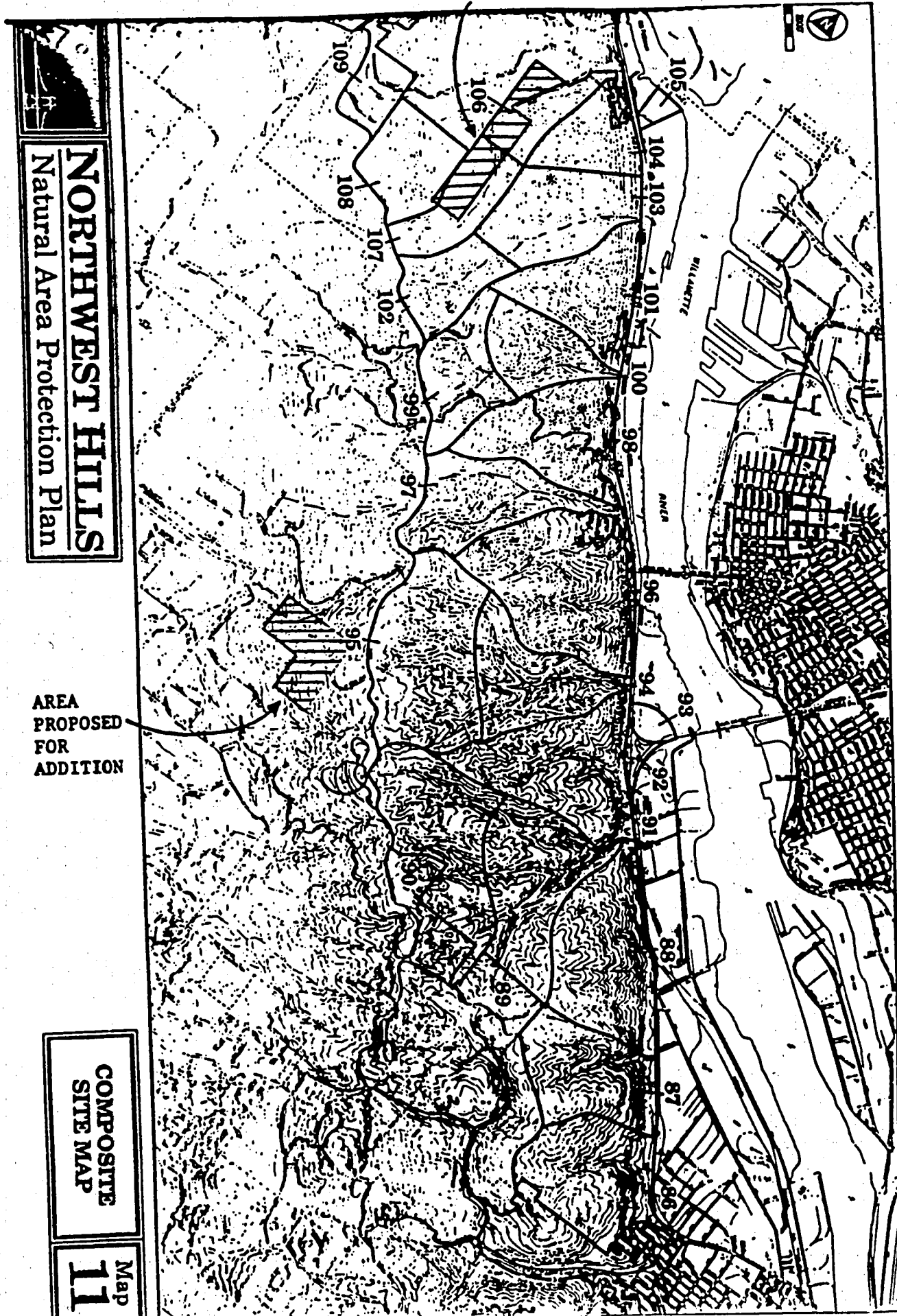
The Metro Council should accept the recommendation of the Hearings Officer, including the condition as proposed. The appropriate place to raise the issue of the satisfaction of the City of Portland with the final transaction is with the City, not Metro.

ES/es
1/28/92

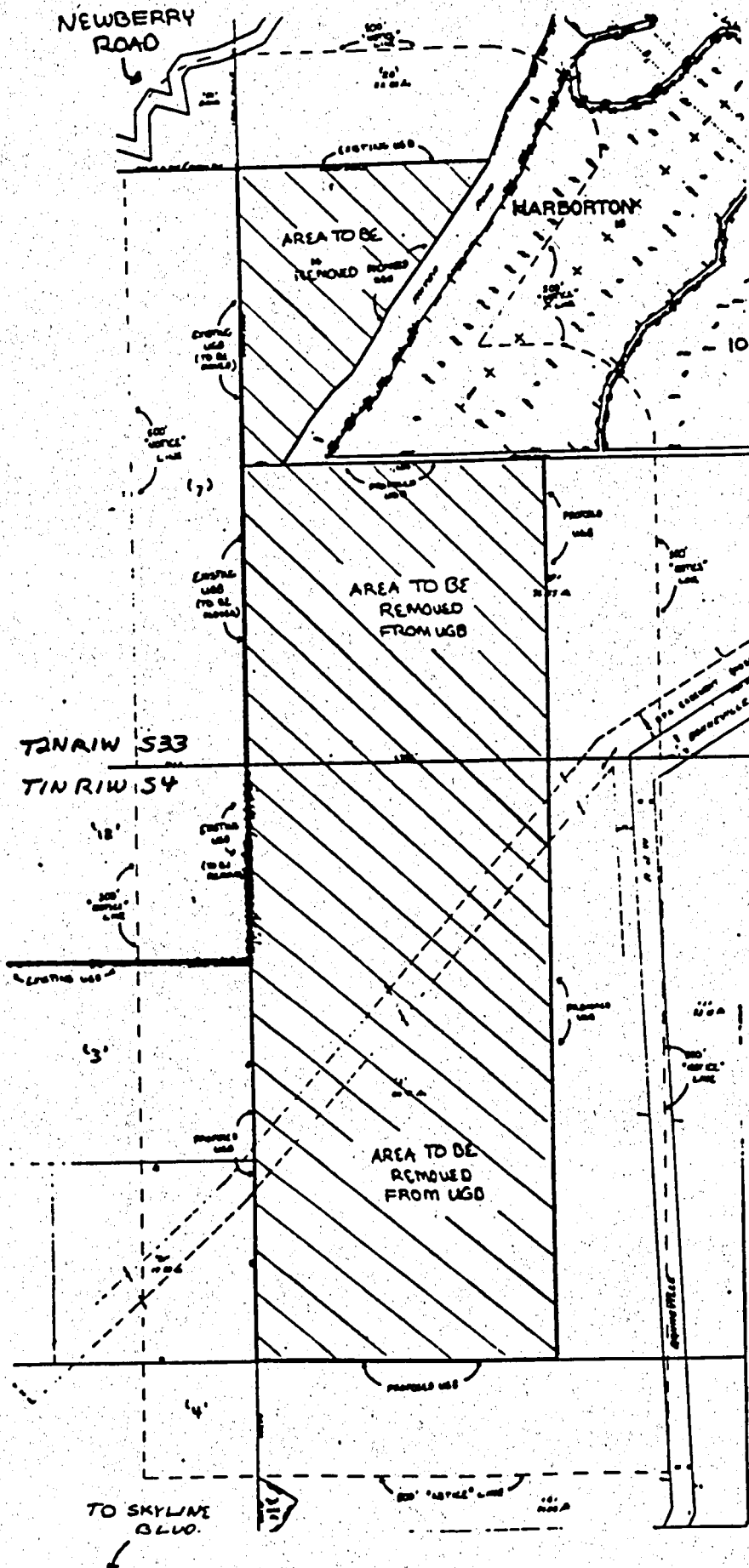
ATTACHMENT A

AREA PROPOSED FOR REMOVAL

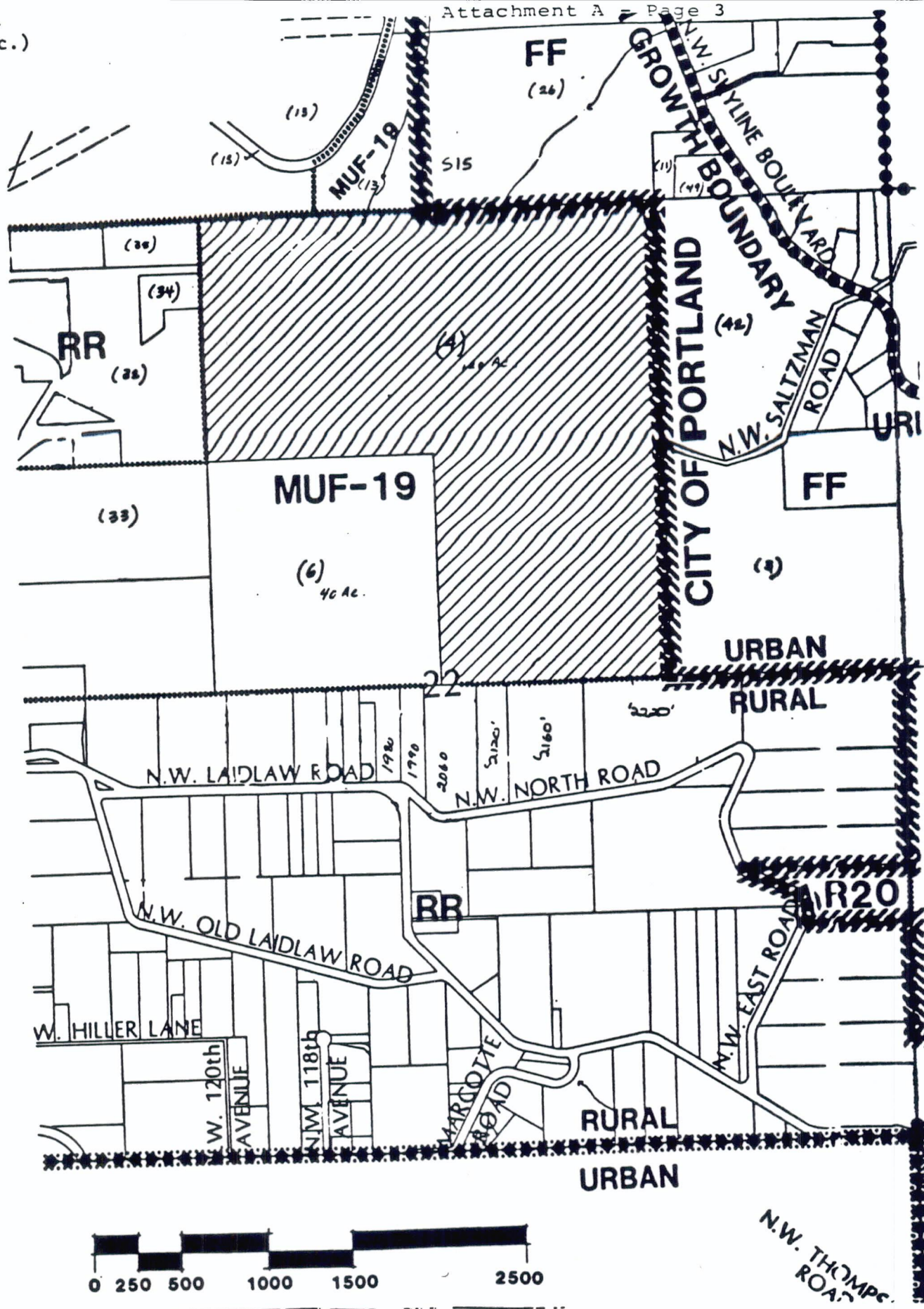
EXHIBIT A



DRAFT



(120.0 ac.)



Meeting Date: May 28, 1992
Agenda Item No. 5.2

ORDINANCE NO. 92-456

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 92-456 FOR THE PURPOSE OF AMENDING THE REGIONAL SOLID WASTE MANAGEMENT PLAN TO INCORPORATE THE HOUSEHOLD HAZARDOUS WASTE MANAGEMENT PLAN AND TO UPDATE PLAN POLICY 2.2.

DATE: May 20, 1992

Presented by: Mark Buscher

PROPOSED ACTION

Ordinance No. 92-456 amends the Regional Solid Waste Management Plan to incorporate the Household Hazardous Waste Management Plan and update Plan Policy 2.2. The Plan provides the direction necessary to expand the regional household hazardous waste (HHW) collection system to serve the entire region and also identifies methods for promoting HHW reduction.

FACTUAL BACKGROUND AND ANALYSIS:

Chapter 2 of the Regional Solid Waste Management Plan contains policies that guide the region's efforts in managing hazardous wastes, including household hazardous waste (HHW). The purpose of these policies and the chapter is to develop strategies for keeping hazardous materials from entering the mixed solid waste stream.

The proposed Household Hazardous Waste System Plan (Exhibit "A") was developed to implement the Plan policies. It is based on information gathered from HHW programs in operation across the nation. The programs and facility recommendations contained in the plan represent those that appear to be most feasible and cost-effective. Specifically, the plan includes recommendations for:

- Expanding the regional system of HHW facilities;
- Promotion and education;
- HHW reduction programs;
- Expanding the options available for funding HHW management
- Developing a legislative agenda; and
- Monitoring the effectiveness of Metro's HHW reduction activities.

As a part of the plan development process, the existing Plan policies that guide Metro's management of hazardous wastes were also reviewed. It was found that the existing Plan Policy 2.2 is unclear and not consistent with state and federal regulations for managing hazardous wastes. Therefore, the policy was revised to be consistent with these standards. Further, the amended language makes the Policy consistent with Metro's policy of following the state hierarchy in developing solid waste management strategies.

PLANNING PROCESS:

The development of the Household Hazardous Waste System Plan was accomplished with the cooperation and input from a sixteen-member Hazardous Waste Subcommittee. The committee included experts in the field of hazardous waste management from local government, the Department of Environmental Quality, Portland State University and the private sector. The proposed plan represents two years of the committee's work.

Consistent with established procedures, the proposed plan has also been reviewed by Metro's Solid Waste Technical and Policy Advisory Committees. The Technical Committee unanimously endorsed the proposed plan at their meeting on April 23. The Policy Committee also unanimously endorsed the Plan on May 8.

RECOMMENDATION:

The Executive Officer recommends approval of Ordinance No. 92-456 for the purpose of amending the Regional Solid Waste Management Plan to incorporate the Household Hazardous Waste Management Plan and to update Plan Policy 2.2.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING)
THE REGIONAL SOLID WASTE)
MANAGEMENT PLAN TO INCORPORATE)
THE HOUSEHOLD HAZARDOUS WASTE)
MANAGEMENT PLAN AND TO UPDATE)
PLAN POLICY 2.2)

ORDINANCE NO. 92-456

Introduced by:
Rena Cusma
Executive Officer

WHEREAS, By Ordinance No. 88-266B, Metro adopted the Regional Solid Waste Management Plan; and

WHEREAS, Chapter 2 of the Regional Solid Waste Management Plan, entitled "Hazardous and Medical Waste" contains policies for preventing the disposal of hazardous wastes, including household hazardous waste, at solid waste facilities; and

WHEREAS, The attached Exhibit "A", made part of this Ordinance by reference, expands and improves upon the original Plan policies and that portion of Chapter 2 related to the management of household hazardous waste; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1: Policy 2.2 of the Regional Solid Waste Management Plan is hereby amended to read:

~~2.2 Metro shall not knowingly accept for solid waste disposal or processing any hazardous waste materials at solid waste facilities.~~ Metro shall manage hazardous waste in accordance with the EPA's management hierarchy of "reduce, reuse, recycle, treat, incinerate and finally land disposal".

Section 2: The section of Chapter 2 of the Regional Solid Waste Management Plan entitled "Household Hazardous Waste Programs" is deleted in its entirety and replaced with Exhibit "A" of this Ordinance entitled "Household Hazardous Waste Management System".

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1990.

Jim Gardner, Presiding Officer

ATTEST:

Clerk of the Council

EXHIBIT "A"

**CHAPTER 2 (HAZARDOUS AND MEDICAL WASTE)
REGIONAL SOLID WASTE MANAGEMENT PLAN**

Household Hazardous Waste Management System

DRAFT

May 20, 1992
Planning and Development Department

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PLAN POLICIES:

Policy 2.0: The region shall minimize the volume of hazardous and medical waste entering the mixed solid waste stream.

Policy 2.1: Solutions to proper management of household hazardous waste, conditionally exempt hazardous wastes, and medical wastes shall be developed as a component of the Regional Solid Waste Management Plan (RSWMP).

Policy 2.2: Metro shall manage hazardous waste in accordance with the EPA's management hierarchy of "reduce, reuse, recycle, treat, incinerate and finally land disposal."

* * * * *

PURPOSE AND OBJECTIVE:

The purpose of the Household Hazardous Waste (HHW) chapter is to develop a long-term strategy for the management of household hazardous wastes in the region.

The objective of the chapter is to reduce the amount of HHW disposed of within the mixed solid waste stream, increase the amount of collected HHW reused and recycled, and reduce the amount of HHW generated. The means to be employed for meeting the objective are to initiate promotion and education programs designed to promote proper collection of HHW for reuse, recycling and disposal, research projects to develop alternative funding sources for HHW management and HHW reduction, as well as the procurement of a collection system that provides service to households throughout the region. Metro's progress on achieving the management objective will also be monitored by measuring trends in volumes of HHW discovered in MSW entering facilities, volumes and composition of HHW collected at dedicated facilities, and sales figures for hazardous household products.

INTRODUCTION:

HHW is defined as any discarded, useless or unwanted chemical, materials, substances or products that are or may be hazardous or toxic to the public or the environment and are commonly used in or around households. HHW may include, but is not limited to, some cleaners, solvents, pesticides and automotive paint and other products (ORS 459). HHW exhibits characteristics similar to other regulated hazardous materials. Different components of the wastestream can be ignitable, corrosive, reactive with other substances or toxic. As a result, they can threaten human health and cause damage to the environment when disposed of with other non-hazardous mixed solid wastes.

HHW management is a recent occurrence. This chapter contains a regional strategy for managing the region's HHW that is based on what is known today. HHW management is a dynamic issue and, therefore, the programs and facility recommendations identified in the chapter will likely change over time as the region learns more about how to effectively manage HHW.

A regional strategy for managing HHW is necessary because the disposal of HHW in general purpose landfills or waste-water treatment facilities presents a potential hazard to the public health and the environment. These types of facilities are not designed to manage hazardous materials like HHW. HHW that is disposed of along with other mixed solid waste, can cause injury to solid waste haulers or transfer station workers when they come in contact with disposed materials. It can also cause adverse environmental impacts when it mixes with leachate that typically

forms in landfills. Leachate provides a vehicle for contaminating ground and surface waters with a range of substances that are present in the HHW waste stream. Improper disposal of HHW by pouring it directly into septic systems, or sanitary and storm sewer systems, also causes adverse environmental impacts to ground and surface waters, as well as disrupting sewage treatment facility operations.

A regional HHW management strategy is also necessary to avoid potential long-term liability costs that may result from disposing of HHW in a general purpose landfill. Federal regulations make the region liable for clean-up costs if HHW that is collected and disposed of, along with other mixed solid wastes in a general purpose landfill, resulted in a release of a hazardous substance from the landfill to ground or surface waters and, the source of the contamination was linked to the presence of HHW in the landfill. The potential costs to the region associated with cleaning up a spill could far exceed the costs to the region associated with implementing a regional HHW management program.

The HHW management strategy proposed in this chapter provides an efficient and cost-effective system for managing HHW within the region. The proposed strategy includes: efficient collection, where HHW is collected as a separate component of the solid waste stream; disposal and recycling options that are secure and will keep disposed HHW from being exposed to the air, earth or water; programs directed towards toxic use reduction, such as product labeling requirements or the promotion of alternative products; research tasks to develop new and innovative methods to fund the costs associated with HHW management and reduce the volume of HHW generated; and, education and promotion programs designed to encourage the general public to make use of a HHW collection and disposal system as well as reduce the volume of HHW they produce.

PLAN METHODOLOGY:

HHW management is a recent development within the region and nationwide. Consequently, the data base necessary for establishing trends and making accurate long-term projections is not available. The data and information included in the plan chapter provide guidelines for initiating the development of a regional HHW collection system and management programs. It is expected that management strategies will evolve rapidly as more information and experience is gathered through the implementation of the chapter. Further, this chapter is written to allow flexibility in management techniques employed within the system.

This plan chapter is based on a compilation of "Background Information" which outlines regulations which govern HHW management and outlines the program and facility components of HHW management programs operating elsewhere in the United States; and on a

preliminary "Facility Analysis" which illustrates the relative capital and operational cost differences between several potential HHW facility configurations for the region. The waste projections and facility cost information developed for the chapter were gathered from semi-annual collection events held within the region and other jurisdictions that operate HHW collection systems. It is the most accurate information available today. The HHW facility cost information is calculated over a ten-year planning period to illustrate the relative cost differences between HHW collection facility options as well as the overall cost of HHW management. The analyses conducted for this chapter also helped to identify the types of data that must be gathered in the future in order to make accurate long-term projections about HHW generation program effectiveness and facility costs. Both the Background Information (Appendix "A") and Facility Analysis (Appendix "B") documents are Appendices to the Regional Solid Waste Management Plan (RSWMP).

BACKGROUND:

Since 1986, Metro has been managing HHW as a separate component of the regional solid waste stream. Metro's initial step in HHW management consisted of a pilot collection event held at a single site in the region. Beginning in 1988, HHW collection became semi-annual events held at four geographically diverse sites throughout the region. Participation at each event increased over time due largely to promotion and education programs initiated by private industry, waste haulers, local governments, DEQ and Metro. These programs included mail-outs to interested parties who have contacted Metro's Recycling Information Center (RIC), press releases, full page ads in local papers and brochures.

Though these collection events were successful, they were only able to attract about one-percent of the households in the region. To expand the region's capacity to collect and process HHW, the 1989 Oregon Legislature mandated that permanent HHW collection depots be developed at geographically diverse locations within the region. Metro is developing two fixed collection depots at the Metro South and Metro Central transfer stations. The facility at Metro South became operational in February, 1992. The facility at Metro Central is expected to open in late 1992. Together they will provide year-round collection service to a portion of the region. However, these two facilities are projected to generate only about a two-percent participation rate among households in the region. This projection is based on observed first-year participation rates for similar HHW collection facilities now operating in Seattle, Washington and San Francisco, California¹. This plan chapter was developed to identify strategies for increasing the regional participation rate and volumes of HHW collected within the region.

¹Appendix B; "Regional HHW Collection Projections", page 2.

The implementation strategies contained in the chapter include improving educational and promotional programs, as well as expanding the HHW collection system to provide increased service throughout the region.

POLICY DIRECTION FOR HHW MANAGEMENT:

Policies 2.0 through 2.2 of the RSWMP direct Metro to develop specific methods to minimize the amount of hazardous wastes, including HHW entering the mixed waste stream and solid waste facilities. They also direct Metro to develop methods for the proper management and disposal of HHW. The following discussions identify how the HHW chapter addresses these policies.

Policy 2.0: The region shall minimize the volume of hazardous and medical waste entering the mixed solid waste stream.

Discussion: Metro, in cooperation with local governments, DEQ, waste haulers and private industry, is working to reduce the volume of HHW entering the mixed waste stream. The fixed collection depot now in operation at the Metro South Transfer Station along with the depot scheduled to open at Metro Central in late 1992 is the region's first step in providing year-round HHW management service.

The facility and program recommendations in this chapter, are designed to further enhance the region's ability to collect HHW as a separate waste sub-stream so it may be managed properly. Promotional and educational programs will continue to be used to promote participation at existing and new facilities when they open. The chapter also identifies programs that are aimed at reducing the volume of HHW generated.

Policy 2.1: Solutions to proper management of household hazardous waste, conditionally exempt hazardous wastes, and medical wastes shall be developed as a component of the Regional Solid Waste Management Plan (RSWMP).

Discussion: Proper management of HHW within the region is dependent upon successfully segregating it from other mixed solid wastes so it may be reused or recycled by the generator or directed to the appropriate collection facility. Metro opened the first of two fixed HHW facilities at Metro South in February of 1992. A second facility is scheduled to open at Metro Central in late 1992. The recommended improvements to the fixed facility collection system identified in this chapter concentrate on improving the level of service throughout the region to encourage greater participation and collect more HHW for proper management.

Policy 2.2: Metro shall manage hazardous waste in accordance with the EPA's management hierarchy of "reduce, reuse, recycle, treat, incinerate and finally land disposal."

Discussion: The need for comprehensive management of hazardous waste is generally recognized by state and federal agencies responsible for developing and administering hazardous waste management rules and regulations. Both the state Department of Environmental Quality (DEQ) and federal Environmental Protection Agency (EPA) have developed similar hazardous waste management strategies or hierarchies. The DEQ hierarchy is embodied in the "Purpose and Scope" of OAR 340, Division 100; "Hazardous Waste Management." The EPA hierarchy is contained in their Waste Minimization Assessment Manual². Both hierarchies place the greatest emphasis on source reduction as a management option, followed by reuse and recycling, treatment and incineration, and land disposal.

HHW is not defined as hazardous waste in most state and federal regulations. However, HHW does exhibit the same characteristics of hazardous waste (ignitable, corrosive, reactive with other substance or toxic), and when collected in large volumes can pose health risks and threaten the environment. Several components of the HHW waste stream can be recycled or reused, including latex paint and motor oil.

HHW exhibits similar characteristics to other hazardous wastes, and possesses similar opportunities for comprehensive management in addition to land disposal. Therefore, a HHW management strategy that is consistent with the EPA hazardous waste management hierarchy should be followed within the Metro region. The HHW chapter contains management options that support source reduction, reuse and recycling of HHW.

HHW SYSTEM STANDARDS AND GUIDELINES:

Both state and federal regulations provide standards and guidelines for the development of HHW collection facilities and programs within the Metro region. Several regulations provide specific direction to Metro for the development and operation of the HHW management system. Other regulations which govern the use, collection, management and disposal of classified hazardous wastes or hazardous materials, provide guidelines for designing a safe HHW collection system. The design and operation of the Metro South and Metro Central HHW collection facilities follow many of these standards and guidelines. The following is a summary of how each regulation impacts or guides facility design and operation, material handling and liability. A detailed discussion of each

²EPA Waste Minimization Manual; EPA/625/7-88/003. July, 1988.

regulation is also contained in the "Background Information" document, Appendix A to the chapter.

Facility Design and Operation:

The regulation which has the greatest impact on HHW facility design within the region is ORS 459, Solid Waste Control. As amended, the law requires Metro to build geographically diverse permanent collection facilities in the region. This requirement is the basis for the development of the collection facilities at the Metro South and Central transfer stations. Any expansion of the regional HHW collection system would further implement this state directive.

The federal Resource Conservation and Recovery Act (RCRA) establishes permitting procedures for hazardous waste treatment, storage and disposal facilities and formulates procedures to transfer regulation of these activities to the states. Although HHW is exempt from RCRA hazardous waste regulation, RCRA guidelines were used for designing the collection depots at Metro South and Central. As new and different types of facilities are added to the regional collection system, it will be prudent to follow these hazardous waste management regulations as guidelines on a site-specific and facility-specific basis for HHW management. This strategy will help avoid future facility retro-fits should HHW become classified as hazardous waste.

Materials Handling:

The transport of hazardous materials is governed by the state Public Utility Commission (PUC) and under the federal Hazardous Materials Transportation Act (HMTA). Large volumes of HHW that require transport from collection facilities to a final disposal site or processing facility are considered hazardous materials by this act. Therefore, operational procedures at regional HHW collection depots must follow PUC and HMTA standards for transporting HHW to treatment facilities, recycling facilities or final disposal.

Liability:

Household hazardous waste is not "hazardous waste", as defined by RCRA. However, under the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or "Superfund") and the Superfund Amendment and Reauthorization Act (SARA), anyone who generates a particular hazardous substance that is disposed of at a landfill is potentially liable if that substance is released from the landfill into the environment. Generally, the costs of cleaning up a release or spill are proportioned among all responsible parties. In the worst case, this could result in the residents of the metropolitan area paying for the clean-up of

hazardous components of household waste that have been released from a regional landfill³.

The issue of liability is an extremely important one. The development and implementation of an effective regional HHW management program will help minimize the volume of HHW disposed of in general purpose landfills, thereby reducing the risk of landfill contamination and the liability costs associated with clean-up that could be borne by future generations. Additionally, HHW collection facility design and operation must meet high standards in order to reduce the risk of accidental spills or releases of collected volumes of HHW.

RESULTS OF PROGRAM AND FACILITIES ANALYSES:

In response to the policies contained in the RSWMP, Metro has developed and implemented a HHW collection and disposal system. The design and operation of the system is further shaped by the state and federal regulations. As a result, Metro's base HHW collection system consists of a fixed collection facility at the Metro South transfer station, with a second facility scheduled to open at Metro Central in late 1992, supported by a promotion campaign designed to encourage citizens to use the facilities for HHW disposal. For this Plan chapter, a preliminary program and a facilities analysis was conducted to identify how the regional strategy for managing HHW could be expanded or improved to serve the entire region. The program analysis consisted of an assessment of HHW programs in place across the nation. The analysis is based on data and assumptions gathered from within the region and other jurisdictions located outside of the region that operate HHW facilities.

The results of the program analysis identify programs that are expected to increase public participation in HHW collection, and therefore the volume of HHW collected⁴. The results of the facilities analysis report the relative cost differences between various HHW collection facility types and configurations that may be needed to collect the projected volumes of HHW⁵. The facilities analysis was conducted to provide answers about how costs varied between different HHW facility types, and configurations that would expand the region's HHW collection capacity, if developed.

The results of the program and facilities analyses are based on the best available data, as described in Sections III and IV of

³Appendix A: Guiding Legislation; page 4.

⁴Appendix A; "HHW Program Analysis", page 16.

⁵Appendix B; "Results of Facility Cost Analysis", page 33.

Appendix A and Sections I and IV of Appendix B. However, the sources of data are varied and none correlate directly to the operation of a permanent collection system within the region. The sources of information include in-region collection events, collection events outside the region and the operation of regular collection service at fixed or mobile facilities in jurisdiction outside the region.

Information gathered from collection events provides data about participation rates, waste volumes and costs that resulted from a single day or weekend of operation, but are not reflective of what may occur if regular on-going collection service were provided. Information gathered from fixed depots or mobile facilities in other jurisdictions illustrate that there are difference in participation rates, waste volumes and costs between permanent systems and periodic collection events. However, the data gathered varied widely from jurisdiction to jurisdiction. This indicates that conditions unique to each jurisdiction examined, such as purchasing habits, traffic conditions and the general attitude of the population towards proper solid waste management influence the data gathered related to HHW management. Consequently, the data base necessary for establishing trends and making accurate long-term projections about participation rates, the volume of waste collected and costs for a permanent collection system within the region is not available.

The results of the analyses are appropriate for making short-term recommendations only. Additional data is necessary prior to making long-term programmatic and facility recommendations. The most efficient means of acquiring the needed data will likely be through monitoring the operation of the regional collection system over a period of time. The following are the results of these analyses.

Program Analysis:

The purpose of the program analysis was to identify HHW management programs that have been implemented in other communities and states that were found to be successful within the jurisdictions analyzed. The focus of the program analysis was to identify programs that, if implemented, could help to both increase participation rates at regional collection facilities and reduce the actual volume of HHW generated and disposed of within the region. The methodology used to conduct the analysis was to gather and review information about HHW programs in place nation-wide. Information gathering included literature reviews, interviews with management officials and site visits. The HHW management programs examined for this analysis were the municipality of Anchorage, Alaska; the state of Massachusetts; Clark and Skamania County, Washington, Seattle/King County, Washington and Santa Monica, San Francisco San Bernardino and Los Angeles, California. The detailed results of the Program Analysis are contained in Section IV of Appendix A. The major

findings of the analysis are contained in the "Conclusions" Section of this chapter.

Facilities Analysis:

The purpose of the facilities analysis is to assess the adequacy of the regional HHW collection system to manage the HHW waste stream over the ten year planning horizon. The analysis is based on a regional HHW projection which measures the volume of HHW available for collection within the region, estimates of the capacity of Metro South and Central to manage the volumes of HHW to be generated and an assessment of their ability to provide a uniform level of service for the entire region. Based on these results, the facilities analysis was conducted to develop a least-cost facility recommendation that would provide a uniform level of service throughout the region. The detailed results of the Facilities Analysis are contained in Sections I through IV of Appendix B. The major findings of the analysis are contained in the "Conclusions" Section of this chapter.

PROGRAM AND FACILITY CONCLUSIONS/IMPLEMENTATION GUIDELINES:

This section of the Plan chapter provides an explanation of the conclusions formulated from the established plan policy directives, information gathered from knowledge about HHW management in this region as well as other jurisdictions nationwide, and results of the HHW program and facility analyses contained in the Appendix to this chapter. These conclusions and implementation requirements are the basis for the tasks identified in the work program for implementing the regional HHW management plan.

Policy Directives:

The policy directives for this plan chapter come directly from Policies 2.0 through 2.2 of the RSWMP. The policies direct the region to manage HHW in accordance with a hierarchy of reduce, reuse, recycle, treat, incinerate and finally land dispose. Management of HHW in accordance with this hierarchy will reduce the volume of HHW in the region's mixed waste stream.

Policy 2.2 of the RSWMP recognizes that the hazardous waste management hierarchy is a key factor in managing HHW because it emphasizes programs aimed at reducing and reusing components of the HHW generated in the region. Programs that reduce the volume of HHW generated provide a greater benefit to the region than does land disposal at a hazardous waste landfill. Reuse of components of the HHW stream also has the effect of reducing the volumes of HHW that may require land disposal. This saves hazardous waste landfill space for other hazardous materials that require land disposal now and in the future, and provides additional

environmental and public health benefits because fewer hazardous materials are produced and consumed by the public.

As a means of implementing the RSWMP policies related to keeping HHW out of the mixed waste stream, this plan chapter recommends the development of a collection system that is convenient for households throughout the region to use. It also recommends an educational and promotional program designed to make people aware of the need to separate HHW from their other household wastes and take them to the nearest collection facility for proper management. Operation of the collection facilities will include material recycling and reuse in order to further reduce the volume of HHW treated, incinerated or land disposed. Other programs identified in the chapter are aimed at reducing the volume of new HHW products that are developed for consumption. Based on information gathered from other jurisdictions operating HHW management systems, it is anticipated that the minimum participation rate at regional HHW collection facilities will grow to 15% by 2001.⁶

Facilities Discussion:

Metro has opened a fixed collection facility at the Metro South transfer station and is developing a second facility at Metro Central. These facilities are being built and operated in response to legislation passed by the state which requires Metro to construct collection depots in geographically diverse locations within the region. In order to determine the appropriate facility configuration that could provide a uniform level of service for HHW collection in the region, the concept of community service areas was developed. Community service areas are collections of neighborhoods that surround community centers.⁷ Transportation routes, business center activities, drive times and future development (land use) were factored into the identification of the HHW service areas⁸. The Community Service Area Map (figure 1) contains the community service area configuration for the region.

The two fixed facilities will provide HHW disposal opportunities to citizens located in areas 1 and 3 of the HHW Service Area map (figure 1). In order to increase participation in the HHW system, there is a need to add HHW collection opportunities in the region⁹. The facility analysis indicates that the least expensive option to provide this additional HHW collection service would be a mobile facility¹⁰.

⁶Appendix A, HHW Program Analysis, page 16.

⁷Appendix B, Level of Service Evaluation, page 6.

⁸Appendix B; Level of Service Evaluation, page 5.

⁹Appendix B, Adequacy of Metro South and Metro Central, page 5

¹⁰Appendix B; Results of Facility Cost Analysis, page 33.

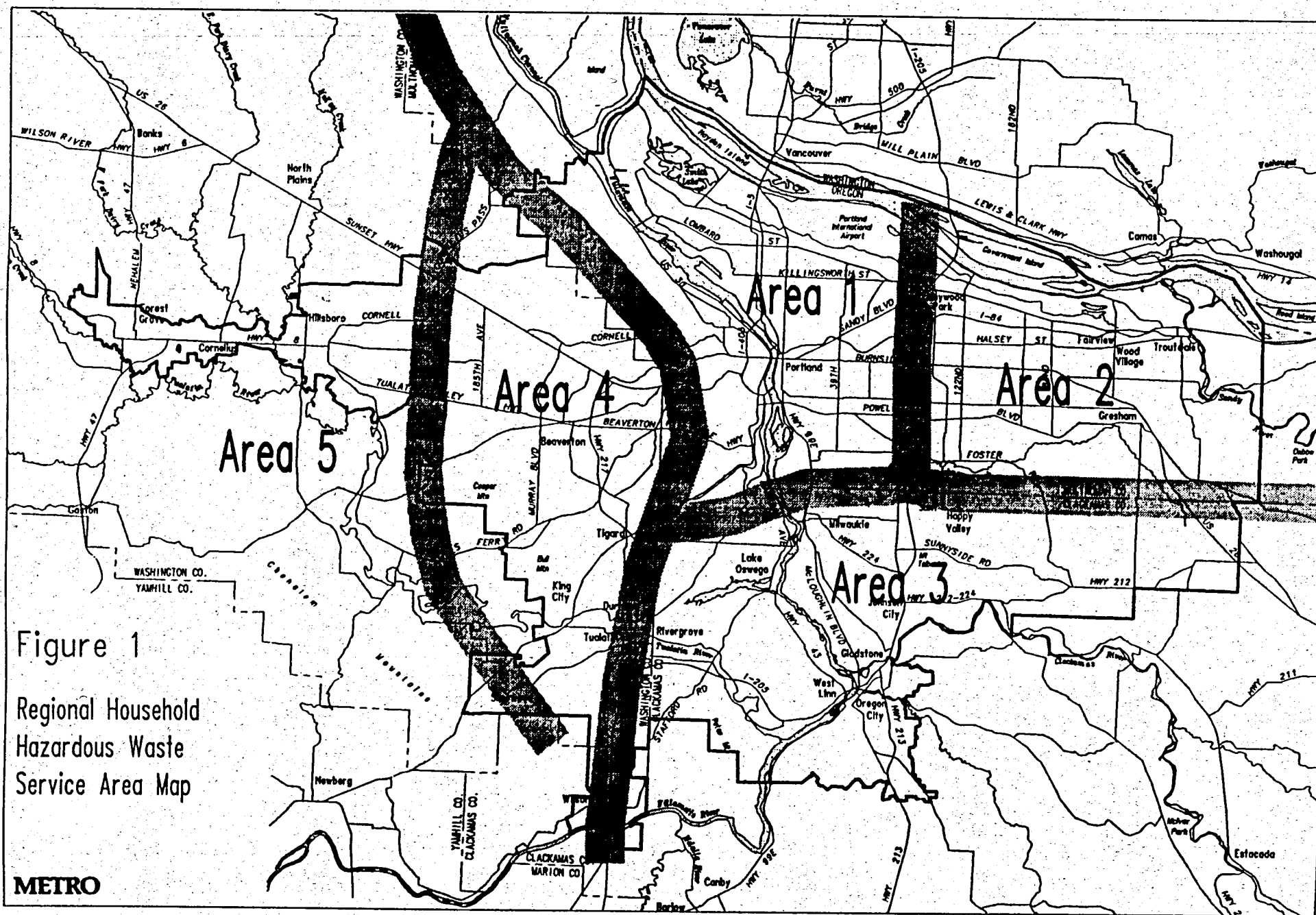


Figure 1
Regional Household
Hazardous Waste
Service Area Map

METRO

The facility analysis suggests that there is a need to provide additional HHW service through a mobile facility system for service areas 2, 4 and 5 on the map (figure 1) in order to attempt to attain at least a 15% participation rate region-wide. An analysis is required during the procurement process for the mobile facility to determine its frequency of operation within each service area as well as the associated cost of providing the service.

The facility analysis further suggested that available data from which to establish a long-term permanent HHW system is inadequate. There continues to be a great deal of uncertainty about how citizens will respond to both fixed and mobile facility options over time. Therefore, it is prudent to establish a good monitoring program to measure the participation rate at facilities, travel times for persons using the facilities, types and quantities of materials received, and facility operational costs. This data will allow the region to assess the adequacy of HHW collection service over time and make adjustments to the facility system as needed. HHW collection facilities, whether fixed or mobile, will require local approvals from host communities in order to operate. Consistent with policies 8.4 and 16.2 of the RSWMP, Metro will also need to work with the host jurisdictions to monitor facility operations in order to ensure that the facilities meet local siting standards and any adverse impacts caused by the presence of collection facilities are mitigated.

Program Discussion:

The programs identified for implementation in the region are based on what is known about the regional HHW system and research about other HHW management programs implemented in other jurisdictions nationwide. Programs recommended for implementation in the Metro region were chosen based on compatibility with the existing solid waste system as well as their potential and known effectiveness. Several of the programs identified will require additional research during plan implementation in order to determine how they can best be utilized within the region.

The programs to be implemented are as follows.

Promotion/Education

Promotion and Education is a cornerstone of every HHW program researched. The program serves three key functions:

- It makes people aware of the potential public health risks and environmental hazards associated with the improper management of HHW;
- It promotes the segregation of HHW from other household wastes along with the use of a collection facility for proper management; and,

- It helps to reduce the volume of HHW generated by encouraging people to buy only those products they need in volumes they will use, as well as provide information to consumers about alternative products that are not hazardous.

The regional HHW promotion/education program will be designed to include these three general functions. The development and implementation of specific tasks will require the coordinated efforts of Metro, DEQ, local governments, waste haulers and private industry.

There are numerous methods of disseminating promotional and educational information. They include informational brochures at solid waste facilities, informational hotlines, educational materials for the classroom and media campaigns. The determination of which methods will be most effective within the region should be decided prior to implementation.

Funding

The expense of HHW collection, treatment and disposal is significant. The results of the facilities analysis show that the cost per participant to procure and operate HHW collection facilities is approximately \$100.00¹¹. Therefore, it is necessary to develop diversified methods of funding HHW management in order to limit the impact to the regional tip-fee rate.

Historically, Metro has not charged participants to drop-off their collected volumes of HHW at semi-annual collection events or at the Metro South depot. These costs have been recovered through the Regional System User Fee component of the regional tip fee for mixed solid wastes¹². Additional funding for HHW management may be available from the Department of Environmental Quality through funds they accumulate through the state tipping fee.

The practice of recovering HHW collection costs through the solid waste tip-fee is consistent with funding methods for HHW collection programs operating in many jurisdictions throughout the United States. Given that the costs of managing HHW are high, the impact to the regional tip-fee may be great. Therefore, additional funding options should be investigated which would diversify the revenue sources for HHW management. At a minimum, the investigation will include determining the cost effectiveness of

¹¹Appendix B: Results of Facility Cost Analysis; page 38.

¹²The Regional System User Fee is collected on all wastes generated in the region intended for disposal. The fee pays the costs of solid waste programs that benefit all users of the system. These programs include solid waste system financial management, administration, engineering, planning, and implementation of waste reduction programs.

each funding option and whether each option is consistent with legislative intent for managing HHW in the state. The following are the funding options recommended for research and possible implementation.

Funding Options

HHW user fees are fees charged directly to participants at HHW collection events or facilities. The research conducted found that a HHW user fee could reduce participation at collection facilities, which would be contrary to the objective of this Plan¹³. However, it is not known if a user fee charged at facilities within the region would actually reduce participation. Therefore, additional research is warranted in order to determine how much of a fee participants may be willing to incur at collection facilities within the region, as well as how much of a deterrent, if any, a user fee would actually have on participation within the region. It should be noted that if a user fee were successfully implemented, it would likely only cover a small percentage of the overall costs of HHW management.

Wastewater and stormwater service user-fees are a common source of revenue for HHW management in many jurisdictions across the country. The basis for utilizing the wastewater and stormwater system as a funding option is that comprehensive HHW management programs not only reduce the volume of HHW entering the solid waste stream, but also reduce the volume of HHW entering the liquid waste stream¹⁴. Metro should work with local service purveyors to determine the potential benefit to these agencies that would result from expanding the region's HHW management program; and, to determine their interest and ability to assist in providing funding.

Product fees are fees charged on targeted products to help pay for their proper management and disposal. To date, product fees have largely been instituted on bulk materials at the wholesale level¹⁵. Before any product fees for hazardous household products could be implemented within the region, research would need to be conducted to determine which hazardous materials could be targeted for a special fee, what the fee should be, and how the fee could uniformly be collected.

Retailer licensing fees would require retail operations selling certain household hazardous materials, such as paint or insecticides, to pay a fee to help cover treatment and disposal

¹³Appendix A: Funding Mechanisms; pages 26 - 28.

¹⁴Ibid

¹⁵Ibid

costs for unused portions of their products¹⁶. Further research should be conducted to determine if such a program could be implemented in a cost-effective and consistent manner within the region.

Private sponsorship and grants. Grants to help pay for HHW management have been given to other cities in exchange for sponsorship and promotional rights at HHW collection events¹⁷. Within this region, there are a limited number of corporations or other private entities that would be interested or have the capital available for assisting in funding HHW collection programs. Therefore, private grants and contributions should not be relied upon as a major or consistent funding option.

Household Hazardous Waste Reduction:

There are two basic methods of reducing the amount of HHW generated:

- Reducing the number and volume of hazardous constituents in household products; and,
- Reducing the volume of hazardous household products purchased.

Reduction of the number and volume of hazardous constituents used in household products can best be accomplished at the national level. Many of the household products purchased in the region are manufactured in other parts of the country. Therefore, regional programs aimed at altering product formulas would probably not be feasible. The Office of Solid Waste for the federal E.P.A. is pursuing a national HHW reduction program aimed at identifying constituents of concern and developing regulations to reduce their volume in household products.

The region can be most effective in its HHW reduction efforts by helping to reduce the volume of household hazardous products purchased within the region. This can be accomplished through promoting the reuse of discarded household products, and educating consumers about the availability of alternative non-hazardous products for some hazardous household products. The programs proposed for implementation are as follows.

Waste exchanges are programs that allow individuals who deliver their HHW to a collection facility to exchange their waste materials for other HHW received that is of use to them. Individuals or organizations are also commonly allowed to pick up reusable HHW without having to first drop-off HHW. Typically, only

¹⁶Ibid

¹⁷Ibid

certain types of materials are eligible for exchange. They include only those that are in their original container with all labels readable. More hazardous materials, such as pesticides and strong acids, are also not eligible for exchange. A waste exchange program may be successful in diverting for reuse up to 5-percent of all materials coming into a facility. Metro will need to work with local governments as sites are chosen for mobile programs to develop a safe effective waste exchange program.

Consumer Education is a potentially effective method of teaching consumers to reduce the volume of HHW they produce is to provide useful information about HHW reduction at retail stores. This can be accomplished by working with retailers to promote the availability of alternative non-hazardous products that can be used as substitutes for certain hazardous household products.

Legislation

The legislative program includes monitoring and development components.

The purpose of the legislative monitoring component is to track potential changes to state and federal regulations that impact the management of HHW. Legislative monitoring allows Metro as well as local governments within the region to be responsive to potential changes in these regulations. Metro is performing this task and will continue it throughout the implementation of the plan chapter.

The purpose of the legislative development component is to develop legislation designed to help implement the regional HHW management plan. The development of new legislation must include input from Metro, DEQ, local governments, and affected groups in order to assure that the proposed legislation is equitable and serves to implement the goals and policies contained in this plan chapter. Potential pieces of new legislation to be researched and developed are listed below.

A ban on the collection of HHW at the curb could reduce the volume of HHW entering the mixed waste stream. Issues related to coordination between Metro local governments and waste haulers would have to be addressed before such a ban could be considered. Further, a detailed implementation and enforcement strategy would have to be developed.

Manufacturer/Retailer take-back legislation could also reduce the volume of HHW entering the mixed waste stream. The state currently has a similar law regulating lead acid batteries. Issues related to identifying HHW materials that could efficiently be collected through a take back need to be addressed prior to developing new legislation, as well as issues related to administration.

Product ban legislation that would ban the sale of certain hazardous household products could help reduce the volume of HHW generated. There is precedent for such a product ban within the region and the state¹⁸. Issues related to product identification, economic impacts and administration need to be addressed prior to developing any legislation.

Monitoring

Monitoring refers to the gathering of data to determine the actual operational cost of regional collection facilities, the actual observed participation rates and volumes of waste received at facilities, and to measure the effects of promotional and educational programs on participation rates and regional HHW reduction.

The data gathering necessary to determine the operational cost of the collection system and determine the accuracy of assumptions related to the volume of waste collected and participation rates is relatively simple to obtain. These data can be obtained directly from the facilities and include:

- the actual observed participation rate at facilities;
- the actual volume of HHW collected segregated by waste type;
- the amounts and types of HHW reused, recycled, incinerated and landfilled and the costs associated with each management method; and,
- the capital and annual O&M cost for each collection facility in the regional collection system.
- the impact of repeat participants on the average volume of HHW disposed per household;
- the measured differences in the volume of HHW disposed of per single family household unit vs. multi-family household unit;

The purpose of this portion of the monitoring program will be to compare the data and assumptions used to develop this plan chapter with actual observed data at the collection facilities. Based on the results of this comparison, the facilities recommendations contained in the plan will be reassessed. The reassessment will include the feasibility of the 15% participation rate, the regional service area configuration, and the regional collection facilities configuration.

¹⁸Appendix A: Legislation; page 29.

The development and implementation of a monitoring procedure to measure the effectiveness of HHW programs designed to increase participation rates at collection facilities and promote HHW reduction within the region, is a more difficult undertaking. To show effectiveness, it must be possible to monitor changes in trends and quantify what caused any changes to occur. While it is possible to measure trends, such as increased disposal rates at collection facilities or decreasing sales rates for hazardous household products, it is extremely difficult to quantify what caused any changes in the trends to occur.

Changes may be a result of promotional and waste reduction programs, evolving economic conditions, seasonal variation, or a combination of factors. Consumer surveys and surveys at facilities are not recommended as a primary data source for obtaining this type of information because people tend to report what they should be doing, not what they are actually doing. However, surveys are useful for comparative purposes to other data, and have the added benefit of being an educational tool for the individuals surveyed¹⁹.

Based on these findings, the results of a program monitoring function within the region should only be expected to identify the presence and magnitude of any changes in trends related to the volume and composition of HHW found in the solid waste stream, delivered to collection depots, and in the volume and type of hazardous household products consumed. The actual cause of the change should not be expected to be quantified. Trend data alone are still useful in developing long-term program goals and justifying programs, because it can be reasonably inferred that the cause of any changes in these trends can at least partially be attributed to the implementation of HHW management programs and supporting collection system.

¹⁹Paul Kaldjian, U.S. EPA Office of Waste Management; Presentation made at EPA Hazardous Waste Conference. Seattle, Washington; December, 1991.

PLAN IMPLEMENTATION (REGIONAL WORK PROGRAM):

The following section outlines the roles and responsibilities for Metro, local governments, and DEQ in implementing the regional HHW management plan.

Metro Role:

Facilities:

1. Metro shall operate the fixed HHW collection facilities at the Metro South and Metro Central transfer stations.
2. Metro shall request financial assistance from DEQ to procure and assure operation of a mobile collection facility to serve the portions of the region not conveniently served by the fixed facilities. Initially, this service will be provided in east Multnomah County and Washington County (service areas 2, 4 and 5 in figure 1). Metro will work with DEQ to initiate procurement of the mobile facility before January of 1993.
3. Metro shall implement a monitoring project to monitor trends in consumer behavior and regional HHW disposal practices as well as through-put data and participation rate information at regional HHW collection facilities as they become operational. The types of data to be gathered shall include:
 - trend information, including disposal rates at collection depots and retail sales rates for hazardous household products;
 - the impact of repeat participants on the average volume of HHW disposed per household;
 - the measured differences in the volume of HHW disposed of per single family household unit vs. multi-family household unit;
 - the actual observed participation rate at facilities;
 - the actual volume of HHW collected segregated by waste type;
 - the amounts and types of HHW reused, recycled, treated, incinerated and landfilled and the costs associated with each management method; and,
 - the capital and annual O&M cost for each collection facility in the regional collection system.

4. Metro shall continue to check loads of mixed solid waste as they enter transfer facilities in to find and remove HHW that may be contained in the loads. Metro shall research the cost effectiveness of employing new technologies in the load checking program to more effectively detect HHW.
5. Metro shall work cooperatively with those local governments that act as host communities for HHW collection facilities to monitor facility operations in order to ensure that they meet agreed upon operational criteria and guidelines.

Programs:

1. Metro shall expand its educational efforts about proper disposal of HHW and HHW reduction as funding is available. Promotional and informational materials shall be made available to commercial haulers, self-haulers, schools, retailers and the RIC. The materials related to proper disposal will provide information about the location of HHW collection depots, their days and hours of operation and what types of waste they accept and do not accept. Materials related to HHW reduction will include information about waste exchanges and alternative products. The Public Affairs Department will be responsible for coordinating all promotion and education programs.
2. The Operations Division shall work to implement a waste exchange program at regional HHW collection depots.
3. Metro shall conduct research to determine the feasibility and effectiveness of alternative HHW system funding options. This task shall include:
 - Working cooperatively with the region's wastewater and stormwater facility operators to determine the feasibility of developing an alternative funding source for HHW management through the use of their rate base; and,
 - Exploring the feasibility of attracting private grants from corporations and other private interests.
 - Researching the feasibility of HHW user fees, product fees for hazardous household products and retailer licensing fees.

4. Metro shall conduct further research on the feasibility and effectiveness of collection bans, product bans and retailer/manufacturer take back programs as methods to reduce the amount of HHW generated and disposed of. Based on the results of this research, Metro shall develop or assist in the development of new legislation to implement these programs.
5. Metro shall continue to monitor and initiate as appropriate legislative activities related to HHW management at the state and federal level. As is necessary, Metro shall provide input to proposed legislative actions.
6. Projects proposed by the private sector for developing methods to recycle HHW shall be eligible for Metro's "1% for Recycling" annual grant program.

Local Government Role:

Facilities:

1. Local governments shall coordinate with Metro to help find appropriate sites for the mobile collection depot.
2. Host local governments shall work with Metro to monitor the operation of permanent and mobile collection depots in order to ensure that they meet agreed upon operational criteria and guidelines.

Programs:

1. Local governments shall be responsible for developing and disseminating promotional and educational materials about proper HHW management and waste reduction within their respective jurisdictions. Actual implementation of this task is dependent upon the availability of local funding.
2. Local governments shall work with Metro to develop mutually beneficial operational standards so HHW exchanges can be conducted at all HHW collection depots in the region.
- 3.

DEQ Role:

Facilities:

1. Metro shall coordinate with DEQ on the operation of the region's fixed facilities and mobile collection facility with the operation of the state-wide HHW collection program to avoid unnecessary duplications of service and cost within the Metro region.

Programs:

1. Metro and local governments shall coordinate the region's promotional and educational campaigns with DEQ to avoid duplication and help reduce costs for both the state and regional programs whenever feasible.
2. Metro shall coordinate with the DEQ in the development of funding options so that they may fit with the state-wide comprehensive HHW management funding plan being developed by DEQ.

GLOSSARY OF TERMS:

Fixed Collection Depot (Facility): A receiving place for household hazardous waste located on a specific site and consisting of structures on permanent foundations.

Hazardous Household Products: Chemical materials and products, such as paint, pesticides and cleaning agents, that are or may be hazardous or toxic to the public or the environment and are commonly used in or around households.

Household Hazardous Waste: Any discarded, useless or unwanted chemical materials or products that are or may be hazardous or toxic to the public or the environment and are commonly used in or around households.

Household Hazardous Waste Collection Event: A specific day or portion of a week (usually a weekend) when a facility is temporarily set-up to receive household hazardous wastes. These events typically occur quarterly, annually, or less frequently.

Mobile Collection Depot (Facility): A receiving place for household hazardous waste that is designed to be moved to various locations on a regular basis.

Monitoring: The gathering of data to determine the actual operational cost of regional facilities, the actual observed participation rates and volumes of waste received at regional facilities; and, to determine the effects of promotional and educational programs on regional waste generation.

Permanent Collection System: A configuration of household hazardous waste collection depots that receive discarded household hazardous wastes from the public at least once-a-week, year-round.

Meeting Date: May 28, 1992
Agenda Item No. 5.3

ORDINANCE NO. 92-462

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 92-462 AMENDING ORDINANCE NO. 91-390A REVISING THE FY 1991-92 BUDGET AND APPROPRIATIONS SCHEDULE FOR THE PURPOSE OF FUNDING INCREASES IN THE SOLID WASTE REVENUE FUND OPERATING ACCOUNT AND MODIFICATIONS TO THE REHABILITATION AND ENHANCEMENT FUND

Date: May 15, 1992

Presented by: Roosevelt Carter

BACKGROUND AND ANALYSIS

The Solid Waste Department has analyzed nine months of actual expenditures (through March 1992) to project ending fund balances for the Solid Waste Revenue and Rehabilitation and Enhancement Funds. This exercise has revealed where in the budget expenditures are likely to exceed appropriations. Subsequently, the following amendments to the Solid Waste Department's annual budget for fiscal year 1991-92 are requested. Each request is followed by a brief justification.

SOLID WASTE REVENUE FUND: (Operating Account - 531)

1. The bond rating fees associated with bonds sold to finance the Composter and Metro Central Transfer Station facilities; and annual trustee payments to First Interstate Bank were inadvertently omitted when the FY 1991-92 budget was developed. This actions requests the transfer of \$11,500 from the Solid Waste Revenue Fund Contingency to materials & services, Accounting and Auditing Services line item, in the Budget and Finance Division.
2. Mid-year, the department installed a new computer network and converted to a Microsoft windows environment as part of the STRAP project to reduce the substantial amount of down time experienced with the old network and to enhance overall computer capabilities with more applications that are more "user friendly".

As part of the STRAP computer project, it was also necessary to purchase computer hardware that was not anticipated in the budget. Those items under \$500 were charged to this object code. Additional funds were required to purchase the requisite number of licensed copies of spreadsheet, word processing, electronic mail, and database software for use by the entire Solid Waste staff.

This action requests the transfer of \$18,500 from the Solid Waste Revenue Fund Contingency to materials & services, Computer Software line item in the Budget and Finance Division. This transfer from Contingency does not mean the Solid Waste Department exceeded the budget for this project. It is being made in lieu of transferring from a number of existing line item appropriations. For ease in understanding and

identification, it is simpler to transfer the required funds from a single source. All transfers from contingency requested in this action will be offset by savings in other appropriation areas.

3. The department executed a contract for temporary help to provide computer system maintenance and support. This function was previously performed by Senior Management Analyst, Jeff Stone, who was assigned other duties related to forecasting tonnage (for rates development and budgeting) and staffing the Rate Review Committee. Also, Metro's Information Systems division indicated it could not provide these services within current staffing levels. This request represents an interim solution to the problems addressed in next year's budget. A full-time permanent position is requested to perform this work (in the Information Systems division) for fiscal year 1992-93. This action requests the transfer of \$10,000 from the Solid Waste Revenue Fund Contingency to materials & services, Temporary Help Services line item, in the Budget and Finance Division.
4. Actual salaries in the Administration Division during FY 1991-92 are expected to exceed budgeted appropriations due to a combination of several factors. Merit increases for the Solid Waste Director and the Administrative Manager exceeded the budget assumptions. The latter position including retro pay for two prior fiscal years. During the FY 1991-92 budget process, the Council approved reclassifications of an existing Secretary to Administrative Secretary and an Administrative Secretary to Administrative Assistant. The actual reclassification process brought these employees to a higher step than was originally budgeted. In addition, two new positions (Administrative Assistant and Associate Management Analyst) were filled in-house by existing Metro employees. The salaries of these employees were higher than those assumed in the budget. Finally, the COLA adjustment recently adopted by Council did not include these higher base salaries. This action requests the transfer of \$35,000 from the Solid Waste Revenue Fund Contingency to personal services in the Administration Division.

Summary of requested actions to the Solid Waste Revenue Fund:

Budget and Finance Division, materials & Services	\$40,000
Administration Division, personal Services	\$35,000
Contingency	(\$75,000)

REHABILITATION AND ENHANCEMENT FUND: (768)

With the closure of the compost facility, more tons (about 20,000) have gone to the Metro South Transfer Station in Oregon City than the budget assumed. This action requests the transfer of \$15,000 in appropriation from the Composter Enhancement Account to the Oregon City Enhancement Account in order to pay Oregon City the required \$.50 per ton on these additional tons for rehabilitation and enhancement activities.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive officer recommends adoption of Ordinance No. 92-462, for the purpose of funding increases in the Solid Waste Revenue Fund and modifications to the Rehabilitation and Enhancement Fund.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE AMENDING ORDINANCE)
NO. 91-390A REVISING THE FY 1991-92)
BUDGET AND APPROPRIATIONS)
SCHEDULE FOR THE PURPOSE OF)
FUNDING INCREASES IN THE SOLID)
WASTE REVENUE FUND OPERATING)
ACCOUNT AND MODIFICATIONS TO THE)
REHABILITATION AND ENHANCEMENT)
FUND)

ORDINANCE NO. 92-462

Introduced by Rena Cusma,
Executive Officer

WHEREAS, The Council of the Metropolitan Service District has reviewed and considered the need to transfer appropriations within the FY 1991-92 Budget; and

WHEREAS, The need for a transfer of appropriation has been justified; and

WHEREAS, Adequate funds exist for other identified needs; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

1. That Ordinance No. 91-390A, Exhibit B, FY 1991-92 Budget, and Exhibit C, Schedule of Appropriations, are hereby amended as shown in the column titled "Revision" of Exhibits A and B to this Ordinance for the purpose of funding increases in the Solid Waste Revenue Fund Operating Account and modifications to the Rehabilitation and Enhancement Fund.

2. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Council of the Metropolitan Service District this _____ day of _____, 1992.

Jim Gardner, Presiding Officer

ATTEST:

Clerk of the Council

**EXHIBIT A
ORDINANCE NO. 92-462**

ACCT #	DESCRIPTION	CURRENT		REVISION		PROPOSED	
		FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
OPERATING ACCOUNT:Administration							
Personal Services							
511121	SALARIES-REGULAR EMPLOYEES (full time)						
	Dir. of Solid Waste Planning	1.00	74,406		700	1.00	75,106
	Administrative Manager	1.00	41,425		12,466	1.00	53,891
	Assoc. Management Analyst	1.00	29,427		4,628	1.00	34,055
	Administrative Assistant	2.00	49,636		2,836	2.00	52,472
511221	WAGES-REGULAR EMPLOYEES (full time)						
	Administrative Secretary	1.00	20,996		2,056	1.00	23,052
	Secretary	1.00	18,997			1.00	18,997
	Office Assistant	1.00	15,617			1.00	15,617
511225	WAGES-REGULAR EMPLOYEES (part time)						
	Office Assistant	1.00	18,523		2,000	1.00	20,523
511235	WAGES-TEMPORARY EMPLOYEES (part time)						
511400	OVERTIME		2,837		2,080		4,917
512000	FRINGE		88,587		8,234		96,821
Total Personal Services		9.00	360,451	0.00	35,000	9.00	395,451
Total Materials & Services			75,673		0		75,673
TOTAL EXPENDITURES		9.00	436,124	0.00	35,000	9.00	471,124

EXHIBIT A
ORDINANCE NO. 92-462

ACCT #	DESCRIPTION	CURRENT		REVISION		PROPOSED	
		FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
OPERATING ACCOUNT: Budget & Finance							
Total Personal Services		8.00	402,017	0.00	0	8.00	402,017
Materials & Services							
521100	Office Supplies		5,080				5,080
521110	Computer Software		8,000		18,500		26,500
524110	Accounting & Auditing Services		0		11,500		11,500
524190	Misc. Professional Services		59,000				59,000
525640	Maintenance & Repairs Services-Equipment		13,000				13,000
526200	Ads & Legal Notices		1,640				1,640
526310	Printing Services		20,000				20,000
526320	Typesetting & Reprographics Services		1,000				1,000
526420	Postage		57,000				57,000
526500	Travel		6,000				6,000
526610	Temporary Help Services		0		10,000		10,000
526800	Training, Tuition, Conferences		9,000				9,000
Total Materials & Services			179,720		40,000		219,720
TOTAL EXPENDITURES		8.00	581,737	0.00	40,000	8.00	621,737

EXHIBIT A
ORDINANCE NO. 92-462

ACCT #	DESCRIPTION	CURRENT		REVISION		PROPOSED	
		FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT

OPERATING ACCOUNT:Operations

Total Personal Services	41.65	1,222,149	0.00	0	41.65	1,222,149
Total Materials & Services		43,878,534		0		43,878,534
TOTAL EXPENDITURES	41.65	45,100,683	0.00	0	41.65	45,100,683

OPERATING ACCOUNT:Engineering & Analysis

Total Personal Services	10.00	548,593	0.00	0	10.00	548,593
Total Materials & Services		257,125		0		257,125
TOTAL EXPENDITURES	10.00	805,718	0.00	0	10.00	805,718

OPERATING ACCOUNT:Waste Reduction

Total Personal Services	18.15	739,635	0.00	0	18.15	739,635
Total Materials & Services		3,080,796		0		3,080,796
TOTAL EXPENDITURES	18.15	3,820,431	0.00	0	18.15	3,820,431

DEBT SERVICE ACCOUNT

Total Requirements		2,191,328		0		2,191,328
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LANDFILL CLOSURE ACCOUNT

Total Requirements		10,016,200		0		10,016,200
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CONSTRUCTION ACCOUNT

Total Requirements		3,525,000		0		3,525,000
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RENEWAL & REPLACEMENT ACCOUNT

Total Requirements		732,000		0		732,000
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**EXHIBIT A
ORDINANCE NO. 92-462**

ACCT #	DESCRIPTION	CURRENT		REVISION		PROPOSED	
		FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
GENERAL ACCOUNT							
	Total Materials & Services		193,550		0		193,550
	Total Capital Outlay		3,151,330		0		3,151,330
	Total Requirements		3,344,880		0		3,344,880
MASTER PROJECT ACCOUNT							
	Total Requirements		3,033,085		0		3,033,085
SOLID WASTE REVENUE GENERAL EXPENSES							
	Total Interfund Transfers		17,742,748		0		17,742,748
	Contingency and Unappropriated Balance						
	OPERATING ACCOUNT-unrestricted		706,663		(75,000)		631,663
	OPERATING ACCOUNT-restricted		1,320,000				1,320,000
	GENERAL ACCOUNT		363,240				363,240
599999	Contingency		2,389,903		(75,000)		2,314,903
599990	Unappropriated Fund Balance		21,460,391		0		21,460,391
	Total Contingency and Unapp. Balance		23,850,294		(75,000)		23,775,294
TOTAL REVENUE FUND EXPENDITURES		86.80	115,180,228	0.00	0	86.80	115,180,228

**EXHIBIT A
ORDINANCE NO. 92-462**

ACCT #	DESCRIPTION	CURRENT		REVISION		PROPOSED	
		FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
REHABILITATION & ENHANCEMENT FUND							
Materials & Services							
NORTH PORTLAND ENHANCEMENT ACCOUNT							
524190	Misc. Professional Services		100,000				100,000
526200	Ads & Legal Notices		644				644
526310	Printing Services		500				500
526420	Postage		1,000				1,000
COMPOSTER ENHANCEMENT ACCOUNT							
524190	Misc. Professional Services		98,858		(15,000)		83,858
526200	Ads & Legal Notices		300				300
526310	Printing Services		680				680
526420	Postage		1,084				1,084
METRO CENTRAL ENHANCEMENT ACCOUNT							
526200	Ads & Legal Notices		300				300
526310	Printing Services		680				680
526420	Postage		1,070				1,070
FOREST GROVE ACCOUNT							
528100	License, Permits, Payments to Other Agencies		32,237				32,237
OREGON CITY ACCOUNT							
528100	License, Permits, Payments to Other Agencies		150,008		15,000		165,008
Total Materials & Services			387,361		0		387,361
Interfund Transfers							
583531	Trans. Direct Costs to S.W. Rev. Fund						
	• North Portland Enhancement Account		14,340				14,340
	• Composter Enhancement Account		15,206				15,206
	• Metro Central Enhancement Account		15,206				15,206
Total Interfund Transfers			44,752		0		44,752
Contingency and Unappropriated Balance							
599999	Contingency		55,000		0		55,000
599990	Unappropriated Balance		2,241,707		0		2,241,707
Total Contingency and Unapp. Balance			2,296,707		0		2,296,707
TOTAL EXPENDITURES			2,728,820		0		2,728,820

EXHIBIT B
ORDINANCE NO. 92-462
SCHEDULE OF APPROPRIATIONS

SOLID WASTE REVENUE FUND

	Current Appropriation	Revision	Proposed Appropriation
Administration			
Personal Services	360,451	35,000	395,451
Materials & Services	75,673	0	75,673
Subtotal	436,124	35,000	471,124
Budget and Finance			
Personal Services	402,017	0	402,017
Materials & Services	179,720	40,000	219,720
Subtotal	581,737	40,000	621,737
Operations			
Personal Services	1,222,149	0	1,222,149
Materials & Services	43,878,534	0	43,878,534
Subtotal	45,100,683	0	45,100,683
Engineering & Analysis			
Personal Services	548,593	0	548,593
Materials & Services	257,125	0	257,125
Subtotal	805,718	0	805,718
Waste Reduction			
Personal Services	739,635	0	739,635
Materials & Services	3,080,796	0	3,080,796
Subtotal	3,820,431	0	3,820,431
Debt Service Account			
Debt Service	2,191,328	0	2,191,328
Subtotal	2,191,328	0	2,191,328
Landfill Closure Account			
Materials & Services	10,016,200	0	10,016,200
Subtotal	10,016,200	0	10,016,200
Construction Account			
Capital Outlay	3,525,000	0	3,525,000
Subtotal	3,525,000	0	3,525,000
Renewal and Replacement Account			
Capital Outlay	732,000	0	732,000
Subtotal	732,000	0	732,000

EXHIBIT B
ORDINANCE NO. 92-462
SCHEDULE OF APPROPRIATIONS

	Current Appropriation	Revision	Proposed Appropriation
SOLID WASTE REVENUE FUND (continued)			
General Account			
Materials & Services	193,550	0	193,550
Capital Outlay	3,151,330	0	3,151,330
Subtotal	3,344,880	0	3,344,880
Master Project Account			
Debt Service	3,033,085	0	3,033,085
Subtotal	3,033,085	0	3,033,085
General Expenses			
Interfund Transfers	17,742,748	0	17,742,748
Contingency	2,389,903	(75,000)	2,314,903
Subtotal	20,132,651	(75,000)	20,057,651
Unappropriated Balance	21,460,391	0	21,460,391
Total Solid Waste Revenue Fund Requirements	115,180,228	0	115,180,228
REHABILITATION & ENHANCEMENT FUND			
North Portland Enhancement Account			
Materials & Services	102,144	0	102,144
Subtotal	102,144	0	102,144
Composter Enhancement Account			
Materials & Services	100,922	(15,000)	85,922
Subtotal	100,922	(15,000)	85,922
Metro Central Enhancement Account			
Materials & Services	2,050	0	2,050
Subtotal	2,050	0	2,050
Forest Grove Account			
Materials & Services	32,237	0	32,237
Subtotal	32,237	0	32,237
Oregon City Account			
Materials & Services	150,008	15,000	165,008
Subtotal	150,008	15,000	165,008

EXHIBIT B
ORDINANCE NO. 82-462
SCHEDULE OF APPROPRIATIONS

	Current Appropriation	Revision	Proposed Appropriation
REHABILITATION & ENHANCEMENT FUND (continued)			
General Expenses			
Interfund Transfers	44,752	0	44,752
Contingency	55,000	0	55,000
Subtotal	99,752	0	99,752
Unappropriated Balance	2,241,707	0	2,241,707
Total Rehab. & Enhancement Fund Requirements	2,728,820	0	2,728,820

ALL OTHER APPROPRIATIONS REMAIN AS PREVIOUSLY ADOPTED

Meeting Date: May 28, 1992
Agenda Item No. 5.4

ORDINANCE NO. 92-460

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 92-460 AMENDING ORDINANCE NO. 91-390A REVISING THE FY 1991-92 BUDGET AND APPROPRIATIONS SCHEDULE FOR THE PURPOSE OF FUNDING UNANTICIPATED COSTS FOR USE OF THE LEXIS SYSTEM FOR LEGAL RESEARCH

Date: May 18, 1992

Presented by: Dan Cooper

This Ordinance would authorize the transfer of \$5,000 in appropriations for the Office of General Counsel from Contingency within the Support Services Fund. The request is to cover unanticipated costs for using the LEXIS system for legal research during Fiscal Year 1991-92.

BACKGROUND AND ANALYSIS

Acquisition of computer modems and software in order to allow the use of national computerized data base as a legal research tool for the Office of General Counsel was approved by Council in the FY 1990-91 budget. The Data Processing Division accomplished the conversion of the Office of General Counsel's computers to make them compatible with a national data base system in the last quarter of FY 1990-91. During the time period that the FY 1991-92 budget was being prepared, the Office of General Counsel had not had any experience in using the data bases in order to determine what an appropriate level of expected usage would be and costs associated therewith in order to accurately project financial needs for FY 1991-92.

The LEXIS system is one of two national computerized legal research tools available. As a relatively small user in relation to law firms utilizing this service, it was determined by the Office of General Counsel that the LEXIS system, purchased on a time share basis through the Multnomah Bar Association, was the most cost-effective means of acquiring access to a national data base for legal research. The alternative was to either purchase LEXIS directly from the system, or to purchase the West Law service, its chief competitor. A direct purchase of either LEXIS or West Law would have required the payment of a minimum guaranteed amount for access to the system and then making payments for actual usage on a service and time basis. By purchasing LEXIS through Multnomah Bar Association, as a subuser, the Office of General Counsel was able to avoid monthly minimum charge and make the most cost-effective access to the system, much as other smaller law firms in Multnomah County.

The advantages of using the LEXIS system are two-fold. First, material not available in the Office of General Counsel library on Oregon case law is readily available on the LEXIS system. The subscription for Oregon cases in the Office of General Counsel was initiated during the tenure of the first General Counsel. The library collection contains all Oregon cases decided after that point in time, but does not contain any previous Oregon decisions.

To fully research any issue of Oregon law without LEXIS would require a trip to the Multnomah County Law Library. Further, the Office of General Counsel has never developed a law library containing any other court cases other than the recent Oregon cases. Thus, any legal research done requiring review of federal court decisions or decisions of other states would also require a trip to the Law Library.

The use of the LEXIS system avoids these time-consuming trips and provides instant access. In addition, the computerized research methods are much faster than the manual methods previously utilized by attorneys. (Note: Live comparison testing by a small law firm in Sacramento resulted in search by computer taking 15 minutes, traditional search manually took 1.4 hours.) An additional advantage of avoiding a trip out of the Office to the Law Library to conduct research is that the attorneys are available in the Office while they are researching matters. This cuts down on delays in communication in returning telephone calls and scheduling future matters, and makes the attorneys much more efficient overall.

Usage levels during FY 1991-92 have been higher than those on which budget estimates were made in projecting for the FY 1991-92 budget. In FY 1991-92 the Office projected only a modest increase in the Subscription line item (\$1,300 over prior fiscal year) to cover the cost of LEXIS. Based on the data of usage so far, and projected needs for the remainder of the fiscal year, this sum has proved to be insufficient to cover the cost of utilizing this service and an additional appropriation of \$5,000 is requested to cover this cost.

Attached to the Staff Report are internal memoranda from the Office of General Counsel staff members detailing usage of the LEXIS system during the past year, and anticipated usage during the remainder of the fiscal year.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 92-460 transferring \$5,000 from the Support Service Fund Contingency to Materials and Services in the Office of the General Counsel.



METRO

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

Memorandum

Date: May 8, 1992
To: Daniel B. Cooper, General Counsel
From: Todd Sadlo, Senior Assistant Counsel
Regarding: USE OF LEXIS
Our file: 6.§17

The following is a summary of the LEXIS research I have conducted within the last fiscal year. This is a partial list:

1. With Larry Shaw: Research regarding compatibility obligation imposed by ORS 197.180(1). (State agency consistency with acknowledged comprehensive plans.)
2. With Larry Shaw: Research regarding rights of adjacent owners or neighborhood groups in condemnation action, transportation corridor.
3. Prevailing wages on public works projects: Midway decision, and impact on Oregon prevailing wage law; access to Federal Regulatory Code (CFR) for definition of "site of work;" etc.
4. Research on Highway Division authority related to issuing access permits. (Division insisted that we must purchase surplus land as condition for receiving access permit.)
5. Research of prevailing wage law as it applies to salvage workers, removing materials from a public building.
6. Research on authority of Metro Council to adopt ordinance for issuing subpoenas and compelling testimony.
7. Research to establish legal definition of hazardous waste generator, for purpose of determining whether Metro or WMO must sign manifests for shipments of hazardous waste inadvertently accepted at Metro South. Accessed federal regulatory codes, Federal Register, cases.

Daniel B. Cooper
Page 2
May 8, 1992

8. Research of federal rules related to transport of household hazardous waste, to answer liability questions for household hazardous waste chapter of RSWMP; accessed federal regulatory codes.
9. NEXIS research--of firms submitting proposals for landfill gas development contract. This search provided useful background for review of an alternative technology proposal (landfill gas into diesel fuel) and viability of proposer. (Proposal ultimately rejected.)
10. Public bidding requirements, alternative procurement for Sears building. Researched case law and Attorney General opinions.
11. Research on Historic Landmark/Statewide Planning Goal 5 cases in context of review of proposals for transfer station in Forest Grove. Questions included whether historic landmark review is a discretionary land use decision, likelihood and nature of appeals.
12. Research on retainage statute, and question of whether Metro could claim interest on payments made to fraudulent companies; how calculated; etc, in context of \$1.5 million retainage/withholding account under BFI contract.
13. Development of landfill gas contract: research of federal tax credits available for landfill gas extraction, non-conventional fuel development--cases, publications, access to Internal Revenue Code.
14. SCS Engineers claim for \$150,000 in additional compensation: research of quantum meruit cases to formulate response.
15. Research of question related to Riedel payments: If no "offset" clause in contract, could we offset from payments due, amounts owed to us by Riedel? Reviewed cases.
16. Change in law research--OWS and JGT, Inc. to determine if any cases related to contractual change in law provisions.
17. Research of RFP and other alternatives to public bidding, related to RFF's for Washington County.
18. For solid waste land use project, research on Statewide Planning Goal 14, development outside of UGB.

Daniel B. Cooper
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May 8, 1992

Predicted Use for Remainder of Fiscal Year

I have averaged \$240 in user fees over an eight-month period between August, 1991, and March, 1992. My use of the system has generally been to answer questions that arise day-to-day, not in relation to planned projects. Some research that I may need to use LEXIS for between now and the end of the fiscal year includes:

1. Franchise Code revisions: May need to supplement existing research by reviewing and Shepardizing cases cited in texts.
2. Related to petroleum contaminated soils, ability to regulate or prevent flow of waste to landfill in Washington state.
3. Subtitle D, federal regulations related to landfill closure. We are missing the preamble, which may contain important explanatory information.
4. Research related to DEQ authority to regulate landfill closure and to impose different monitoring requirements on different landfills.

Please let me know if you have further questions regarding this matter.


dr
1127



METRO

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

Memorandum

Date: May 8, 1992
To: Daniel B. Cooper, General Counsel
From: Mark B. Williams, Senior Assistant Counsel 
Regarding: USE OF LEXIS
Our file: 6. §17

You asked for a summary of recent projects on LEXIS.

1. Trademark issues for convention center.

The question involved whether a public body can hold and enforce a trademark. Interestingly enough, the cases that came up involved mostly cigar companies whose property (including trademarks) were expropriated as a result of the Cuban revolution. I never would have found these cases with conventional research.

2. "Zoolympics."

Can the Zoo lawfully use the term "Zoolympics" without getting in trouble with the U.S. Olympic Organizing Committee. The answer, which is "no," was obtained almost instantly via LEXIS, since the word search almost immediately produced the definitive U.S. Supreme Court case on the precise issue.

3. Wage and Hour Issues at PCPA.

By using the wage and hour library on LEXIS, I was able to combine various word combinations in order to figure out whether a public employer is subject to the "joint employer" doctrine of the FLSA (Fair Labor Standards Act).

4. Use of Dedicated Tax Proceeds for Other Purposes.

This search involved searching through Oregon cases and Oregon Attorney General opinions for any type of precedent regarding the use of dedicated tax funds for other purposes, i.e., the use of convention center funds for the

Daniel B. Cooper

Page 2

May 8, 1992

PCPA. Although the case law could have been found manually, the Attorney General opinions are not available in our office, and would have necessitated a trip to the library. The only precedent of any value turned out to be an AG opinion. This project was accomplished on a tight time frame due to LEXIS.

5. Future Plans.

I am clearly a beginner at LEXIS, but I am starting to use it more and more. The more you become accustomed to computer word searches, the easier it becomes. As an "old lawyer" who learned only manual research, long before the days of the computer or the word processor, LEXIS was a little terrifying at first. But the more you get used to using word combinations instead of time-consuming manual research, the quicker you become. I have an issue at civic stadium, involving leaking oil from an adjacent property, which will eventually have to be researched. I realize already that I will feel more comfortable researching this topic on LEXIS than I would the old fashioned way. It is definitely the wave of the future.



METRO

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

Memorandum

Date: May 8, 1992
To: Daniel B. Cooper, General Counsel
From: *LLS* Larry Shaw, Senior Assistant Counsel
Regarding: USE OF LEXIS
Our file: 6.§17

Past Use of LEXIS

Since a good part of my legal research is done on slip opinions from LUBA and Oregon Administrative Rules which may not be on the State computer research system, as well as not on LEXIS, the limited use of LEXIS has been for (1) Shepardizing cases, (2) reading Oregon cases older than the books in our law library, (3) statutory research in another state, and (4) one instance of Oregon Administrative Rules research that was on the system.

The most helpful part of the service has clearly been the ability to Shepardize both cases and statutes from the desktop.

Future Use of LEXIS

Clearly the highest priorities for future use of LEXIS by me will be continued, regular use of Shepards for preparation and litigation, statutes from other states, and Oregon and other states' administrative rules as they are added to the system. Specific situations for predicted use of LEXIS:

1. Public Records Advisory Council - Review of proposed legislation affecting RLIS public records exemptions.
2. State Agency Coordination - The series of Oregon Administrative Rules relating to major state agencies' State Agency Coordination programs certified by LCDC.
3. Greenspaces Bond Measure - Assist in research for litigation on ballot title.
4. Model Illegal Dumping Ordinance - Assist in research.
5. Acknowledgment of Urban Growth Boundary - Assist in research.

dr
1413



METRO

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

Memorandum

Date: May 8, 1992
To: File
From: Daniel B. Cooper, General Counsel *DC*
Regarding: USE OF LEXIS
Our file: 6.§17

Following is a partial list of legal research conducted by General Counsel Daniel Cooper during the past fiscal year and anticipated needs for the future:

1. Reapportionment. Extensive use of the LEXIS system was made to research the legal criteria for reapportioning the Council into districts of approximately equal size. Research conducted examined (a) Oregon case law regarding the statutory provisions for redistricting of the Metropolitan Service District, (b) Oregon case law on Oregon constitutional issues involved in redistricting, and (c) federal case law on federal constitutional issues as well as federal statutory issues related to the civil rights act protection of minority representation during reapportionment.
2. Hazardous Waste. Ongoing research and identification of latest trends in hazardous waste liability, particularly for municipalities owning, operating or sending material into landfills.
3. Research was conducted on the authority of Metro to exercise its "police power" functions in relation to a proposal to create a Metro sports authority.
4. Extensive research was conducted on issues related to Minority Business Enterprises, Disadvantaged Business Enterprises, and Women Business Enterprises in locally funded contracts.
5. The LEXIS system was utilized extensively to research issues related to the change in owner of the Riedel compost facility in regards to reviewing applicable law regarding "lender liability" and possible legal theories that could have made Metro vulnerable to payment of the outstanding \$26,000,000 in bonds.

Anticipated use during the end of the fiscal year includes continuing review of new case law being developed in the DBE/MBE area; review of Oregon home rule issues related to the

Memo to File
Page 2
May 8, 1992

preparation of the Metro Charter, and other related matters, including financing; as well as possible legal issues to be examined in developing responses to questions anticipated from both the Council and the Executive Officer related to the Tri-Met merger possibility.

gl

1562

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE AMENDING ORDINANCE)
NO. 91-390A REVISING THE FY 1991-92)
BUDGET AND APPROPRIATIONS)
SCHEDULE FOR THE PURPOSE OF)
FUNDING UNANTICIPATED COSTS FOR)
THE USE OF THE LEXIS SYSTEM FOR)
LEGAL RESEARCH .)

ORDINANCE NO. 92-460

Introduced by Rena Cusma,
Executive Officer

WHEREAS, The Council of the Metropolitan Service District has reviewed and considered the need to transfer appropriations within the FY 1991-92 Budget; and

WHEREAS, The need for a transfer of appropriation has been justified; and

WHEREAS, Adequate funds exist for other identified needs; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

1. That Ordinance No. 91-390A, Exhibit B, FY 1991-92 Budget, and Exhibit C, Schedule of Appropriations, are hereby amended as shown in the column titled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring \$5,000 from the Support Service Fund Contingency appropriation to Materials and Services to fund unanticipated costs for use of the LEXIS system by the Office of General Counsel.

2. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Council of the Metropolitan Service District this _____ day of _____, 1992.

Jim Gardner, Presiding Officer

ATTEST:

Clerk of the Council

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May 18, 1992

**EXHIBIT A
ORDINANCE NO. 92-460**

ACCT #	DESCRIPTION	CURRENT		REVISION		PROPOSED	
		FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
SUPPORT SERVICE FUND:Office of General Counsel							
Total Personal Services		6.00	372,714	0.00	0	6.00	372,714
Materials & Services							
521100	Office Supplies		2,600		0		2,600
521110	Computer Software		700		0		700
521290	Other Supplies		2,330		0		2,330
521310	Subscriptions		4,620		5,000		9,620
521320	Dues		1,681		0		1,681
525640	Maintenance & Repairs Services-Equipment		735		0		735
526310	Printing Services		210		0		210
526410	Telephone		210		0		210
526420	Postage		158		0		158
526440	Delivery Services		315		0		315
526500	Travel		1,155		0		1,155
526800	Training, Tuition, Conferences		4,200		0		4,200
529500	Meetings		420		0		420
529800	Miscellaneous		210		0		210
Total Materials & Services			19,544		5,000		24,544
Total Capital Outlay			2,955		0		2,955
TOTAL EXPENDITURES		6.00	395,213	0.00	5,000	6.00	400,213

**EXHIBIT A
ORDINANCE NO. 92-460**

ACCT #	DESCRIPTION	CURRENT		REVISION		PROPOSED	
		FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
SUPPORT SERVICE FUND:General Expenses							
Interfund Transfers							
581513	Trans. Indirect Costs to Bldg. Fund		314,646		0		314,646
581615	Trans. Indirect Costs to Insur. Fund-Gen'l		47,177		0		47,177
581615	Trans. Indirect Costs to Insur. Fund-Workers' Comp		54,245		0		54,245
Total Interfund Transfers			416,068		0		416,068
Contingency and Unappropriated Balance							
599999	Contingency						
	* General		138,095		(5,000)		133,095
	* Builders License		7,848		0		7,848
Total Contingency and Unapp. Balance			145,943		(5,000)		140,943
TOTAL SUPPORT SERVICES FUND		78.60	5,825,205	0.00	0	78.60	5,825,205

NOTE: This amendment assumes adoption of Ordinance No. 92-459, funding upgrades and enhancements to the financial management system and the purchase of a high capacity tape drive.

EXHIBIT B
ORDINANCE NO. 92-460
SCHEDULE OF APPROPRIATIONS

	Current Appropriation	Revision	Proposed Appropriation
SUPPORT SERVICES FUND			
Finance and Management Information			
Personal Services	1,668,149	0	1,668,149
Materials & Services	904,286	0	904,286
Capital Outlay	157,757	0	157,757
Subtotal	2,730,192	0	2,730,192
Regional Facilities			
Personal Services	450,252	0	450,252
Materials & Services	317,966	0	317,966
Capital Outlay	40,500	0	40,500
Subtotal	808,718	0	808,718
Personnel			
Personal Services	439,618	0	439,618
Materials & Services	62,310	0	62,310
Capital Outlay	1,227	0	1,227
Subtotal	503,155	0	503,155
Office of General Counsel			
Personal Services	372,714	0	372,714
Materials & Services	19,544	5,000	24,544
Capital Outlay	2,955	0	2,955
Subtotal	395,213	5,000	400,213
Public Affairs			
Personal Services	682,391	0	682,391
Materials & Services	136,040	0	136,040
Capital Outlay	7,485	0	7,485
Subtotal	825,916	0	825,916
General Expenses			
Interfund Transfers	416,068	0	416,068
Contingency	145,943	(5,000)	140,943
Subtotal	562,011	(5,000)	557,011
Total Support Services Fund Requirements	5,825,205	0	5,825,205

ALL OTHER APPROPRIATIONS REMAIN AS PREVIOUSLY ADOPTED

NOTE: This amendment assumes adoption of Ordinance No. 92-459, funding upgrades and enhancements to the financial management system and the purchase of a high capacity tape drive.

Meeting Date: May 28, 1992
Agenda Item No. 5.5

ORDINANCE NO. 92-457

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 92-457 AMENDING ORDINANCE NO. 91-390A REVISING THE FY 1991-92 BUDGET AND APPROPRIATIONS SCHEDULE FOR THE PURPOSE OF TRANSFERRING APPROPRIATIONS WITHIN THE INSURANCE FUND

Date: May 14, 1992

Presented by: Scott Moss

FACTUAL BACKGROUND AND ANALYSIS

Under an Oregon Workers' Compensation program, Metro is able to apply for reimbursement for equipment purchases that permits employees previously injured to perform duties their injuries would otherwise preclude. Three times during FY 1991-92, Metro has successfully applied for reimbursement under this program. These items are purchased through the Insurance Fund with revenue received from the State of Oregon Department of Insurance and Finance.

Proper budgetary and accounting procedures require that these items be reflected as an expenditure to the Insurance Fund. The dollar amount of the purchases requires them to be classified as capital outlay. The Insurance Fund does not have sufficient capital outlay appropriation to fund these purchases. This action requests the transfer of \$23,093 from the Insurance Fund materials & services category to capital outlay.

The Insurance Fund has received a corresponding amount of revenue from the State of Oregon, however, Oregon Budget Law precludes the recognition of this revenue without a Supplemental Budget action. This revenue will become part of the Insurance Fund's unappropriated balance and carried forward to FY 1992-93.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 92-457, for the purpose of transferring \$23,093 from the Insurance Fund Materials & Services appropriation to Capital Outlay for equipment purchases for the workers' compensation program.

**BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT**

AN ORDINANCE AMENDING ORDINANCE)
NO. 91-390A REVISING THE FY 1991-92)
BUDGET AND APPROPRIATIONS)
SCHEDULE FOR THE PURPOSE OF)
TRANSFERRING APPROPRIATIONS)
WITHIN THE INSURANCE FUND)

ORDINANCE NO. 92-457

Introduced by Rena Cusma,
Executive Officer

WHEREAS, The Council of the Metropolitan Service District has reviewed and considered the need to transfer appropriations within the FY 1991-92 Budget; and

WHEREAS, The need for a transfer of appropriation has been justified; and

WHEREAS, Adequate funds exist for other identified needs; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

1. That Ordinance No. 91-390A, Exhibit B, FY 1991-92 Budget, and Exhibit C, Schedule of Appropriations, are hereby amended as shown in the column titled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring \$23,093 from the Insurance Fund Materials & Services appropriation to Capital Outlay to fund equipment purchases for the Workers' Compensation program.

2. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Council of the Metropolitan Service District this _____ day of

_____, 1992.

Jim Gardner, Presiding Officer

ATTEST:

Clerk of the Council

kr:ord91-92:insur:ord.doc
May 14, 1992

**EXHIBIT A
ORDINANCE NO. 92-457**

ACCT #	DESCRIPTION	CURRENT		REVISION		PROPOSED	
		FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
INSURANCE FUND							
Personal Services							
511121	SALARIES-REGULAR EMPLOYEES (full-time)						
	Risk Manager	1.00	46,463	0.00	0	1.00	46,463
	Assoc. Management Analyst	1.00	32,756	0.00	0	1.00	32,756
511221	WAGES-REGULAR EMPLOYEES (full-time)						
	Administrative Secretary	1.00	20,031	0.00	0	1.00	20,031
512000	FRINGE	0.00	32,384	0.00	0	0.00	32,384
Total Personal Services		3.00	131,634	0.00	0	3.00	131,634
Materials & Services							
521100	Office Supplies		9,390		0		9,390
521110	Computer Software		5,400		0		5,400
524190	Misc. Professional Services		80,000		0		80,000
526100	Insurance		372,500		0		372,500
529810	Claims Paid		480,000		(23,093)		456,907
Total Materials & Services			947,290		(23,093)		924,197
Capital Outlay							
571500	Office Furniture & Equipment		16,220		23,093		39,313
Total Capital Outlay			16,220		23,093		39,313
Contingency & Unapp. Balance							
599999	Contingency		477,573		0		477,573
599990	Unappropriated Balance		4,026,941		0		4,026,941
Total Contingency & Unapp. Balance			4,504,514		0		4,504,514
TOTAL EXPENDITURES		3.00	5,599,658	0.00	0	3.00	5,599,658

EXHIBIT A
ORDINANCE NO. 92-457

ACCT #	DESCRIPTION	CURRENT		REVISION		PROPOSED	
		FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
INSURANCE FUND:Liability Program							
Personal Services							
511121	SALARIES-REGULAR EMPLOYEES (full-time)						
	Risk Manager	0.75	34,847		0	0.75	34,847
	Assoc. Management Analyst		0		0		0
511221	WAGES-REGULAR EMPLOYEES (full-time)						
	Administrative Secretary	0.75	15,023		0	0.75	15,023
512000	FRINGE		16,270		0		16,270
Total Personal Services		1.50	66,140	0.00	0	1.50	66,140
Materials & Services							
521100	Office Supplies		6,405		0		6,405
521110	Computer Software		3,600		0		3,600
524190	Misc. Professional Services		50,000		0		50,000
526100	Insurance		372,500		0		372,500
529810	Claims Paid		130,000		0		130,000
Total Materials & Services			562,505		0		562,505
Capital Outlay							
571500	Office Furniture & Equipment		11,610		0		11,610
Total Capital Outlay			11,610		0		11,610
TOTAL EXPENDITURES		1.50	640,255	0.00	0	1.50	640,255

**EXHIBIT A
ORDINANCE NO. 92-457**

ACCT #	DESCRIPTION	CURRENT		REVISION		PROPOSED	
		FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
INSURANCE FUND:Workers' Compensation Program							
Personal Services							
511121	SALARIES-REGULAR EMPLOYEES (full-time)						
	Risk Manager	0.25	11,616		0	0.25	11,616
	Assoc. Management Analyst	1.00	32,756		0	1.00	32,756
511221	WAGES-REGULAR EMPLOYEES (full-time)						
	Administrative Secretary	0.25	5,008		0	0.25	5,008
512000	FRINGE		16,114		0		16,114
Total Personal Services		1.50	65,494	0.00	0	1.50	65,494
Materials & Services							
521100	Office Supplies		2,985		0		2,985
521110	Computer Software		1,800		0		1,800
524190	Misc. Professional Services		30,000		0		30,000
526100	Insurance		0		0		0
529810	Claims Paid		350,000		(23,093)		326,907
Total Materials & Services			384,785		(23,093)		361,692
Capital Outlay							
571500	Office Furniture & Equipment		4,610		23,093		27,703
Total Capital Outlay			4,610		23,093		27,703
TOTAL EXPENDITURES		1.50	454,889	0.00	0	1.50	454,889

EXHIBIT B
ORDINANCE NO. 92-457
SCHEDULE OF APPROPRIATIONS

	Current Appropriation	Revision	Proposed Appropriation
INSURANCE FUND			
Personal Services	131,634	0	131,634
Materials & Services	947,290	(23,093)	924,197
Capital Outlay	16,220	23,093	39,313
Contingency	477,573	0	477,573
Unappropriated Balance	4,026,941	0	4,026,941
Total Insurance Fund Requirements	5,599,658	0	5,599,658

ALL OTHER APPROPRIATIONS REMAIN AS PREVIOUSLY ADOPTED

Meeting Date: May 28, 1992
Agenda Item No. 5.6

ORDINANCE NO. 92-459

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 92-459 AMENDING ORDINANCE NO. 91-390A REVISING THE FY 1991-92 BUDGET AND APPROPRIATIONS SCHEDULE FOR THE PURPOSE OF FUNDING UPGRADES AND ENHANCEMENTS TO METRO'S FINANCIAL MANAGEMENT SYSTEM AND THE PURCHASE OF A HIGH CAPACITY TAPE DRIVE.

Date: May 15, 1992

Presented by: Jeff Booth

BACKGROUND AND ANALYSIS

Resolution 92-1605 approved the expeditious solicitation of bids to equip Metro's mainframe computer with a local area network (LAN) connection and a report writer. The staff report in support of that resolution identified these items as part of a larger strategy to maintain mainframe performance, reduce its operational requirements and improve access to financial information. Identified for purchase in FY 1991-92 are:

	<u>Purchase Price</u>	<u>Installation</u>	<u>Maintenance</u>
Disk	\$3,000	\$480	\$500
Memory	\$12,500	\$150	\$500
LAN Connection	\$23,500	\$0	\$3,275
Report Writer	<u>\$17,600</u>	<u>\$0</u>	<u>\$0</u>
TOTAL	\$56,600	\$630	\$4,275

The purchase price and installation costs are budgeted in capital outlay. Maintenance is budget in materials & services.

Resolution 92-1605 identified the need for a high capacity tape drive. The high capacity tape drive would:

1. **Have a positive impact on system performance.** Enhanced data buffering features of the drive reduce the load on the central processing unit, making more processor time available for user programs. This is an element in forestalling the expensive processor upgrade.
2. **Reduce the load on the computer room environment.** Existing tape drives place a considerable load on the uninterrupted power supply (UPS) and HVAC units which are near capacity. Replacement of an existing tape drive by the high capacity tape drive (which has minimal power and cooling requirements) will allow the UPS and HVAC units to operate below capacity.

3. **Reduce the operational burden.** Current tape operations require up to ten hours per week. The high capacity tape drive holds twelve tapes each with 400 times the capacity of existing tapes. This will enable tape operations with minimal attendance, freeing seven to eight hours per week of the computer operator's time for other tasks.

Cost of the high capacity tape drive and associated interface card is:

	<u>Purchase Price</u>	<u>Installation</u>	<u>Maintenance</u>
Tape Drive	\$13,050	\$150	\$438
SCSI DLP	<u>\$ 5,000</u>	<u>\$100</u>	<u>\$167</u>
TOTAL	\$18,050	\$250	\$600

The purchase price and installation costs are budgeted in capital outlay. Maintenance is budget in materials & services.

This action requests the transfer of \$57,230 from existing materials and services appropriation in the Finance and Management Information department to capital outlay. An additional transfer of \$18,300 from the Support Service Fund contingency to capital outlay in the Finance and Management Information department is also requested. Maintenance costs will be funded through a line item transfer in materials & services, from Capital Lease Payments to Maintenance & Repairs Equipment.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive officer recommends adoption of Ordinance No. 92-459, for the purpose of funding upgrades and enhancements to the financial system and the purchase of a high capacity tape drive.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE AMENDING ORDINANCE)
NO. 91-390A REVISING THE FY 1991-92)
BUDGET AND APPROPRIATIONS)
SCHEDULE FOR THE PURPOSE OF)
FUNDING UPGRADES AND)
ENHANCEMENTS TO THE FINANCIAL)
SYSTEM AND THE PURCHASE OF A HIGH)
CAPACITY TAPE DRIVE)

ORDINANCE NO. 92-459

Introduced by Rena Cusma,
Executive Officer

WHEREAS, The Council of the Metropolitan Service District has reviewed and considered the need to transfer appropriations within the FY 1991-92 Budget; and

WHEREAS, The need for a transfer of appropriation has been justified; and

WHEREAS, Adequate funds exist for other identified needs; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

1. That Ordinance No. 91-390A, Exhibit B, FY 1991-92 Budget, and Exhibit C, Schedule of Appropriations, are hereby amended as shown in the column titled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring \$57,230 from the Support Service Fund Contingency and \$18,300 from the Finance and Management Information's materials & services appropriation to capital outlay in the Finance and Management Information Department to fund upgrades and enhancements to Metro's financial system and the purchase of a high capacity tape drive.

2. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Council of the Metropolitan Service District this _____ day of

_____, 1992.

Jim Gardner, Presiding Officer

ATTEST:

Clerk of the Council

EXHIBIT A
ORDINANCE NO. 92-469

ACCT #	DESCRIPTION	CURRENT		REVISION		PROPOSED	
		FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
SUPPORT SERVICE FUND: Finance & Management Information Department							
Total Personal Services		38.50	1,668,149	0.00	0	38.50	1,668,149
Materials & Services							
521100	Office Supplies		65,615		0		65,615
521110	Computer Software		18,690		0		18,690
521260	Printing Supplies		50,000		0		50,000
521291	Small Tools		840		0		840
521310	Subscriptions		3,558		0		3,558
521320	Dues		2,645		0		2,645
521540	Maintenance & Repairs Supplies-Equipment		500		0		500
524110	Accounting & Auditing Services		110,000		0		110,000
524190	Misc. Professional Services		139,400		0		139,400
524210	Data Processing Services		18,000		0		18,000
524310	Management Consulting Services		8,000		0		8,000
525640	Maintenance & Repairs Services-Equipment		135,620		4,875		140,495
525710	Equipment Rental		500		0		500
526200	Ads & Legal Notices		750		0		750
526310	Printing Services		3,735		0		3,735
526410	Telephone		1,500		0		1,500
526420	Postage		80,000		0		80,000
526440	Delivery Services		850		0		850
526500	Travel		18,360		0		18,360
526700	Temporary Help Services		4,700		0		4,700
526800	Training, Tuition, Conferences		16,720		0		16,720
526900	Misc Other Purchased Services		15,150		0		15,150
529500	Meetings		450		0		450
529800	Miscellaneous		900		0		900
525740	Capital Lease Payments-Furniture & Equipment		265,033		(62,105)		202,928
Total Materials & Services			961,516		(57,230)		904,286
Capital Outlay							
571500	Purchases-Office Furniture & Equipment		82,227		75,530		157,757
Total Capital Outlay			82,227		75,530		157,757
TOTAL FINANCE & MGMT INFOR.		38.50	2,711,892	0.00	18,300	38.50	2,730,192

EXHIBIT A
ORDINANCE NO. 92-459

ACCT #	DESCRIPTION	CURRENT		REVISION		PROPOSED	
		FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
SUPPORT SERVICE FUND							
FINANCE & MANAGEMENT INFORMATION:Information Systems							
Total Personal Services		10.30	527,250	0.00	0	10.30	527,250
Materials & Services							
521100	Office Supplies		24,896		0		24,896
521110	Computer Software		10,000		0		10,000
521291	Small Tools		840		0		840
521310	Subscriptions		2,500		0		2,500
521320	Dues		400		0		400
521540	Maintenance & Repairs Supplies-Equipment		500		0		500
524190	Misc. Professional Services		800		0		800
524210	Data Processing Services		18,000		0		18,000
524310	Management Consulting Services		8,000		0		8,000
525640	Maintenance & Repairs Services-Equipment		60,000		4,875		64,875
525710	Equipment Rental		500		0		500
526200	Ads & Legal Notices		300		0		300
526310	Printing Services		150		0		150
526410	Telephone		1,500		0		1,500
526440	Delivery Services		400		0		400
526500	Travel		11,624		0		11,624
526700	Temporary Help Services		500		0		500
526800	Training, Tuition, Conferences		8,000		0		8,000
526900	Misc Other Purchased Services		150		0		150
529500	Meetings		150		0		150
529800	Miscellaneous		500		0		500
525740	Capital Lease Payments-Furniture & Equipment		246,464		(62,105)		184,359
Total Materials & Services			396,174		(57,230)		338,944
Capital Outlay							
571500	Purchases-Office Furniture & Equipment		15,700		75,530		91,230
Total Capital Outlay			15,700		75,530		91,230
TOTAL INFORMATION SYSTEMS		10.30	939,124	0.00	18,300	10.30	957,424

EXHIBIT A
ORDINANCE NO. 92-459

ACCT #	DESCRIPTION	CURRENT		REVISION		PROPOSED	
		FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
SUPPORT SERVICE FUND:General Expenses							
Interfund Transfers							
581513	Trans. Indirect Costs to Bldg. Fund		314,646		0		314,646
581615	Trans. Indirect Costs to Insur. Fund-Gen'l		47,177		0		47,177
581615	Trans. Indirect Costs to Insur. Fund-Workers' Comp		54,245		0		54,245
Total Interfund Transfers			416,068		0		416,068
Contingency and Unappropriated Balance							
599999	Contingency						
	• General		156,395		(18,300)		138,095
	• Builders License		7,848		0		7,848
Total Contingency and Unapp. Balance			164,243		(18,300)		145,943
TOTAL SUPPORT SERVICES FUND		78.60	5,825,205	0.00	0	78.60	5,825,205

EXHIBIT B
ORDINANCE NO. 82-459
SCHEDULE OF APPROPRIATIONS

	Current Appropriation	Revision	Proposed Appropriation
SUPPORT SERVICES FUND			
Finance and Management Information			
Personal Services	1,668,149	0	1,668,149
Materials & Services	961,516	(57,230)	904,286
Capital Outlay	82,227	75,530	157,757
Subtotal	2,711,892	18,300	2,730,192
Regional Facilities			
Personal Services	450,252	0	450,252
Materials & Services	317,966	0	317,966
Capital Outlay	40,500	0	40,500
Subtotal	808,718	0	808,718
Personnel			
Personal Services	439,618	0	439,618
Materials & Services	62,310	0	62,310
Capital Outlay	1,227	0	1,227
Subtotal	503,155	0	503,155
Office of General Counsel			
Personal Services	372,714	0	372,714
Materials & Services	19,544	0	19,544
Capital Outlay	2,955	0	2,955
Subtotal	395,213	0	395,213
Public Affairs			
Personal Services	682,391	0	682,391
Materials & Services	136,040	0	136,040
Capital Outlay	7,485	0	7,485
Subtotal	825,916	0	825,916
General Expenses			
Interfund Transfers	416,068	0	416,068
Contingency	164,243	(18,300)	145,943
Subtotal	580,311	(18,300)	562,011
Total Support Services Fund Requirements	5,825,205	0	5,825,205

ALL OTHER APPROPRIATIONS REMAIN AS PREVIOUSLY ADOPTED

Meeting Date: May 28, 1992
Agenda Item No. 5.7

ORDINANCE NO. 92-458

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 92-458 AMENDING ORDINANCE NO. 91-390A REVISING THE FY 1991-92 BUDGET AND APPROPRIATIONS SCHEDULE FOR THE PURPOSE OF TRANSFERRING APPROPRIATIONS WITHIN THE OREGON CONVENTION CENTER OPERATING FUND AND SPECTATOR FACILITIES OPERATING FUND FOR INCREASED METRO ERC OPERATIONS

Date: May 14, 1992

Presented by: Dominic Buffetta

FACTUAL BACKGROUND AND ANALYSIS

This action requests adjustments to the Oregon Convention Center Operating Fund and the Spectator Facilities Operating Fund due to increased operations at the Convention Center and the Coliseum. The adjustment for each facility will be discussed separately below.

Oregon Convention Center Operating Fund

The Convention Center activities are running well over what was budgeted. The first nine months of this fiscal year has produced 357 events with 659 event days, and an attendance of over 470,000. This increase in events has generated approximately \$2.0 million more in operating revenue than was budgeted. One of the major areas of increase is in Concessions/Catering revenues, budgeted at \$1.5 million. The revenue for this line item will be closer to \$3.0 million. The additional revenue also generates additional expenditures related to concessions.

In order to cover the increase in concessions expenses due to the doubling of revenue, this action requests the reallocation of \$700,000 to the Concessions/Catering line item in the materials & services category of the Oregon Convention Center Operating Fund. This funding will be transferred from the following areas:

Personal Services	
Full-time salaries	\$120,000
Part-time salaries	80,000
Fringe (Budgeted at 38%, actual closer to 30%)	200,000
Contingency	<u>300,000</u>
TOTAL TRANSFER	\$700,000

Spectator Facilities Operating Fund (Coliseum)

The Coliseum is also experiencing increased events and attendance. Based on the many food functions that have been hosted this year, plus the projected NBA playoff games and the hosting of the Basketball of the America's tournament the last week in June and the first week in July, the Coliseum should easily gross \$1.0 million over the budgeted \$4.6 million in Concessions/Catering revenue for FY 1991-92. The increased concessions revenue, again, results in increased concessions expenditures.

In order to cover the increase in concessions expenses due to the increase of revenue, this action requests the reallocation of \$765,000 to the Concessions/Catering line item in the materials & services category of the Memorial Coliseum division of the Spectator Facilities Operating Fund. This funding will be transferred from the following areas:

Personal Services	
Fringe (Budgeted at 35%, actual closer to 26%)	\$100,000
Contingency	<u>665,000</u>
 TOTAL TRANSFER	 \$765,000

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 92-458, for the purpose of transferring appropriations within the Oregon Convention Center and Spectator Facilities Funds for increased Metro ERC Operations.

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May 14, 1992

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE AMENDING ORDINANCE)
NO. 91-390A REVISING THE FY 1991-92)
BUDGET AND APPROPRIATIONS)
SCHEDULE FOR THE PURPOSE OF)
TRANSFERRING APPROPRIATIONS)
WITHIN THE OREGON CONVENTION)
CENTER OPERATING FUND AND)
SPECTATOR FACILITIES OPERATING)
FUND FOR INCREASED METRO ERC)
OPERATIONS)

ORDINANCE NO. 92-458

Introduced by Rena Cusma,
Executive Officer

WHEREAS, The Council of the Metropolitan Service District has reviewed and considered the need to transfer appropriations within the FY 1991-92 Budget; and

WHEREAS, The need for a transfer of appropriation has been justified; and

WHEREAS, Adequate funds exist for other identified needs; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

1. That Ordinance No. 91-390A, Exhibit B, FY 1991-92 Budget, and Exhibit C, Schedule of Appropriations, are hereby amended as shown in the column titled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring appropriations within the Oregon Convention Center and Spectator Facilities Operating funds for increased Metro ERC operations.

2. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Council of the Metropolitan Service District this _____ day of _____, 1992.

Jim Gardner, Presiding Officer

ATTEST:

Clerk of the Council

EXHIBIT A
ORDINANCE NO. 82-458

ACCT #	DESCRIPTION	CURRENT		REVISION		PROPOSED	
		FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
OREGON CONVENTION CENTER OPERATING FUND							
Personal Services							
511121	SALARIES-REGULAR EMPLOYEES (full time)						
	Manager Sales/Marketing	1.00	38,528		0	1.00	38,528
	Sales Associate	1.00	30,380		0	1.00	30,380
	Convention Center Manager	1.00	65,000		0	1.00	65,000
	Event Coordinator	3.00	75,083		(10,400)	3.00	64,683
	Event Manager	1.00	34,932		0	1.00	34,932
	Maintenance Section Superintendent	1.00	38,670		0	1.00	38,670
	Electrician	1.00	33,345		0	1.00	33,345
	Operating Engineer	3.00	95,274		(8,000)	3.00	87,274
	Utility Technician	2.00	57,626		0	2.00	57,626
	Lead Engineer	1.00	33,345		0	1.00	33,345
	Sound/Audio Visual Technician	1.00	26,246		0	1.00	26,246
	Operations Supervisor	2.00	52,492		0	2.00	52,492
	Telephone System Coordinator	1.00	30,380		0	1.00	30,380
511221	WAGES-REGULAR EMPLOYEES (full time)						
	Administrative Secretary	1.00	22,761		0	1.00	22,761
	Operations Secretary	1.00	19,807		0	1.00	19,807
	Sales/Marketing Secretary	1.00	20,066		0	1.00	20,066
	Event Services Secretary	1.00	22,008		0	1.00	22,008
	Bookkeeper	1.00	20,765		0	1.00	20,765
	Clerical/Receptionist	3.00	56,828		(12,700)	3.00	44,128
	Maintenance/Utility Lead	21.00	392,422		(48,100)	21.00	344,322
	Security Watch staff	8.00	141,436		(13,200)	8.00	128,236
	Security Supervisor	1.00	22,843		(7,600)	1.00	15,243
	Utility Maintenance	2.00	40,987		0	2.00	40,987
	Utility-Grounds	3.00	60,447		(20,000)	3.00	40,447
511235	WAGES-TEMPORARY EMPLOYEES (part time)						
	Secretary/Receptionist	1.06	18,326		0	1.06	18,326
	Operations Workers	5.07	77,512		(10,000)	5.07	67,512
	Facility Security	8.11	155,524		(55,000)	8.11	100,524
	Ticket Sellers	1.06	18,759		0	1.06	18,759
	Gate Attendant	4.09	66,685		(15,000)	4.09	51,685
	Message Center Operators	1.22	17,591		0	1.22	17,591
511400	OVERTIME		48,462				48,462
512000	FRINGE		704,862		(200,000)		504,862
Total Personal Services		82.61	2,539,392	0.00	(400,000)	82.61	2,139,392

Materials & Services

521100	Office Supplies	15,800	0	15,800
521290	Other Supplies	65,100	0	65,100
521292	Small Tools	8,086	0	8,086
521310	Subscriptions	215	0	215
521320	Dues	5,360	0	5,360
521400	Fuels & Lubricants	3,500	0	3,500
524120	Legal Fees	3,000	0	3,000
524130	Promotion/Public Relations	87,987	0	87,987
524190	Misc. Professional Services	1,113,415	0	1,113,415
525110	Utilities-Electricity	384,000	0	384,000

**EXHIBIT A
ORDINANCE NO. 92-458**

ACCT #	DESCRIPTION	CURRENT		REVISION		PROPOSED	
		FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
OREGON CONVENTION CENTER OPERATING FUND (continued)							
525120	Utilities-Water and Sewer		51,000		0		51,000
525130	Utilities-Natural Gas		33,000		0		33,000
525190	Utilities-Other		40,500		0		40,500
525610	Maintenance & Repair Services-Building		63,500		0		63,500
525640	Maintenance & Repair Services-Equipment		47,500		0		47,500
525710	Equipment Rental		10,000		0		10,000
526310	Printing Services		60,700		0		60,700
526320	Typesetting and Reprographics		11,300		0		11,300
526410	Telephone		102,000		0		102,000
526420	Postage		22,220		0		22,220
526500	Travel		31,091		0		31,091
526690	Concession/Catering Contract		1,211,067		700,000		1,911,067
526691	Parking Contract		44,925		0		44,925
526700	Temporary Help Services		5,500		0		5,500
526800	Training, Tuition, Conferences		10,734		0		10,734
526910	Uniforms and Cleaning		12,500		0		12,500
529800	Miscellaneous		9,500		0		9,500
529835	External Promotion Expenses		20,200		0		20,200
Total Materials & Services			3,473,700		700,000		4,173,700
Total Capital Outlay			102,000		0		102,000
Total Interfund Transfers			753,052		0		753,052
Contingency and Unappropriated Balance							
599999	Contingency		300,000		(300,000)		0
599990	Unappropriated Balance		1,577,353		0		1,577,353
Total Contingency and Unapp. Balance			1,877,353		(300,000)		1,577,353
TOTAL EXPENDITURES		82.61	8,745,497	0.00	0	82.61	8,745,497

EXHIBIT A
ORDINANCE NO. 92-458

ACCT #	DESCRIPTION	CURRENT		REVISION		PROPOSED	
		FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
SPECTATOR FACILITIES:Memorial Coliseum							
Personal Services							
511121	SALARIES-REGULAR EMPLOYEES (full time)						
	Coliseum/Stadium Manager	0.75	42,750	0	0.75	42,750	
	Accountant	1.00	34,932	0	1.00	34,932	
	Assistant Accountant	1.00	27,461	0	1.00	27,461	
	Assistant Manager Security/Medical	1.00	33,220	0	1.00	33,220	
	Assistant Manager Admissions	1.00	30,260	0	1.00	30,260	
	Assistant Manager Ticket Services	1.00	30,535	0	1.00	30,535	
	Ticket Service Supervisor	2.00	49,862	0	2.00	49,862	
	Manager Event Services	1.00	38,528	0	1.00	38,528	
	Senior Event Coordinator	1.00	29,058	0	1.00	29,058	
	Event Coordinator	1.00	25,168	0	1.00	25,168	
	Sales Manager	1.00	42,465	0	1.00	42,465	
	Public Information Specialist	1.00	30,137	0	1.00	30,137	
	Group Sales Coordinator	1.00	21,717	0	1.00	21,717	
	Lead Engineer	1.00	33,137	0	1.00	33,137	
	Operations Engineer	4.00	122,272	0	4.00	122,272	
	Maintenance Section Superintendent	1.00	40,413	0	1.00	40,413	
	Set-Up Supervisor	2.00	58,157	0	2.00	58,157	
	Administrative Staff Assistant	1.00	22,761	0	1.00	22,761	
511221	WAGES-REGULAR EMPLOYEES (full time)						
	Bookkeeper I	2.00	40,572	0	2.00	40,572	
	Accounting Clerk	1.00	18,951	0	1.00	18,951	
	Office Assistant	1.00	21,717	0	1.00	21,717	
	Switchboard/Receptionist	2.00	40,668	0	2.00	40,668	
	General Office Clerk	1.00	18,070	0	1.00	18,070	
	Sales Associate	1.00	28,100	0	1.00	28,100	
	Customer Service Representative	1.00	20,765	0	1.00	20,765	
	Security Watch Staff	2.00	39,978	0	2.00	39,978	
	Security Secretary	1.00	21,717	0	1.00	21,717	
	Administrative Secretary	1.00	19,807	0	1.00	19,807	
	Utility/Grounds	1.00	20,488	0	1.00	20,488	
	Utility Lead	15.00	347,383	0	15.00	347,383	
	Utility Maintenance	3.00	60,966	0	3.00	60,966	
	Operations Staff Assistant	1.00	23,802	0	1.00	23,802	
511225	WAGES-REGULAR EMPLOYEES (part time)						
	Stagehand/Utility Workers	12.93	319,933	0	12.93	319,933	
	Security/Medical Workers	16.27	319,355	0	16.27	319,355	
	Ushers/Sellers/Gate Attendants	23.56	360,787	0	23.56	360,787	
	Receptionist/Secretarial	3.58	27,486	0	3.58	27,486	
	Merchandising Vendors	2.54	98,589	0	2.54	98,589	
511400	OVERTIME		55,990		0	55,990	
512000	FRINGE		923,044		(100,000)	823,044	
Total Personal Services		114.63	3,541,001	0.00	(100,000)	114.63	3,441,001

Materials & Services

521100	Office Supplies	25,000	0	25,000
521290	Other Supplies	88,909	0	88,909
521292	Small Tools	7,387	0	7,387

EXHIBIT A
ORDINANCE NO. 92-458

ACCT #	DESCRIPTION	CURRENT		REVISION		PROPOSED	
		FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
SPECTATOR FACILITIES:Memorial Coliseum (continued)							
521310	Subscriptions		2,040		0		2,040
521320	Dues		3,650		0		3,650
521400	Fuels & Lubricants		3,685		0		3,685
524120	Legal Fees		25,000		0		25,000
524130	Promotion/Public Relation Services		77,200		0		77,200
524190	Misc Professional Services		21,000		0		21,000
525110	Utilities-Electricity		275,993		0		275,993
525120	Utilities-Water and Sewer		98,284		0		98,284
525130	Utilities-Natural Gas		2,297		0		2,297
525140	Utilities-Heating Oil		67,000		0		67,000
525190	Utilities-Other		45,097		0		45,097
525610	Maintenance & Repair Services-Building		88,920		0		88,920
525640	Maintenance & Repair Services-Equipment		71,841		0		71,841
525710	Equipment Rental		34,520		0		34,520
526310	Printing Services		19,140		0		19,140
526320	Typesetting & Reprographics		7,000		0		7,000
526410	Telephone		52,903		0		52,903
526420	Postage		27,910		0		27,910
526500	Travel		37,050		0		37,050
526690	Concessions/Catering Contract		3,529,175		765,000		4,294,175
526691	Parking Contract		421,002		0		421,002
526700	Temporary Help Services		462,631		0		462,631
526800	Training, Tuition, Conferences		17,330		0		17,330
526910	Uniforms and Cleaning		36,000		0		36,000
528100	Payments to Other Agencies		2,500		0		2,500
529800	Miscellaneous		12,928		0		12,928
Total Materials & Services			5,563,392		765,000		6,328,392
Total Capital Outlay			132,400		0		132,400
TOTAL EXPENDITURES		114.63	9,236,793	0.00	665,000	114.63	9,901,793

EXHIBIT A
ORDINANCE NO. 92-458

ACCT #	DESCRIPTION	CURRENT		REVISION		PROPOSED	
		FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
SPECTATOR FACILITIES:Civic Stadium							
	Total Personal Services	22.03	607,148	0.00	0	22.03	607,148
	Total Materials & Services		1,164,464		0		1,164,464
	Total Capital Outlay		11,200		0		11,200
	TOTAL EXPENDITURES	22.03	1,782,812	0.00	0	22.03	1,782,812

SPECTATOR FACILITIES:Performing Arts Center

Total Personal Services	115.24	3,207,808	0.00	0	115.24	3,207,808
Total Materials & Services		941,400		0		941,400
Total Capital Outlay		136,150		0		136,150
TOTAL EXPENDITURES	115.24	4,285,358	0.00	0	115.24	4,285,358

SPECTATOR FACILITIES FUND:General Expense

Interfund Transfers							
581610	Trans. Indirect Costs to Support Svs. Fund	405,037	0	405,037			
581615	Trans. Indirect Cost to Insur. Fund-Gen'l	174,704	0	174,704			
581615	Trans. Indirect Cost to Insur. Fund-Workers' Comp	108,949	0	108,949			
582751	Transfer Resources to Metro ERC Management Pool	566,785	0	566,785			
583610	Transfer Direct Costs to Support Svs. Fund	58,604	0	58,604			
583615	Transfer Direct Cost to Insur. Fund-EIL	30,820	0	30,820			
Total Interfund Transfers		1,344,899	0	1,344,899			
Contingency and Unappropriated Balance							
599999	Contingency	665,000	(665,000)	0			
599990	Unappropriated Balance	1,137,591	0	1,137,591			
Total Contingency and Unapp. Balance		1,802,591	(665,000)	1,137,591			
TOTAL EXPENDITURES		251.90	18,452,453	0.00	0	251.90	18,452,453

EXHIBIT B
ORDINANCE NO. 92-458
SCHEDULE OF APPROPRIATIONS

	Current Appropriation	Revision	Proposed Appropriation
OREGON CONVENTION CENTER OPERATING FUND			
Personal Services	2,539,392	(400,000)	2,139,392
Materials & Services	3,473,700	700,000	4,173,700
Capital Outlay	102,000	0	102,000
Interfund Transfers	753,052	0	753,052
Contingency	300,000	(300,000)	0
Unappropriated Balance	1,577,353	0	1,577,353
Total Oregon Conv. Ctr. Operating Fund Requirements	8,745,497	0	8,745,497
SPECTATOR FACILITIES OPERATING FUND			
Memorial Coliseum			
Personal Services	3,541,001	(100,000)	3,441,001
Materials & Services	5,563,392	765,000	6,328,392
Capital Outlay	132,400	0	132,400
Subtotal	9,236,793	665,000	9,901,793
Civic Stadium			
Personal Services	607,148	0	607,148
Materials & Services	1,164,464	0	1,164,464
Capital Outlay	11,200	0	11,200
Subtotal	1,782,812	0	1,782,812
Performing Arts Center			
Personal Services	3,207,808	0	3,207,808
Materials & Services	941,400	0	941,400
Capital Outlay	136,150	0	136,150
Subtotal	4,285,358	0	4,285,358
General Expenses			
Interfund Transfers	1,344,899	0	1,344,899
Contingency	665,000	(665,000)	0
Subtotal	2,009,899	(665,000)	1,344,899
Unappropriated Balance	1,137,591	0	1,137,591
Total Spectator Facilities Operating Fund Requirements	18,452,453	0	18,452,453

ALL OTHER APPROPRIATIONS REMAIN AS PREVIOUSLY ADOPTED

Meeting Date: May 28, 1992
Agenda Item No. 5.8

ORDINANCE NO. 92-463



METRO

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

Memorandum

Date: May 20, 1992
To: Metro Council
From: Jim Gardner, *JG* Presiding Officer
Re: Ordinance No. 92-463

Please find attached a copy of Ordinance No. 92-463 which I have introduced at the request of Don Carlson, Council Administrator. The proposed ordinance transfers \$640 from the Miscellaneous Professional Services line item in the Materials and Services Category to the Capital Outlay Category to cover the Council Department share of the costs to establish the Metro Computer Network. As indicated in the attached memo from the Council Administrator to the Finance Office (Attachment 1) this expenditure resulted from the Council's decisions on the current year budget to create the STRAP Computer Network which has been renamed the MetNet. At the time the original budget was adopted the exact figures on the network costs and each participating departments share was not known. This amendment is necessary to avoid the Council Department from over expending its appropriation for Capital Outlay.

Ord.92-463 Staff.rpt



METRO

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

Memorandum

ATTACHMENT 1
(Proposed Ord. 92-463)

Date: May 20, 1992
To: Kathy Rutkowski, Senior Management Analyst
From: Donald E. Carlson, Council Administrator
Re: Council Share of STRAP Costs for FY 1991-92

I do recall that the Council Department is supposed to pay a certain amount of the costs for connecting to the STRAP Network. Please find attached a copy of the Council Department expenditure report for the month ending April 30, 1992. There is \$5,360 remaining in our Capital Outlay category which I recall is the place where the Council portion is to be expensed. Two questions to the person who I recall worked out the financial arrangements: 1) do I have sufficient funds in the Capital Outlay category to meet the Council portion of the cost for FY 1991-92; and 2) who is supposed to trigger the expenditure?

Your earliest response would be greatly appreciated since I may need a Budget amendment if the cost exceeds the amount remaining in the Capital Outlay category. Thanks for your help.

cc: George Van Bergen
Dick Engstrom
Jennifer Sims

Council Network.exp

MAY 15, 1992

METROPOLITAN SERVICE DISTRICT

PAGE 2

REPORT 460-300

FUND ACCOUNTING INFORMATION SYSTEM

GENERAL FUND LINE-TIME SUMMARY BY MAJOR COST CTR -04/30/92

FUND 010 GENERAL FUND
DEPARTMENT 01XXXX COUNCIL

OBJECT	TITLE	PRIOR YEAR EXPENDITURE	CURR Y-T-D BUDGET	CURR M-T-D EXPENDITURE	YTD ENCUM	CURR Y-T-D EXPENDITURE	BUDG REMAIN	% REMAIN
MAJOR OBJECT 51XXXX PERSONAL SERVICES								
511121	REGULAR EMPLOYEES - FULL TIME	179,401	225,007	15,856	0	153,423	71,583	31.81
511135	SALARIES - TEMPORARY EMPLOYEES-PART-TIME	0	0	0	0	680	680	<<<<<<
511221	WAGES - REGULAR EMPLOYEES - FULL-TIME	47,426	88,769	4,401	0	43,366	45,402	51.15
511225	WAGES - REGULAR EMPLOYEE - PART-TIME	29,815	0	5,341	0	51,536	51,536	<<<<<<
511231	WAGES - TEMPORARY EMPLOYEES - FULL-TIME	12,555	0	0	0	0	0	0.00
511235	WAGES - TEMPORARY EMPLOYEES - PART-TIME	10,965	4,176	0	0	1,724	2,451	58.71
511400	OVERTIME	3,281	0	704	0	3,423	3,423	<<<<<<
512000	EMPLOYEE ASSISTANCE PROGRAM	76,551	100,518	8,318	0	82,013	18,504	18.41
TOTAL: MAJOR OBJECT 51XXXX		359,996	418,470	34,623	0	336,168	82,301	19.67

MAJOR OBJECT 52XXXX MATERIALS AND SERVICES

521100	OFFICE SUPPLIES	5,422	6,860	275	74	4,624	2,161	31.50
521110	OFFICE SUPPLIES - COMPUTER SOFTWARE	3,145	0	104	0	95	95	<<<<<<
521310	SUBSCRIPTIONS	0	0	0	0	133	133	<<<<<<
521320	DUES	1,490	500	0	0	435	65	13.00
524110	ACCOUNTING AND AUDITING SERVICES	42,575	62,000	0	0	37,931	24,069	38.82
524190	MISC PURCHASED PROFESSIONAL SERVICES	51,816	43,000	0	0	4,999	38,000	88.37
525640	MAINTENANCE & REPAIR SERVICE - EQUIPMENT	438	1,000	0	90	307	602	60.22
525710	RENTALS - EQUIPMENT	443	500	0	0	0	500	100.00
526200	ADVERTISING AND LEGAL NOTICES	221	600	76	121	856	377	62.95
526310	PRINTING SERVICES	1,360	1,200	0	0	19	1,180	98.38
526410	COMMUNICATIONS - TELEPHONE	571	400	0	0	663	263	65.79
526420	COMMUNICATIONS - POSTAGE	1	0	0	0	0	0	0.00
526440	COMMUNICATIONS - DELIVERY SERVICES	170	200	0	0	361	161	80.75
526500	TRAVEL	8,151	11,000	0	0	3,678	7,321	66.56
526700	TEMPORARY HELP SERVICES	477	0	0	0	342	342	<<<<<<
526800	TRAINING, TUITION & CONFERENCE FEES	4,384	4,500	206	0	3,278	1,221	27.14
528100	LICENSES, PERMITS & PYMTS TO AGENCIES	7,500	7,500	0	0	8,270	770	10.27
528200	ELECTION EXPENDITURES	17,976	100,000	0	0	0	100,000	100.00
529110	COUNCIL PER DIEM	68,004	95,118	5,320	0	53,760	41,358	43.48
529120	COUNCILOR EXPENSE	20,109	29,450	634	0	11,492	17,957	60.98
529500	MEETING EXPENDITURES	11,765	9,000	2,130	102	10,327	1,430	15.89
TOTAL: MAJOR OBJECT 52XXXX		246,027	372,828	8,539	388	141,576	230,862	61.92

MAJOR OBJECT 57XXXX CAPITAL OUTLAY

571500	PURCHASED OFFICE FURNITURE & EQUIPMENT	14,655	8,000	0	0	2,640	5,360	67.00
TOTAL: MAJOR OBJECT 57XXXX		14,655	8,000	0	0	2,640	5,360	67.00
TOTAL: DEPARTMENT 01XXXX		620,680	799,298	43,162	388	480,384	318,524	39.85

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE AMENDING ORDINANCE)
NO. 91-390A REVISING THE FY 1991-92)
BUDGET AND APPROPRIATIONS)
SCHEDULE FOR THE PURPOSE OF)
TRANSFERRING APPROPRIATION WITHIN)
THE COUNCIL DEPARTMENT)

ORDINANCE NO. 92-463

Introduced by Jim Gardner,
Presiding Officer

WHEREAS, The Council of the Metropolitan Service District has reviewed and considered the need to transfer appropriations within the FY 1991-92 Budget; and

WHEREAS, The need for a transfer of appropriation has been justified; and

WHEREAS, Adequate funds exist for other identified needs; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

1. That Ordinance No. 91-390A, Exhibit B, FY 1991-92 Budget, and Exhibit C, Schedule of Appropriations, are hereby amended as shown in the column titled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring \$640 from the Council Department's materials & services appropriation to capital outlay to fund costs associated with the STRAP network project.

2. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Council of the Metropolitan Service District this _____ day of

_____, 1992.

Jim Gardner, Presiding Officer

ATTEST:

Clerk of the Council

kr:ord91-92:92-463:ord.doc
May 20, 1992

EXHIBIT A
ORDINANCE NO. 92-463

ACCT #	DESCRIPTION	CURRENT		REVISION		PROPOSED	
		FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
GENERAL FUND: Council							
Total Personal Services		9.05	418,470	0.00	0	9.05	418,470
Materials & Services							
521100	Office Supplies		6,860		0		6,860
521320	Dues		500		0		500
524110	Accounting & Auditing Services		62,000		0		62,000
524190	Misc. Professional Services		43,000		(640)		42,360
525640	Maintenance & Repairs Services-Equipment		1,000		0		1,000
525710	Equipment Rental		500		0		500
526200	Ads & Legal Notices		600		0		600
526310	Printing Services		1,200		0		1,200
526410	Telephone		400		0		400
526440	Delivery Services		200		0		200
526500	Travel		11,000		0		11,000
526800	Training, Tuition, Conferences		4,500		0		4,500
528100	License, Permits, Payments to Other Agencies		7,500		0		7,500
528200	Election Expense		100,000		0		100,000
529110	Council Per Diem		96,768		0		96,768
529120	Councilor Expenses		27,800		0		27,800
529500	Meetings		9,000		0		9,000
Total Materials & Services			372,828		(640)		372,188
Capital Outlay							
571500	Purchases-Office Furniture & Equipment		8,000		640		8,640
Total Capital Outlay			8,000		640		8,640
TOTAL EXPENDITURES		9.05	799,298	0.00	0	9.05	799,298

EXHIBIT B
ORDINANCE NO. 92-463
SCHEDULE OF APPROPRIATIONS

	Current Appropriation	Revision	Proposed Appropriation
GENERAL FUND			
Council			
Personal Services	418,470	0	418,470
Materials & Services	372,828	(640)	372,188
Capital Outlay	8,000	640	8,640
Subtotal	799,298	0	799,298
Executive Management			
Personal Services	358,020	0	358,020
Materials & Services	60,963	0	60,963
Capital Outlay	6,000	0	6,000
Subtotal	424,983	0	424,983
Office of Government Relations			
Personal Services	84,035	0	84,035
Materials & Services	165,920	0	165,920
Capital Outlay	4,000	0	4,000
Subtotal	253,955	0	253,955
Regional Facilities			
Personal Services	159,871	0	159,871
Materials & Services	23,120	0	23,120
Capital Outlay	0	0	0
Subtotal	182,991	0	182,991
General Expenses			
Interfund Transfers	2,989,170	0	2,989,170
Contingency	366,321	0	366,321
Subtotal	3,355,491	0	3,355,491
Total General Fund Requirements	5,016,718	0	5,016,718

ALL OTHER APPROPRIATIONS REMAIN AS PREVIOUSLY ADOPTED

Meeting Date: May 28, 1992
Agenda Item No. 6.1

ORDINANCE NO. 92-453

SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF ORDINANCE NO. 92-453, FOR THE PURPOSE OF GRANTING A FRANCHISE TO PEMCO, INC. FOR THE PURPOSE OF OPERATING A PETROLEUM CONTAMINATED SOIL PROCESSING FACILITY AND DECLARING AN EMERGENCY

CONSIDERATION OF ORDINANCE NO. 92-454, FOR THE PURPOSE OF GRANTING A FRANCHISE TO SONAS SOIL RESOURCE RECOVERY OF OREGON, INC. FOR THE PURPOSE OF OPERATING A PETROLEUM CONTAMINATED SOIL PROCESSING FACILITY AND DECLARING AN EMERGENCY

Date: May 20, 1992 Presented by: Councilor McFarland/Hansen

Committee Recommendation: At the May 19 meeting, the Committee voted unanimously to recommend Council adoption of Ordinances No. 92-453 and 92-454. Voting in favor: Councilors Buchanan, Hansen, McFarland, Van Bergen and Wyers.

Committee Issues/Discussion: The committee determined that since both proposed ordinances deal with similar types of franchised facilities, that they should be considered together.

Phil North, Solid Waste Staff, indicated that the purpose of the proposed ordinances is to franchise two additional facilities for processing petroleum contaminated soils (PCS). North described the Pemco facility (Ordinance No. 92-453) as a mobile facility capable of moving from one site to another. He noted that Pemco had been operating its equipment in the Portland area for some time, including prior to Metro's decision to regulate PCS facilities. The Sonas facility (Ordinance No. 92-454) is a permanent facility that will be located in the Rivergate industrial area in north Portland.

In response to staff questions, North indicated that that the two existing franchised PCS facilities had processed about 10,000 tons of material since they began operating around the first of the year. Oregon Hydrocarbons has processed about 9,000 tons and RMAC about 1,000 tons. Material processed by Oregon Hydrocarbons was either returned to the generator or used as fill material in areas not used for food production. North said he was not aware of any material being rejected for processing by either facility.

North indicated that the Hillsboro Landfill appears to average receiving about 12,000 tons of PCS every three months, though this flow is subject to seasonal fluctuations. About 40-50% of this material comes from the metropolitan area. The Columbia Ridge Landfill received about 4-5,000 tons of PCS during the last six months of 1991. The disposal charges at the Hillsboro landfill (\$52/ton) are about equal to the processing charge at existing franchised facilities (\$50/ton).

North explained that the department is examining options for

directing more PCS to processing facilities, in part because recycling PCS would be higher on the state recycling hierarchy than landfilling the material.

Michael Betts, representing Pemco, noted that the company has been in the business of processing PCS for 12 years. The company is currently operating in Oregon and Washington and is licensed to operate in Idaho. The company is currently operating under DEQ permits that are scheduled to expire on June 30, 1992. Betts indicated that the company has applied for a new permit. Betts noted that, while the Pemco processing equipment is mobile, the company has no other Portland-area jobs pending other than at the current site at BP Oil in Gresham.

Councilor Van Bergen asked how he should respond to questions from constituents about the environmental safety of Pemco's processing equipment. Betts noted that the company has always worked closely with local and state regulatory authorities and that Pemco's equipment has been subject to frequent inspection and observation by representatives of these agencies.

Van Bergen asked about the nature of the reporting requirements for the franchisees. North replied that the Metro's reporting requirements had been tailored to compliment the reporting required by the DEQ at the state level.

Councilor McFarland asked why the processed soil cannot be used for growing food. Betts indicated that DEQ prohibited such use. He noted that the heating process that removes the petroleum-based contaminants also removes other organisms and nutrients needed for the soil to serve as a growing agent. Such organisms and nutrients would have to be reintroduced into the soil for it to be used to grow food.

Councilor Wyers asked if any potentially harmful materials would remain after the soil had been processed. Betts noted that all PCS is tested for other contaminants and if any hazardous wastes are found, the material is not accepted for processing. Wyers also asked the approximate capacity of the Pemco facility. Betts indicated that it can process at least 9,000 tons every three months.

Jeff Bachrach and Jeff Ward, representing Sonas, explained that the company has one facility in Florida and is proceeding through the permitting process in three other jurisdictions.

Councilor Wyers asked how the company's services are marketed. Bachrach noted that Sonas negotiates contracts on an individual basis with clients. The company promotes the quality of its process and its product.

Lex Johnson, representing Oregon Hydrocarbons, testified in opposition to the Sonas franchise. He noted that the Sonas is located only a quarter of a mile from the Oregon Hydrocarbons. He

expressed concern that the PCS processing marketplace is not fully developed and that as long as material can be taken to the landfill, Metro should not allow additional permanent facilities to be franchised. He indicated that he did not oppose the Pemco franchise because its equipment is mobile and therefore would appeal to a different segment of the market. Johnson noted the DEQ currently restricts processors from providing above-ground cleanup services, though Oregon Hydrocarbons will be requesting such authority.

Councilor McFarland noted that locating a facility in close proximity to another similar should not be damaging. She noted that there appears to be a great deal of PCS available for processing. Johnson expressed concern that, to date, such material has not been made available to existing processors.



METRO

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

Memorandum

To: Solid Waste Committee Members

From: John Houser, Council Analyst

Date: May 12, 1992

Re: Ordinance No. 92-453, For the Purpose of Granting a Franchise to Pemco, Inc. For the Purpose of Operating a Petroleum Contaminated Soil Processing Facility and Declaring an Emergency

Ordinance No. 92-454, For the Purpose of Granting a Franchise to Sonas Soil Resource Recovery of Oregon, Inc. For the Purpose of Operating a Petroleum Contaminated Soil Processing Facility and Declaring an Emergency

Ordinances No. 92-453, and No. 92-454 are scheduled to be considered by the Committee at the May 19 meeting.

Background

Petroleum contaminated soils (PCS) are generated primarily through leakages from underground storage tanks. Recent federal legislation requires that such tanks be inspected and that when contamination is found it must be cleaned up. Currently, PCS is either landfilled or the contaminants are ventilated into the atmosphere. The Regional Solid Waste Management Plan (RSWMP) identifies PCS as a special waste and calls for the development of alternative methods of disposal to remove the material from landfills and address potential contaminants escaping into the air. New technologies have been developed that remove contaminants from PCS through various types of heating or burning processes. Following this type of processing the soil can be reused for most purposes.

Pemco and Sonas are the third and fourth entities seeking to become franchised under the provisions of Ordinance 91-422B, which establishes a procedure for franchising those proposing to operate facilities for the processing of petroleum contaminated soils.

Pemco is proposing to obtain a franchise for a facility that can be physically moved from one location to another. It appears that Pemco intends to contract with individual clients, process all available PCS from that client, and then move its equipment to another client's site. Initially the facility would be sited at BP Oil in Gresham. If the equipment is proposed to be moved to a new site, prior approval from the Council will be required. The staff report also indicates that Pemco intends to operate its equipment

throughout the western states.

Pemco has obtained the necessary permits from the city of Gresham. DEQ has given temporary oral permission (through June 30, 1992) to operate the facility at BP oil site.

Sonas intends to establish a permanent site in North Portland. Sonas has the necessary city of Portland and DEQ permits to operate its facility.

The enabling ordinances and attached franchise agreements for both facilities are virtually identical. The ordinances address the following major issues:

- 1) Metro would not collect a user fee from either facility in order to make the processing and reuse of PCS more cost-competitive with landfilling or ventilating.
- 2) Metro would not set the rates at the facilities. In the past, Metro has chosen not to set rates at franchised facilities that recycle or recover material from the wastestream, preferring to let the marketplace dictate the rates that can be charged by the facility operator. The same logic would appear appropriate for PCS processing facilities. Each ordinance provides a variance from the franchise code provision that requires that Metro set franchisee rates.
3. Metro will not place any limitations on the amount of material that may be processed at either facility or any geographic limits on where the material may originate. Metro has received two other franchise applications as well as inquiries from other interested parties. Staff believes that the marketplace will ultimately determine the economic feasibility of entering the market and that it is not necessary for Metro to restrict entry at this time.
4. Metro will require that the applicant obtain all necessary state and local environmental and land use permits. RMAC has obtained the necessary permits.
5. Metro has reviewed and approved the operational logistics of the facilities as outlined in the staff report.

The principal effect of Metro's regulation will be to require detailed recordkeeping that will allow Metro to monitor the amount and type of material processed, the final disposition of processed soil and identify the types of loads that have been rejected for processing.

Issues and Questions

In reviewing the proposed ordinances, the committee may wish to address the following issues and questions:

General

1) What is the operating status of the two existing franchises? How much material have they processed? How much material have they rejected? What is the decontaminated soil being used for?

2) What was the bonding requirement for the initial two franchisees?

3) Do we have any estimate as to how much PCS is being disposed of in landfills? Is the department examining the potential of using Metro's flow control ordinance to specifically direct this material to franchised processors?

4) Does it appear that the charges at the existing PCS processing facilities are comparable to landfill disposal charges for PCS?

Pemco

1) Has Pemco operated PCS processing facilities in any other state or jurisdiction?

2) Has Pemco applied for the necessary DEQ permits for the period beginning July 1, 1992? When will these permits be received? Will Metro permit the facility to operate pending the receipt of these permits?

3) At approximately how many different sites in the Portland area does Pemco intend to operate its equipment? How frequently will the equipment be moved?

4) Does Pemco intend to operate the equipment at the site of an individual storage tank (such as a gas station or small business)?

Sonas

1) Has Sonas operated PCS processing facilities in any other state or jurisdiction?

2) The staff report notes that the facility has a capacity of 125,000/year. What amount of material does Sonas actually anticipate processing?

**BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT**

FOR THE PURPOSE OF GRANTING	)	ORDINANCE NO. 92-453
A FRANCHISE TO PEMCO, INC. FOR THE)	
PURPOSE OF OPERATING A PETROLEUM)		INTRODUCED BY RENA CUSMA,
CONTAMINATED SOIL PROCESSING	)	EXECUTIVE OFFICER
FACILITY AND DECLARING AN)	
EMERGENCY)	

WHEREAS, Section 5.01.220 of the Code of the Metropolitan Service District requires a Metro Franchise for any person to own or operate a facility for the processing of petroleum contaminated soil by thermal destruction, distillation, bioremediation, or any combination of methods that removes soil contamination from the soil and either contains or destroys it; and,

WHEREAS, PEMCO, Inc. has applied for a non-exclusive franchise to operate a petroleum contaminated soils (PCS) processing center initially located in Gresham, Oregon; and

WHEREAS, PEMCO has submitted evidence of compliance with Metro Code Section 5.01.060 requirements for franchise applications and operational plans, except those relating to rate requests, as discussed in the attached Staff Report; and

WHEREAS, PEMCO has applied for a variance from Metro Code Section 5.01.180 with regard to setting rates; and

WHEREAS, PEMCO has met the purpose and intent of Metro Code Section 5.01.180 and has met variance criteria (2) and (3) under Metro Code Section 5.01.110 as set out in its application for a variance from rate regulation; and

WHEREAS, The Ordinance was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

1. That the Council of the Metropolitan Service District authorizes the District to enter into the attached Franchise Agreement (Exhibit A) with PEMCO within ten (10) days of the adoption of this Ordinance.
2. The variance pertaining to Metro Code Section 5.01.180 to exempt the facility from the Metro Council establishing disposal rates is granted based on the findings contained in the Staff Report submitted with this Ordinance. Further, the variance shall be reviewed by the Executive Officer within one (1) year from the date of issuance of the Franchise. If, in the opinion of the Executive Officer, the variance warrants additional review it shall be reconsidered by the Council.
3. This Ordinance being necessary for the immediate preservation of the public health, safety, and welfare, an emergency is declared to exist, and this Ordinance takes effect upon passage.

Adopted by the Council of the Metropolitan Service District this _____ day of _____, 1992.

Jim Gardner, Presiding Officer

EXHIBIT A

SOLID WASTE FRANCHISE
issued by the
METROPOLITAN SERVICE DISTRICT
2000 S.W. First Avenue
Portland, Oregon 97201-5398
(503) 221-1646

FRANCHISE NUMBER: 12

DATE ISSUED: _____

AMENDMENT DATE: _____

EXPIRATION DATE: _____

ISSUED TO: PEMCO, INC.

NAME OF FACILITY: PEMCO Mobile Soil Remediation Unit

ADDRESS: PO Box 11569, Portland, OR 97211

LEGAL DESCRIPTION: T1N, R3E, Section 30, NE 181st, 1 mile south of I-84 in
the City of Gresham

CITY, STATE, ZIP: Gresham, Oregon

NAME OF OPERATOR: PEMCO, Inc.

PERSON IN CHARGE: Richard Y. Wayper

ADDRESS: PO Box 11569

CITY, STATE, ZIP: Portland, OR 97211

TELEPHONE NUMBER: (503) 283-2151

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FRANCHISE

This Franchise is issued by the Metropolitan Service District, a municipal corporation organized under ORS chapter 268, referred to herein as "Metro," to PEMCO, Inc., referred to herein as "Franchisee."

In recognition of the promises made by Franchisee as specified herein, Metro issues this Franchise, subject to the following terms and conditions:

1. Definitions

As used in this Franchise:

- 1.1 "Code" means the Code of the Metropolitan Service District.
- 1.2 "DEQ" means the Department of Environmental Quality of the State of Oregon.
- 1.3 "Executive Officer" means the Executive Officer of the Metropolitan Service District or the Executive Officer's designee.
- 1.4 "Facility" means the facility described in section 3 of this Franchise.
- 1.5 "Petroleum Contaminated Soil (PCS)" means soil into which hydrocarbons, (hydrocarbons contaminated soil) including gasoline, diesel fuel, bunker oil or other petroleum products have been released. Soil that is contaminated with petroleum products but also contaminated with a hazardous waste as defined in ORS 466.005, or a radioactive waste as defined in ORS 469.300, is not included in the term.
- 1.6 "Processing Facility" means a place or piece of equipment where or by which solid wastes are processed. This definition does not include commercial and home garbage disposal units, which are used to process food wastes and are part of the sewage system, hospital incinerations, crematoriums, paper shredders in commercial establishments, or equipment used by a recycling drop center.

2. Term of Franchise

This Franchise is issued for a term of five years from the date signed by Metro and the Franchisee, following approval by the Metro Council, such franchise being subject to the renewal provisions under the code.

3. Location of Facility

- 3.1 The franchised Facility is located at T1N, R3E, Section 30, NE 181st, 1 mile south of I-84 in the City of Gresham.
- 3.2 The Franchisee intends to move the Facility to another location during the term of this Franchise. Sixty days prior to any such proposed move, Franchisee shall notify Metro, and provide with the notification all information necessary for Metro to evaluate the proposal. If land use approval and/or DEQ approval for the new location have been obtained, Franchisee shall submit copies of such approvals with the notice. If not, the Franchisee shall submit complete copies of the applications to be submitted for land use and DEQ approval. Council approval of the proposed new location shall be required, and additional conditions may be imposed on Franchisee if necessary relative to the new location.

4. Operator, and Owner of Facility and Property

- 4.1 The owner of the Facility is PEMCO, Inc.. Franchisee shall submit to Metro any changes in ownership of the Facility in excess of five percent of ownership, or any change in partners if a partnership, within 10 days of the change.
- 4.2 The owner of the property underlying the Facility is BP Oil Co. If Franchisee is not the owner of the underlying property, Franchisee warrants that owner has consented to Franchisee's use of the property as described in this Franchise.
- 4.3 The operator of the Facility is PEMCO, Inc. Franchisee may contract with another person or entity to operate the Facility only upon ninety (90) days prior written notice to Metro and the written approval of the Executive Officer. Franchisee shall retain primary responsibility for compliance with this Franchise.

5. Authorized and Prohibited Solid Wastes

- 5.1 Franchisee is authorized to accept loads of 100 percent Petroleum Contaminated Soil (PCS) as specified in Oregon DEQ Approval Letter dated June 28, 1991 for processing at the Facility. No other wastes shall be accepted at the Facility unless specifically authorized in writing by Metro.
- 5.2 Franchisee shall only accept loads of PCS that are tarped or in an otherwise closed container. Treated soils leaving the site must also be tarped or in an otherwise closed container.

- 5.3 All vehicles and devices transferring or transporting solid waste via public roads shall be constructed, maintained, and operated to prevent leaking, sifting, spilling, or blowing of solid waste while in transit.
- 5.4 This Franchise imposes no limitation on the amount of solid waste that may be processed each year at the Facility. Franchisee may process the amount of solid waste that the Facility is capable of processing in a manner consistent with applicable law and the terms of this Franchise.
- 5.5 Consistent with DEQ directives, Franchisee shall establish and follow procedures for determining what materials will be accepted at the Facility. The procedures must include a testing regimen sufficient to prevent hazardous or otherwise unacceptable materials from entering the Facility.

6. Minimum Monitoring and Reporting Requirements

- 6.1 Franchisee shall effectively monitor Facility operation and maintain accurate records of the following information:
 - (a) Amount and type of material processed at the Facility;
 - (b) Amount and type of material delivered to the Facility, along with the name of the individual or company attempting to deliver material, the reason the material was rejected and, if known, the destination of the material after leaving the Facility;
 - (c) The destination of all materials accepted at the Facility, upon leaving the Facility, by county and tax lot number, or by other description that clearly identifies the destination, if no tax lot number is available; and
 - (d) Descriptions of all operational irregularities, accidents, and incidents of non-compliance.
- 6.2 Records required under section 6.1 shall be reported to Metro no later than 30 days following the end of each quarter, in the format attached as Exhibit A to this Franchise, and incorporated herein by reference. The report shall be provided in both hard copy and in electronic form compatible with Metro's data processing equipment. The hard copy of the report shall be signed and certified as accurate by an authorized representative of Franchisee.
- 6.3 Franchisee shall maintain complete and accurate records of all costs, revenues, rates, and other financial information pertinent to operation of the facility. This information shall be made available to Metro on request. Confidentiality of the material shall be maintained pursuant to laws in effect at the time.

- 6.4 The Franchisee shall file an Annual Operating Report on or before each anniversary date of the Franchise, detailing the previous year operation of the Facility as outlined in this Franchise.
- 6.5 The Franchisee shall submit to Metro duplicate copies of any information submitted to the DEQ pertaining to the Facility, within 30 days of submittal to DEQ.
- 6.6 Authorized representatives of Metro shall be permitted to inspect information from which all required reports are derived during normal working hours or at other reasonable times with 24-hour notice. Metro's right to inspect shall include the right to review, at an office of Franchisee located in the Portland metropolitan area, all books, records, maps, plans, income tax returns, financial statements, and other like materials of the Franchisee that are directly related to the operation of the Franchisee.

7. Operational Requirements

- 7.1 At least one sign shall be erected at the entrance to the Facility. The sign shall be easily visible, legible, and shall contain at least the following:
 - (a) Name of Facility;
 - (b) Emergency phone number;
 - (c) Operational hours during which material will be received;
 - (d) Information about obtaining rates;
 - (e) Metro information phone number; and
 - (f) List of materials accepted at the Facility.
- 7.2 A copy of this Franchise shall be displayed where it can be readily referred to by operating personnel.
- 7.3 If a breakdown of equipment, fire, or other occurrence results in a violation of any conditions of this Franchise or of the Metro Code, the Franchisee shall:
 - (a) Take immediate action to correct the unauthorized condition or operation.
 - (b) Immediately notify Metro so that an investigation can be made to evaluate the impact and the corrective actions taken and determine additional action that must be taken.

- 7.4 If the Processing Facility is to be closed permanently or for a protracted period of time during the term of this Franchise, Franchisee shall provide Metro with written notice, at least ninety (90) days prior to closure, of the proposed time schedule and closure procedures.
- 7.5 Franchisee shall establish and follow procedures designed to give reasonable notice prior to refusing service to any person. Copies of notification and procedures for such action will be retained on file for three years by Franchisee for possible review by Metro.
- 7.6 Franchisee shall not, by act or omission, unlawfully discriminate against any person, treat unequally or prefer any user of the Processing Facility through application of fees or the operation of the Facility.
- 7.7 Franchisee shall provide a staff that is qualified to operate the Facility in compliance with this Franchise and to carry out the reporting functions required by this Franchise.

8. Annual Franchise Fees

Franchisee shall pay an annual franchise fee, as established under Metro Code Section 5.03.030. The fee shall be delivered to Metro within 30 days of the effective date of this Franchise and each year thereafter.

9. Performance Bond

Franchisee shall provide a TWENTY FIVE-THOUSAND DOLLARS and NO/100 (\$25,000.00) Corporate Surety Bond, or the equivalent pursuant to the requirements of Metro Code Section 5.01.060(b)(1) guarantying full and faithful performance by the Franchisee of the duties and obligations required by the Franchise.

10. Insurance

- 10.1 Franchisee shall purchase and maintain the following types of insurance, covering Franchisee, its employees, and agents:
- (a) Broad form comprehensive general liability insurance covering personal injury, property damage, and personal injury with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and
 - (b) Automobile bodily injury and property damage liability insurance.

- 10.2 Insurance coverage shall be a minimum of \$500,000 per occurrence, \$100,000 per person, and \$50,000 property damage. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
- 10.3 Metro, its elected officials, departments, employees, and agents shall be named as **ADDITIONAL INSURED**S. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.
- 10.4 Franchisee, its contractors, if any, and all employers working under this Franchise are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Franchisee shall provide Metro with certification of Workers' Compensation insurance including employer's liability.

11. Indemnification

Franchisee shall indemnify and hold METRO, its agents, employees, and elected officials harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with Franchisee's performance under this Franchise, including patent infringement and any claims or disputes involving subcontractors.

12. Compliance With Law

Franchisee shall fully comply with all federal, state, regional and local laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this Franchise. All conditions imposed on the operation of the Facility by federal, state or local governments or agencies having jurisdiction over the Facility are part of this Franchise by reference as if specifically set forth herein. Such conditions and permits include those attached as exhibits to this Franchise, as well as any existing at the time of issuance of this Franchise and not attached, and permits or conditions issued or modified during the term of this Franchise.

13. Metro Enforcement Authority

- 13.1 The Executive Officer may, upon sixty (60) days prior written notice, direct solid waste away from the Franchisee or limit the type of solid waste that the Franchisee may receive. Such action, or other necessary steps, may be taken to abate a nuisance arising from operation of the Facility or to carry out other public policy objectives. Upon receiving such notice, the Franchisee shall have the right to a contested case hearing pursuant to Code Chapter 2.05. A request for a hearing shall not stay action by the Executive Officer. Prior notice shall not be required if the Executive Officer finds that there is an immediate and serious danger to the public or that a health hazard or public nuisance would be created by a delay.

13.2 Authorized representatives of Metro shall be permitted access to the premises of the Facility at all reasonable times for the purpose of making inspections and carrying out other necessary functions related to this Franchise. Access to inspect is authorized:

- (a) During all working hours;
- (b) At other reasonable times with notice; and
- (c) At any time without notice when, in the opinion of the Metro Solid Waste Department Director, such notice would defeat the purpose of the entry.

13.3 The power and right to regulate, in the public interest, the exercise of the privileges granted by this Franchise shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such legal requirements against Franchisee.

14 Disposal Rates and Fees

14.1 In accordance with the variance granted by the Metro Council, the rates charged at this Facility shall be exempt from Metro rate setting. Metro reserves the right to exercise its authority to regulate rates pursuant to Metro Code Section 5.01.170, by amendment to this Franchise following reasonable notice to Franchisee and an opportunity for a hearing.

14.2 Franchisee is exempted from collecting and remitting Metro User Fees and excise tax on waste received at the Facility. Franchisee is fully responsible for paying all costs associated with disposal of residual material generated at the Facility. If Franchisee obtains authorization to dispose of residual material at a facility that has not been "Designated" by Metro, Franchisee shall remit to Metro the Tier 1 (one) User Fee on all waste disposed of at the non-designated facility.

14.3 Until such time as Metro may establish disposal rates at the Facility, the Franchisee shall adhere to the following conditions with regard to disposal rates charged at the Facility:

- (a) Franchisee may modify rates to be charged on a continuing basis as market demands may dictate. Metro shall be provided with a summary of current rates upon request.
- (b) All customers within a given disposal class shall receive equal, consistent, and nondiscriminatory treatment in the collection of fees.

15. Revocation

- 15.1** This Franchise may be revoked at any time for any violation of the conditions of this Franchise or the Metro Code. This Franchise does not relieve Franchisee from responsibility for compliance with ORS chapter 459, or other applicable federal, state or local statutes, rules, regulations, codes, ordinances, or standards.
- 15.2** This Franchise Agreement is subject to suspension, modification, revocation, or nonrenewal upon finding that:
- (a)** The Franchisee has violated the terms of this Franchise, the Metro Code, ORS chapter 459, or the rules promulgated thereunder or any other applicable law or regulation; or
 - (b)** The Franchisee has misrepresented material facts or information in the Franchise Application, Annual Operating Report, or other information required to be submitted to Metro; or
 - (c)** The Franchisee has refused to provide adequate service at the Facility, after written notification and reasonable opportunity to do so; or
 - (d)** There has been a significant change in the quantity or character of solid waste received at the Facility, the method of processing solid waste at the Facility, or available methods of processing such waste.

16. General Conditions

- 16.1** Franchisee shall be responsible for ensuring that its contractors and agents operate in complete compliance with the terms and conditions of this Franchise.
- 16.2** The granting of this Franchise shall not vest any right or privilege in the Franchisee to receive specific quantities of solid waste during the term of the Franchise.
- 16.3** This Franchise may not be transferred or assigned without the prior written approval of Metro.
- 16.4** To be effective, a waiver of any term or condition of this Franchise must be in writing, signed by the Executive Officer. Waiver of a term or condition of this Franchise shall not waive nor prejudice Metro's right otherwise to require performance of the same term or condition or any other term or condition.
- 15.5** This Franchise shall be construed, applied, and enforced in accordance with the laws of the State of Oregon.

16.6 If any provision of the Franchise shall be invalid, illegal, or unenforceable in any respect, the validity of the remaining provisions contained in this Franchise shall not be affected.

17. Notices

17.1 All notices required to be given to the Franchisee under this Franchise shall be delivered to:

Richard Y. Wayper, General Manager
PO Box 11569
Portland, OR 97211

17.2 All notices required to be given to Metro under this Franchise shall be delivered to:

Solid Waste Director
Solid Waste Department
Metropolitan Service District
2000 S.W. First Avenue
Portland, OR 97201-5398

17.3 Notices shall be in writing, effective when delivered, or if mailed, effective on the second day after mailed, postage prepaid, to the address for the party stated in this Franchise, or to such other address as a party may specify by notice to the other.

Facility Owner or
Owner's Representative

Rena Cusma, Executive Officer
Metropolitan Service District

Date: _____

Date: _____

NORTFRANCHISEPEMCO.FIN
May 3, 1992

Exhibit A

MINIMUM MONITORING AND REPORTING REQUIREMENTS

- 1 The Franchise Holder or designated Representative shall effectively monitor the processing facility operation and maintain records of the following required data. The records shall conform to the following format.

2 **Summary Sheet**

Total Tons Onsite at Beginning of Quarter	Total Tons Accepted During Quarter	Total Tons Treated During Quarter	Total Treated Tons Removed From Site During Month	Total Tons Remaining Onsite at the End of the Quarter

3 **Summary of Total Tonnage of PCS Accepted Per Site (list out-of-State after within State)**

DEQ File No.	Date(s) of First Loads Accepted	Generator Name and Address	Site of Origination	Total Tons Received During Quarter	Type of Communication

4 **Pre-Treatment Analysis of PCS Per Site (list out-of-State after within State)**

DEQ File Number(s)	Test # (attach copies of test results)

5 **Post-Treatment Analysis of PCS**

DEQ File Number(s)	Test # (attach copies of test results)

6 **Final Disposition of Treated Soils**

DEQ File Number(s)	Post-Treatment Test #	Destination of Load (County and Tax Lot #)	Date load Shipped to Destination	Total Tons Shipped to Destination During the Quarter

7 **Loads Rejected**

DEQ File Number(s)	Date of Load	Transporter Name	Weight of Load	Reason for Rejection	Destination of Rejected Load

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 92-453, FOR THE PURPOSE OF GRANTING A FRANCHISE TO PEMCO, INC. FOR PROCESSING PETROLEUM CONTAMINATED SOIL

Date: May 5, 1992

Presented By: Bob Martin
Roosevelt Carter
Phil North

FACTUAL BACKGROUND AND ANALYSIS

PEMCO, Inc. has applied for a Metro franchise to operate a facility that will process and treat soils contaminated by hydrocarbons. The primary source of materials will be from leaking underground storage tanks containing gasoline or oil. No materials classified as hazardous by federal regulations will be permitted into the facility.

The location of the present processing site is T1N, R3E, Section 30, NE 181st, 1 mile south of I-84 in the City of Gresham.

This proposed franchise differs from the RMAC International, Inc. and Oregon Hydrocarbons, Inc. franchises in that the facility will operate in a "semi-mobile" mode. The proposed franchise holder operates a portable thermal desorption unit. However, its mode of operation is to set up on a fixed site and bring soils from only client. The applicant is presently set up on a site owned by BP Oil Co. in the City of Gresham, and BP Oil possesses land use approval from the City of Gresham. BP also possesses an Oregon DEQ letter of authorization # 254 for treatment of soils by thermal desorption method on the site with authority to use the cleaned materials as clean fill on site. See description of PEMCO Mobil Soil Remediation Unit (Attachment 1). The original DEQ authorization expired on December 31, 1991, but DEQ has orally extended the authorization through June 30, 1992. Conditions of DEQ approval are contained in the letter (Attachment 2).

The unique aspect of this franchise request is that the applicant desires to move the operation to a different, "semi-permanent" site from time to time. Any site change would require Metro's approval as to the new location. In essence, the franchise will follow the operation and will be operative so long as DEQ, local land use conditions and Metro requirements are met.

The applicant is expected to process approximately 6,000 tons of soil at the current site. The anticipated service area is the greater Portland metropolitan area and surrounding region. The facility would not exclude materials that originate outside of the Metropolitan Service District, but will service only BP oil from the initial site.

Under the Metro Code , the facility would be exempt from the requirement of collecting and remitting a user fee. Also, the applicant has requested a variance from Metro rate-setting. This request is based on the nature of the facility, the need to respond rapidly to marketplace requirements and the contributions being made to Metro objective of minimizing or eliminating petroleum contaminated soils from landfills.

The Council may grant a variance in the interest of protecting the public health and welfare if the purpose and intent of the requirement (e.g., setting rates) can be achieved without strict compliance and that strict compliance:

"(1) Is inappropriate because of conditions beyond the control of the person(s) requesting the variance;; or

(2) Will be extremely burdensome or highly impractical due to special physical conditions or causes; or

(3) Would result in substantial curtailment or closing down of a business plant, or operation which furthers the objectives of the District."

Staff opinion is that the applicant's variance request is consistent with the spirit, intent and variance criteria (2) and (3) requirements. Staff recommendation is that the following findings be incorporated into the franchise if approved by the Council:

- A. Strict compliance with Metro Code provisions regarding rate-setting (Section 5.01.180) is not necessary to protect the public interest, health or welfare with respect to processors of petroleum contaminated soils.
- B. That the applicant (franchise) is performing a processing and recycling function by eliminating contaminants from soil.
- C. Soils treatment and processing facilities will be operating in a highly competitive marketplace which will require the need for rapid response to market needs.
- D. Metro does not collect user fees from processors of petroleum contaminated soils because of Metro policy to promote the processing and treatment of contaminated soil.
- E. That the objectives of the District in encouraging treatment and processing of petroleum contaminated soil at a reasonable cost to the public can be met without regulation of the applicant's rate.
- F. That regulation of rates at the applicant's facility can result in curtailment or closing down of the franchised facility to the detriment of the District's objectives to reduce or eliminate petroleum contaminated soils from landfills and to process and recycle contaminated soils.

Petroleum contaminated soil has been identified as a significant environmental and disposal problem in the District. At the present time, there are two franchised processors of these materials, but Metro has received franchise applications from four potential processors. Additional franchise applications are also expected.

The high level of interest and number of potential processors assure a competitive marketplace, and an adequate processing capacity to meet District needs. Furthermore, the substantial capital investment and required permits to commence petroleum contaminated soil processing provides assurance of the commitment of processors to remain in the marketplace.

Criteria for Approval of Franchise

Final approval of the franchise requires in summary that the Franchisee supply:

1. Proof that the applicant can and will be covered during the term of the franchise by a surety bond.
2. Proof that the applicant can obtain liability insurance, including automotive coverage.
3. If the applicant is not an individual, a list of all stockholders holding more than five percent of the stock .
4. A duplicate copy of all applications necessary for DEQ permits or other information required by DEQ.
5. Consent of the owner of the property.
6. Proof of proper land use approval.
7. Such other information as the Executive Officer deems appropriate.

With respect to bonding, the Executive Officer recommends a minimum \$25,000 bond or equivalent. The size of the recommended bond is based upon the following factors:

- a. In the event of service failure, there are or will be at least three alternative soil processors in the region, without considering the availability of landfill disposal.
- b. Nearby land uses are industrial and the material handled at the facility will include only non-hazardous petroleum contaminated soil.

Applicant has satisfied or will satisfy the balance of approval criteria prior to issuance of the franchise agreement.

QUALIFICATIONS OF APPLICANT AND COMPLIANCE WITH THE CODE

PEMCO has been a petro/chemical contractor in the Northwest since 1979, involved in remedial activities. Over the past three years, PEMCO has included soil remediation on its list of services.

The facility will be in compliance with the Regional Solid Waste Management Plan (RSWMP). Contaminated soil is classified as a "special waste" and the RSWMP calls for solutions to special waste management be developed as a component of the RSWMP. Ordinance No. 91-422B adopted by Council as an amendment to the Metro Code pertaining to contaminated soils treatment was part of the process of encouraging alternative strategies for petroleum contaminated soil.

With respect to the need for the facility, the present facility is one of the first four facilities to be considered for a Metro franchise to process contaminated soil. At the present time, it is not recommended that restrictions be placed on entry into the petroleum contaminated soil processing business provided that applicants can satisfy DEQ and other regulatory requirements, and further provided that Metro is otherwise satisfied with the applicant's qualifications. Currently, demand for processing can only be estimated. Market demand should be a sufficient regulator of economic entry and departure from the soils processing business. In the interim, undue limitations upon entry into the processing market are not recommended. Furthermore, no geographic operations limitations on soil processors is recommended at this time.

In order for this ordinance to take effect immediately upon passage, an emergency clause has been added to the Ordinance.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 92-453.

PN:gbc
staff0305.rpt

PEMCO MOBILE SOIL REMEDIATION UNIT (MSRU)

General Description:

The PEMCO Soil Remediation System is a thoroughly transportable decontamination plant permitted to treat soils tainted by petroleum products. The machine will be operated by PEMCO of Portland, Oregon at various sites around the western United States.

The MSRU (Mobile Soil Remediation Unit) is mounted on a single trailer for portability, requires an area of approximately 100' by 50', and is capable of processing up to 25 tons per hour of contaminated soil. Once on site, the MSRU requires approximately 6 hours to set up for operation; six hours is also required to breakdown for demobilization upon completion of the job. The system consists of two parts: the thermal treatment unit and a feed unit. The feed unit provides quality control by screening out erroneous debris such as plastic and large rocks and by dicing clay into small pieces. Accurate documentation of production is provided by the calibrated scales mounted onto the final feed belt. This diced, screened soil is transferred by conveyor into a diesel-fired, cylindrical rotary kiln. The soil migrates through the kiln, reaching approximately 600° F to finally be discharged in an auger system. Water is added within the auger to control fugitive dust emissions, to cool the soil and to produce a product which can be compacted.

The control of particulate matter is accomplished by a baghouse fabric filter system. The baghouse is cleaned by an air pulse method and is designed to reduce the particulate matter concentration in the discharge gas stream to below 0.04 grains per dry standard cubic foot. The particulate cleaned from the bags is discharged from the unit via the main soil discharge. The baghouse is regularly tested for integrity by "dusting" with fine fluorescent powders and inspection with ultraviolet light.

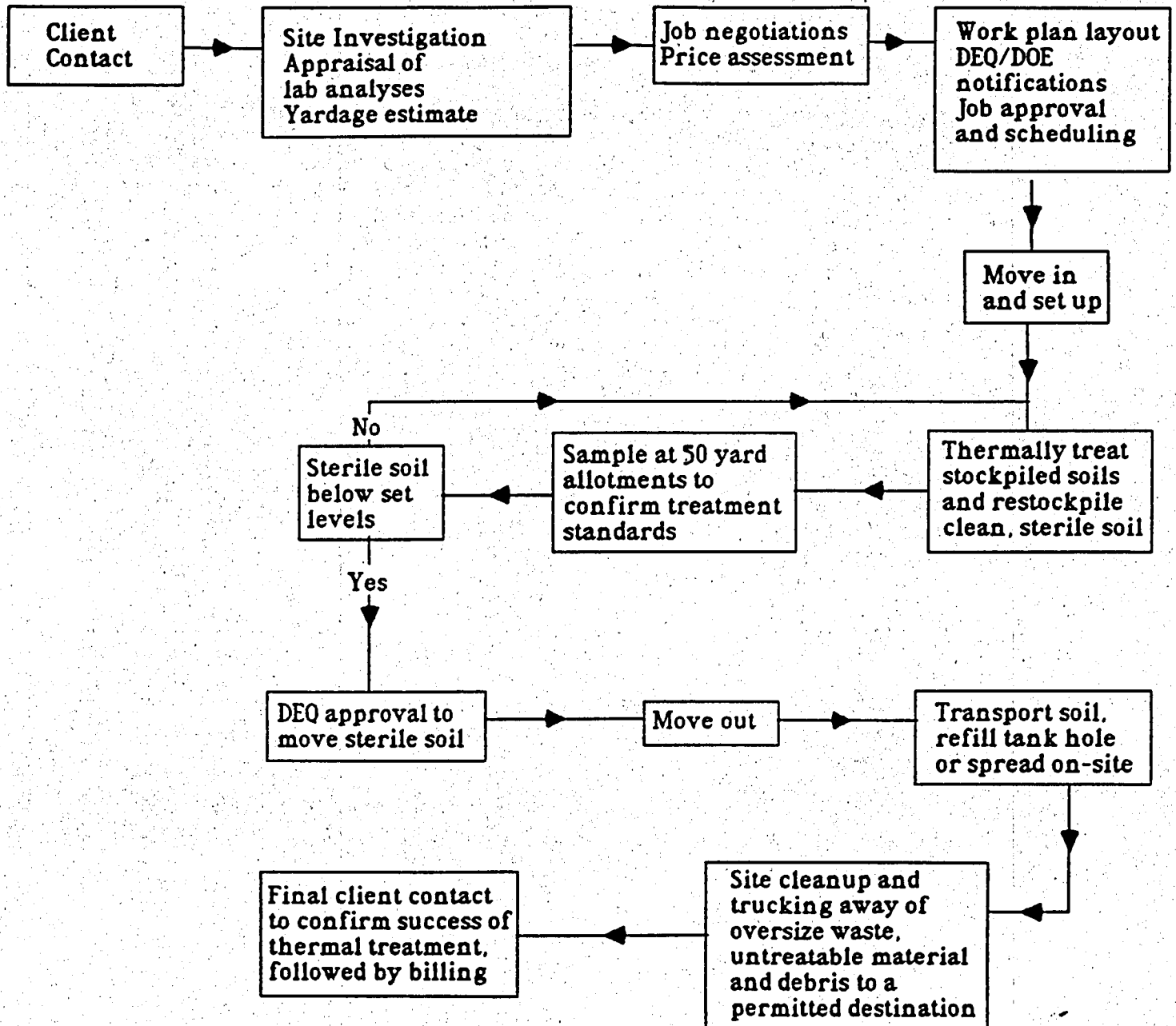
After leaving the baghouse, the gas stream enters a diesel-fired, high efficiency afterburner for the destruction of the hydrocarbons that have been stripped from the contaminated soil. The residence time in the afterburner, based on a nominal operating temperature of 1400° F, is 0.5-0.6 seconds. The afterburner is designed to provide adequate temperature, turbulence and retention time to assure a VOC destruction efficiency in the range of 96 percent.

The MSRU also contains a diesel-powered electric power plant which provides all of the electrical and hydraulic power needed by the unit. The entire process is controlled with a complex system of computer-regulated controls which assure:

- 1) The primary burner will shut down if the afterburner fails,
- 2) Continuing balance of the afterburner even after the loss of the primary burner (to assure VOC destruction),
- 3) Both burners will shut down if the baghouse is breached,
- 4) Both burners will shut down if the high temperature set-points are exceeded.

Other parameters which are monitored include soil exit temperature, baghouse inlet temperature, the afterburner exit temperature, the baghouse pressure differential and operating pressures throughout the system. Backing up the automatic controls are gauges which allow trained operators to monitor the various parameters.

Mobile Soil Remediation Unit (MSRU) Operation Flowchart



DEPARTMENT OF
ENVIRONMENTAL
QUALITY

June 28, 1991

Peter DeSantis
BP Oil Company
2868 Prospect Park Drive Suite 360
Rancho Cordova CA 95670

Re: SW - Multnomah County
BP Oil Company
Letter of Authorization
#254

Dear Mr. DeSantis :

The Department acknowledges receipt of your application, submitted by Rittenhouse-Zeman & Associates, Inc., for a Solid Waste Disposal Letter of Authorization received on June 18, 1991, for BP Oil Company. You are requesting permission to store and thermally treat petroleum contaminated soils on property owned by BP Oil Company at N.E. 181st Avenue, 1/4 mile south of Interstate-84 in Gresham, Oregon. The contaminated soils originate from underground storage tank cleanup projects occurring at BP Oil Company stations.

We are in receipt of a Land Use Compatibility Statement (LUCS) dated June 11, 1991, from the City of Gresham, that authorizes the storage and treatment of contaminated soils on BP Oil Company's property described as T1N, R3E, Section 30, NE 181st, 1/4 mile south of I-84. Your application states that the legal description of the property is "a parcel of land located in section 30, township 1 north, range 3 east of the Willamette meridian in the city of Gresham, county of Multnomah and state of Oregon, said parcel of land being a part of tract "F", Banfield Corporate Park." The LUCS states that the activity is allowed by the Comprehensive Plan, but is subject to standards in siting, design, construction and/or operation.

We have completed the review of your request and hereby approve your letter of authorization #254 subject to the following conditions:



811 SW Sixth Avenue
Portland, OR 97204-1390
(503) 229-5696

Peter DeSantis
June 28, 1991
Page 2

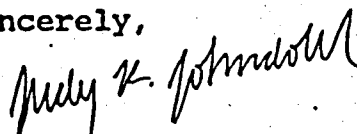
1. The total amount of petroleum contaminated soils authorized to be stored and treated on the above described property is 6000 cubic yards from BP Oil Company underground storage tank cleanup projects and site investigations which have been authorized by the Department. No other solid wastes are authorized for storage, treatment, or disposal at this site.
2. The processed soils must be used as fill material on the above described property and must be treated to the matrix cleanup standard as stated in OAR 340-122-335(2); such soils must be placed above the high groundwater level and out of human contact or possible exposure.
3. The site shall be operated in a manner which avoids to the maximum extent practicable, leachate production. Leachate shall be collected, evaporated or otherwise treated and controlled in a manner so as to prevent malodors, public health hazards, and escapement to public waters in violation of any applicable state or federal water quality rules or regulations.
4. The site shall be operated so as to prevent any adverse impacts on surface water or groundwater. Surface water runoff and run-on shall be controlled within the treatment area.
5. The permittee shall not allow the release of any substance from the storage and treatment site into groundwater which will result in a violation of any applicable federal or state groundwater or drinking water rules.
6. Dust, malodors, and noise shall be controlled so as to comply with the Department's rules pertaining to air pollution and noise control.
7. This Letter of Authorization is valid only for the thermal treatment of contaminated soils using the PEMCO Mobile Soil Remediation Unit. All soil treatment, monitoring, and sampling shall be accomplished in compliance with the Air Contaminant Discharge Permit No. 37-0426 issued to PEMCO, Inc. for operation of this unit, and the Underground Storage Tank Cleanup Rules (OAR 340-122-205 to 360).

Peter DeSantis
June 28, 1991
Page 3

8. This Letter of Authorization will expire on January 1, 1992, and it is the Department's intent that it will not be renewed after January 1, 1992. However, this authorization may be revoked without prior notice if the permittee fails to comply with any of the conditions outlined in this letter of authorization.

If you have any questions, please contact me at 229-6182.

Sincerely,



Judy K. Johndohl
Environmental Specialist
Northwest Region

cc: SW Permits and Compliance Section, DEQ
Loren Garner, NWR, DEQ
UST Cleanup Section, ECD, DEQ
Chuck Esler, Rittenhouse-Zeman & Associates, Inc.
Leslie Ann Hauer, City of Gresham

Meeting Date: May 28, 1992
Agenda Item No. 6.2

ORDINANCE NO. 92-454

SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF ORDINANCE NO. 92-453, FOR THE PURPOSE OF GRANTING A FRANCHISE TO PEMCO, INC. FOR THE PURPOSE OF OPERATING A PETROLEUM CONTAMINATED SOIL PROCESSING FACILITY AND DECLARING AN EMERGENCY

CONSIDERATION OF ORDINANCE NO. 92-454, FOR THE PURPOSE OF GRANTING A FRANCHISE TO SONAS SOIL RESOURCE RECOVERY OF OREGON, INC. FOR THE PURPOSE OF OPERATING A PETROLEUM CONTAMINATED SOIL PROCESSING FACILITY AND DECLARING AN EMERGENCY

Date: May 20, 1992 Presented by: Councilor McFarland/Hansen

Committee Recommendation: At the May 19 meeting, the Committee voted unanimously to recommend Council adoption of Ordinances No. 92-453 and 92-454. Voting in favor: Councilors Buchanan, Hansen, McFarland, Van Bergen and Wyers.

Committee Issues/Discussion: The committee determined that since both proposed ordinances deal with similar types of franchised facilities, that they should be considered together.

Phil North, Solid Waste Staff, indicated that the purpose of the proposed ordinances is to franchise two additional facilities for processing petroleum contaminated soils (PCS). North described the Pemco facility (Ordinance No. 92-453) as a mobile facility capable of moving from one site to another. He noted that Pemco had been operating its equipment in the Portland area for some time, including prior to Metro's decision to regulate PCS facilities. The Sonas facility (Ordinance No. 92-454) is a permanent facility that will be located in the Rivergate industrial area in north Portland.

In response to staff questions, North indicated that that the two existing franchised PCS facilities had processed about 10,000 tons of material since they began operating around the first of the year. Oregon Hydrocarbons has processed about 9,000 tons and RMAC about 1,000 tons. Material processed by Oregon Hydrocarbons was either returned to the generator or used as fill material in areas not used for food production. North said he was not aware of any material being rejected for processing by either facility.

North indicated that the Hillsboro Landfill appears to average receiving about 12,000 tons of PCS every three months, though this flow is subject to seasonal fluctuations. About 40-50% of this material comes from the metropolitan area. The Columbia Ridge Landfill received about 4-5,000 tons of PCS during the last six months of 1991. The disposal charges at the Hillsboro landfill (\$52/ton) are about equal to the processing charge at existing franchised facilities (\$50/ton).

North explained that the department is examining options for

directing more PCS to processing facilities, in part because recycling PCS would be higher on the state recycling hierarchy than landfilling the material.

Michael Betts, representing Pemco, noted that the company has been in the business of processing PCS for 12 years. The company is currently operating in Oregon and Washington and is licensed to operate in Idaho. The company is currently operating under DEQ permits that are scheduled to expire on June 30, 1992. Betts indicated that the company has applied for a new permit. Betts noted that, while the Pemco processing equipment is mobile, the company has no other Portland-area jobs pending other than at the current site at BP Oil in Gresham.

Councilor Van Bergen asked how he should respond to questions from constituents about the environmental safety of Pemco's processing equipment. Betts noted that the company has always worked closely with local and state regulatory authorities and that Pemco's equipment has been subject to frequent inspection and observation by representatives of these agencies.

Van Bergen asked about the nature of the reporting requirements for the franchisees. North replied that the Metro's reporting requirements had been tailored to compliment the reporting required by the DEQ at the state level.

Councilor McFarland asked why the processed soil cannot be used for growing food. Betts indicated that DEQ prohibited such use. He noted that the heating process that removes the petroleum-based contaminants also removes other organisms and nutrients needed for the soil to serve as a growing agent. Such organisms and nutrients would have to be reintroduced into the soil for it to be used to grow food.

Councilor Wyers asked if any potentially harmful materials would remain after the soil had been processed. Betts noted that all PCS is tested for other contaminants and if any hazardous wastes are found, the material is not accepted for processing. Wyers also asked the approximate capacity of the Pemco facility. Betts indicated that it can process at least 9,000 tons every three months.

Jeff Bachrach and Jeff Ward, representing Sonas, explained that the company has one facility in Florida and is proceeding through the permitting process in three other jurisdictions.

Councilor Wyers asked how the company's services are marketed. Bachrach noted that Sonas negotiates contracts on an individual basis with clients. The company promotes the quality of its process and its product.

Lex Johnson, representing Oregon Hydrocarbons, testified in opposition to the Sonas franchise. He noted that the Sonas is located only a quarter of a mile from the Oregon Hydrocarbons. He

expressed concern that the PCS processing marketplace is not fully developed and that as long as material can be taken to the landfill, Metro should not allow additional permanent facilities to be franchised. He indicated that he did not oppose the Pemco franchise because its equipment is mobile and therefore would appeal to a different segment of the market. Johnson noted the DEQ currently restricts processors from providing above-ground cleanup services, though Oregon Hydrocarbons will be requesting such authority.

Councilor McFarland noted that locating a facility in close proximity to another similar should not be damaging. She noted that there appears to be a great deal of PCS available for processing. Johnson expressed concern that, to date, such material has not been made available to existing processors.



METRO

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

Memorandum

To: Solid Waste Committee Members

From: John Houser, Council Analyst

Date: May 12, 1992

Re: Ordinance No. 92-453, For the Purpose of Granting a Franchise to Pemco, Inc. For the Purpose of Operating a Petroleum Contaminated Soil Processing Facility and Declaring an Emergency

Ordinance No. 92-454, For the Purpose of Granting a Franchise to Sonas Soil Resource Recovery of Oregon, Inc. For the Purpose of Operating a Petroleum Contaminated Soil Processing Facility and Declaring an Emergency

Ordinances No. 92-453, and No. 92-454 are scheduled to be considered by the Committee at the May 19 meeting.

Background

Petroleum contaminated soils (PCS) are generated primarily through leakages from underground storage tanks. Recent federal legislation requires that such tanks be inspected and that when contamination is found it must be cleaned up. Currently, PCS is either landfilled or the contaminants are ventilated into the atmosphere. The Regional Solid Waste Management Plan (RSWMP) identifies PCS as a special waste and calls for the development of alternative methods of disposal to remove the material from landfills and address potential contaminants escaping into the air. New technologies have been developed that remove contaminants from PCS through various types of heating or burning processes. Following this type of processing the soil can be reused for most purposes.

Pemco and Sonas are the third and fourth entities seeking to become franchised under the provisions of Ordinance 91-422B, which establishes a procedure for franchising those proposing to operate facilities for the processing of petroleum contaminated soils.

Pemco is proposing to obtain a franchise for a facility that can be physically moved from one location to another. It appears that Pemco intends to contract with individual clients, process all available PCS from that client, and then move its equipment to another client's site. Initially the facility would be sited at BP Oil in Gresham. If the equipment is proposed to be moved to a new site, prior approval from the Council will be required. The staff report also indicates that Pemco intends to operate its equipment

throughout the western states.

Pemco has obtained the necessary permits from the city of Gresham. DEQ has given temporary oral permission (through June 30, 1992) to operate the facility at BP oil site.

Sonas intends to establish a permanent site in North Portland. Sonas has the necessary city of Portland and DEQ permits to operate its facility.

The enabling ordinances and attached franchise agreements for both facilities are virtually identical. The ordinances address the following major issues:

- 1) Metro would not collect a user fee from either facility in order to make the processing and reuse of PCS more cost-competitive with landfilling or ventilating.

- 2) Metro would not set the rates at the facilities. In the past, Metro has chosen not to set rates at franchised facilities that recycle or recover material from the wastestream, preferring to let the marketplace dictate the rates that can be charged by the facility operator. The same logic would appear appropriate for PCS processing facilities. Each ordinance provides a variance from the franchise code provision that requires that Metro set franchisee rates.

3. Metro will not place any limitations on the amount of material that may be processed at either facility or any geographic limits on where the material may originate. Metro has received two other franchise applications as well as inquiries from other interested parties. Staff believes that the marketplace will ultimately determine the economic feasibility of entering the market and that it is not necessary for Metro to restrict entry at this time.

4. Metro will require that the applicant obtain all necessary state and local environmental and land use permits. RMAC has obtained the necessary permits.

5. Metro has reviewed and approved the operational logistics of the facilities as outlined in the staff report.

The principal effect of Metro's regulation will be to require detailed recordkeeping that will allow Metro to monitor the amount and type of material processed, the final disposition of processed soil and identify the types of loads that have been rejected for processing.

Issues and Questions

In reviewing the proposed ordinances, the committee may wish to address the following issues and questions:

General

- 1) What is the operating status of the two existing franchises? How much material have they processed? How much material have they rejected? What is the decontaminated soil being used for?
- 2) What was the bonding requirement for the initial two franchisees?
- 3) Do we have any estimate as to how much PCS is being disposed of in landfills? Is the department examining the potential of using Metro's flow control ordinance to specifically direct this material to franchised processors?
- 4) Does it appear that the charges at the existing PCS processing facilities are comparable to landfill disposal charges for PCS?

Pemco

- 1) Has Pemco operated PCS processing facilities in any other state or jurisdiction?
- 2) Has Pemco applied for the necessary DEQ permits for the period beginning July 1, 1992? When will these permits be received? Will Metro permit the facility to operate pending the receipt of these permits?
- 3) At approximately how many different sites in the Portland area does Pemco intend to operate its equipment? How frequently will the equipment be moved?
- 4) Does Pemco intend to operate the equipment at the site of an individual storage tank (such as a gas station or small business)?

Sonas

- 1) Has Sonas operated PCS processing facilities in any other state or jurisdiction?
- 2) The staff report notes that the facility has a capacity of 125,000/year. What amount of material does Sonas actually anticipate processing?

**BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT**

FOR THE PURPOSE OF GRANTING	)	ORDINANCE NO. 92-454
A FRANCHISE TO SONAS SOIL)	
RESOURCE RECOVERY OF	)	INTRODUCED BY RENA CUSMA,
OREGON, INC. FOR THE PURPOSE	)	EXECUTIVE OFFICER
OF OPERATING A PETROLEUM)	
CONTAMINATED SOIL PROCESSING)	
FACILITY AND DECLARING AN)	
EMERGENCY)	

WHEREAS, Section 5.01.220 of the Code of the Metropolitan Service District requires a Metro Franchise for any person to own or operate a facility for the processing of petroleum contaminated soil by thermal destruction, distillation, bioremediation, or any combination of methods that removes soil contamination from the soil and either contains or destroys it; and,

WHEREAS, Sonas Environmental Systems of Oregon, Inc. (SONAS) has applied for a non-exclusive franchise to operate a petroleum contaminated soils (PCS) processing center at Portland, Oregon; and

WHEREAS, SONAS has submitted evidence of compliance with Metro Code Section 5.01.060 requirements for franchise applications and operational plans, except those relating to rate requests, as discussed in the attached Staff Report; and

WHEREAS, SONAS has applied for a variance from Metro Code Section 5.01.180 with regard to setting rates; and

WHEREAS, SONAS has met the purpose and intent of Metro Code Section 5.01.180 and has met variance criteria (2) and (3) under Metro Code Section 5.01.110 as set out in its application for a variance from rate regulation; and

WHEREAS, The Ordinance was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

1. That the Council of the Metropolitan Service District authorizes the District to enter into the attached Franchise Agreement (Exhibit A) with SONAS within ten (10) days of the adoption of this Ordinance.
2. The variance pertaining to Metro Code Section 5.01.180 to exempt the facility from the Metro Council establishing disposal rates is granted based on the findings contained in the Staff Report submitted with this Ordinance. Further, the variance shall be reviewed by the Executive Officer within one (1) year from the date of issuance of the Franchise. If, in the opinion of the Executive Officer, the variance warrants additional review it shall be reconsidered by the Council.
3. This Ordinance being necessary for the immediate preservation of the public health, safety, and welfare, an emergency is declared to exist, and this Ordinance takes effect upon passage.

Adopted by the Council of the Metropolitan Service District this _____ day of _____, 1992.

Jim Gardner, Presiding Officer

EXHIBIT A

SOLID WASTE FRANCHISE
issued by the
METROPOLITAN SERVICE DISTRICT
2000 S.W. First Avenue
Portland, Oregon 97201-5398
(503) 221-1646

FRANCHISE NUMBER: 13

DATE ISSUED: _____

AMENDMENT DATE: _____

EXPIRATION DATE: _____

ISSUED TO: SONAS SOIL RESOURCE RECOVERY OF OREGON, INC.

NAME OF FACILITY: []

ADDRESS: N. Burgard at N. Metra Way

LEGAL DESCRIPTION: Tax Lot 55, Section 35, T2N R1W

CITY, STATE, ZIP: _____

NAME OF OPERATOR: SONAS Soil Resource Recovery of Oregon, Inc.

PERSON IN CHARGE: Scott Ewbank

ADDRESS: []

CITY, STATE, ZIP: []

TELEPHONE NUMBER: []

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FRANCHISE

This Franchise is issued by the Metropolitan Service District, a municipal corporation organized under ORS chapter 268, referred to herein as "Metro," to SONAS Environmental Systems of Oregon, Inc., referred to herein as "Franchisee."

In recognition of the promises made by Franchisee as specified herein, Metro issues this Franchise, subject to the following terms and conditions:

1. Definitions

As used in this Franchise:

- 1.1 "Code" means the Code of the Metropolitan Service District.
- 1.2 "DEQ" means the Department of Environmental Quality of the State of Oregon.
- 1.3 "Executive Officer" means the Executive Officer of the Metropolitan Service District or the Executive Officer's designee.
- 1.4 "Facility" means the facility described in section 3 of this Franchise.
- 1.5 "Petroleum Contaminated Soil (PCS)" means soil into which hydrocarbons, (hydrocarbon contaminated soil) including gasoline, diesel fuel, bunker oil or other petroleum products have been released. Soil that is contaminated with petroleum products but also contaminated with a hazardous waste as defined in ORS 466.005, or a radioactive waste as defined in ORS 469.300, is not included in the term.
- 1.6 "Processing Facility" means a place or piece of equipment where or by which solid wastes are processed. This definition does not include commercial and home garbage disposal units, which are used to process food wastes and are part of the sewage system, hospital incinerations, crematoriums, paper shredders in commercial establishments, or equipment used by a recycling drop center.

2. Term of Franchise

This Franchise is issued for a term of five years from the date signed by Metro and the Franchisee, following approval by the Metro Council, such franchise being subject to the renewal provisions under the Code.

3. Location of Facility

The franchised Facility is located at Tax Lot 55, Section 35, T2N R1W

4. Operator, and Owner of Facility and Property

- 4.1 The owner of the Facility is SONAS Soil Resource Recovery of Oregon, Inc.. Franchisee shall submit to Metro any changes in ownership of the Facility in excess of five percent of ownership, or any change in partners if a partnership, within 10 days of the change.
- 4.2 The owner of the property underlying the Facility is Schnitzer Investment Corp. If Franchisee is not the owner of the underlying property, Franchisee warrants that owner has consented to Franchisee's use of the property as described in this Franchise.
- 4.3 The operator of the Facility is SONAS Companies. Franchisee may contract with another person or entity to operate the Facility only upon ninety (90) days prior written notice to Metro and the written approval of the Executive Officer. Franchisee shall retain primary responsibility for compliance with this Franchise.

5. Authorized and Prohibited Solid Wastes

- 5.1 Franchisee is authorized to accept loads of 100 percent Petroleum Contaminated Soil (PCS) as specified in DEQ Solid Waste Disposal Permit No. _____ for processing at the Facility. No other wastes shall be accepted at the Facility unless specifically authorized in writing by Metro.
- 5.2 Franchisee shall only accept loads of PCS that are tarped or in an otherwise closed case. Treated soils leaving the site must also be tarped or in an otherwise closed container.
- 5.3 All vehicles and devices transferring or transporting solid waste via public roads shall be constructed, maintained, and operated to prevent leaking, sifting, spilling, or blowing of solid waste while in transit.
- 5.4 This Franchise imposes no limitation on the amount of solid waste that may be processed each year at the Facility. Franchisee may process the amount of solid waste that the Facility is capable of processing in a manner consistent with applicable law and the terms of this Franchise.

- 5.5 Consistent with DEQ directives, Franchisee shall establish and follow procedures for determining what materials will be accepted at the Facility. The procedures must include a testing regimen sufficient to prevent hazardous or otherwise unacceptable materials from entering the Facility.

6. Minimum Monitoring and Reporting Requirements

- 6.1 Franchisee shall effectively monitor Facility operation and maintain accurate records of the following information:
- (a) Amount and type of material processed at the Facility;
 - (b) Amount and type of material delivered to the Facility, along with the name of the individual or company attempting to deliver material, the reason the material was rejected and, if known, the destination of the material after leaving the Facility;
 - (c) The destination of all materials accepted at the Facility, upon leaving the Facility, by county and tax lot number, or by other description that clearly identifies the destination, if no tax lot number is available; and
 - (d) Descriptions of all operational irregularities, accidents, and incidents of non-compliance.
- 6.2 Records required under section 6.1 shall be reported to Metro no later than 30 days following the end of each quarter, in the format attached as Exhibit A to this Franchise, and incorporated herein by reference. The report shall be provided in both hard copy and in electronic form compatible with Metro's data processing equipment. The hard copy of the report shall be signed and certified as accurate by an authorized representative of Franchisee.
- 6.3 Franchisee shall maintain complete and accurate records of all costs, revenues, rates, and other financial information pertinent to operation of the facility. This information shall be made available to Metro on request. Confidentiality of the material shall be maintained pursuant to laws in effect at the time.
- 6.4 The Franchisee shall file an Annual Operating Report on or before each anniversary date of the Franchise, detailing the previous year operation of the Facility as outlined in this Franchise.
- 6.5 The Franchisee shall submit to Metro duplicate copies of any information submitted to the DEQ pertaining to the Facility, within 30 days of submittal to DEQ.

- 6.6 Authorized representatives of Metro shall be permitted to inspect information from which all required reports are derived during normal working hours or at other reasonable times with 24-hour notice. Metro's right to inspect shall include the right to review, at an office of Franchisee located in the Portland metropolitan area, all books, records, maps, plans, income tax returns, financial statements, and other like materials of the Franchisee that are directly related to the operation of the Franchisee.

7. Operational Requirements

- 7.1 At least one sign shall be erected at the entrance to the Facility. The sign shall be easily visible, legible, and shall contain at least the following:
- (a) Name of Facility;
 - (b) Emergency phone number;
 - (c) Operational hours during which material will be received;
 - (d) Information about obtaining rates;
 - (e) Metro information phone number; and
 - (f) List of materials accepted at the Facility.
- 7.2 A copy of this Franchise shall be displayed where it can be readily referred to by operating personnel.
- 7.3 If a breakdown of equipment, fire, or other occurrence results in a violation of any conditions of this Franchise or of the Metro Code, the Franchisee shall:
- (a) Take immediate action to correct the unauthorized condition or operation.
 - (b) Immediately notify Metro so that an investigation can be made to evaluate the impact and the corrective actions taken and determine additional action that must be taken.
- 7.4 If the Processing Facility is to be closed permanently or for a protracted period of time during the term of this Franchise, Franchisee shall provide Metro with written notice, at least ninety (90) days prior to closure, of the proposed time schedule and closure procedures.

- 7.5 Franchisee shall establish and follow procedures designed to give reasonable notice prior to refusing service to any person. Copies of notification and procedures for such action will be retained on file for three years by Franchisee for possible review by Metro.
- 7.6 Franchisee shall not, by act or omission, unlawfully discriminate against any person, treat unequally or prefer any user of the Processing Facility through application of fees or the operation of the Facility.
- 7.7 Franchisee shall provide a staff that is qualified to operate the Facility in compliance with this Franchise and to carry out the reporting functions required by this Franchise.

8. Annual Franchise Fees

Franchisee shall pay an annual franchise fee, as established under Metro Code Section 5.03.030. The fee shall be delivered to Metro within 30 days of the effective date of this Franchise and each year thereafter.

9. Performance Bond

Franchisee shall provide a TWENTY FIVE-THOUSAND DOLLARS and NO/100 (\$25,000.00) Corporate Surety Bond, or the equivalent pursuant to the requirements of Metro Code Section 5.01.060(b)(1) guarantying full and faithful performance by the Franchisee of the duties and obligations required by the Franchise.

10. Insurance

- 10.1 Franchisee shall purchase and maintain the following types of insurance, covering Franchisee, its employees, and agents:

- (a) Broad form comprehensive general liability insurance covering personal injury, property damage, and personal injury with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and
- (b) Automobile bodily injury and property damage liability insurance.

- 10.2 Insurance coverage shall be a minimum of \$500,000 per occurrence, \$100,000 per person, and \$50,000 property damage. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.

- 10.3 Metro, its elected officials, departments, employees, and agents shall be named as **ADDITIONAL INSURED**S. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.
- 10.4 Franchisee, its contractors, if any, and all employers working under this Franchise are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Franchisee shall provide Metro with certification of Workers' Compensation insurance including employer's liability.

11. Indemnification

Franchisee shall indemnify and hold METRO, its agents, employees, and elected officials harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with Franchisee's performance under this Franchise, including patent infringement and any claims or disputes involving subcontractors.

12. Compliance With Law

Franchisee shall fully comply with all federal, state, regional and local laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this Franchise. All conditions imposed on the operation of the Facility by federal, state or local governments or agencies having jurisdiction over the Facility are part of this Franchise by reference as if specifically set forth herein. Such conditions and permits include those attached as exhibits to this Franchise, as well as any existing at the time of issuance of this Franchise and not attached, and permits or conditions issued or modified during the term of this Franchise.

13. Metro Enforcement Authority

- 13.1 The Executive Officer may, upon sixty (60) days prior written notice, direct solid waste away from the Franchisee or limit the type of solid waste that the Franchisee may receive. Such action, or other necessary steps, may be taken to abate a nuisance arising from operation of the Facility or to carry out other public policy objectives. Upon receiving such notice, the Franchisee shall have the right to a contested case hearing pursuant to Code Chapter 2.05. A request for a hearing shall not stay action by the Executive Officer. Prior notice shall not be required if the Executive Officer finds that there is an immediate and serious danger to the public or that a health hazard or public nuisance would be created by a delay.
- 13.2 Authorized representatives of Metro shall be permitted access to the premises of the Facility at all reasonable times for the purpose of making inspections and

carrying out other necessary functions related to this Franchise. Access to inspect is authorized:

- (a) During all working hours;
- (b) At other reasonable times with notice; and
- (c) At any time without notice when, in the opinion of the Metro Solid Waste Department Director, such notice would defeat the purpose of the entry.

13.3 The power and right to regulate, in the public interest, the exercise of the privileges granted by this Franchise shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such legal requirements against Franchisee.

14. Disposal Rates and Fees

14.1 In accordance with the variance granted by the Metro Council, the rates charged at this Facility shall be exempt from Metro rate setting. Metro reserves the right to exercise its authority to regulate rates pursuant to Metro Code Section 5.01.170, by amendment to this Franchise following reasonable notice to Franchisee and an opportunity for a hearing.

14.2 Franchisee is exempted from collecting and remitting Metro User Fees and excise tax on waste received at the Facility. Franchisee is fully responsible for paying all costs associated with disposal of residual material generated at the Facility. If Franchisee obtains authorization to dispose of residual material at a facility that has not been "Designated" by Metro, Franchisee shall remit to Metro the Tier 1 (one) User Fee on all waste disposed of at the non-designated facility.

14.3 Until such time as Metro may establish disposal rates at the Facility, the Franchisee shall adhere to the following conditions with regard to disposal rates charged at the Facility:

- (a) Franchisee may modify rates to be charged on a continuing basis as market demands may dictate. Metro shall be provided with a summary of current rates upon request.
- (b) All customers within a given disposal class shall receive equal, consistent, and nondiscriminatory treatment in the collection of fees.

15. Revocation

- 15.1 This Franchise may be revoked at any time for any violation of the conditions of this Franchise or the Metro Code. This Franchise does not relieve Franchisee from responsibility for compliance with ORS chapter 459, or other applicable federal, state or local statutes, rules, regulations, codes, ordinances, or standards.
- 15.2 This Franchise Agreement is subject to suspension, modification, revocation, or nonrenewal upon finding that:
- (a) The Franchisee has violated the terms of this Franchise, the Metro Code, ORS chapter 459, or the rules promulgated thereunder or any other applicable law or regulation; or
 - (b) The Franchisee has misrepresented material facts or information in the Franchise Application, Annual Operating Report, or other information required to be submitted to Metro; or
 - (c) The Franchisee has refused to provide adequate service at the Facility, after written notification and reasonable opportunity to do so; or
 - (d) There has been a significant change in the quantity or character of solid waste received at the Facility, the method of processing solid waste at the Facility, or available methods of processing such waste.

16. General Conditions

- 16.1 Franchisee shall be responsible for ensuring that its contractors and agents operate in complete compliance with the terms and conditions of this Franchise.
- 16.2 The granting of this Franchise shall not vest any right or privilege in the Franchisee to receive specific quantities of solid waste during the term of the Franchise.
- 16.3 This Franchise may not be transferred or assigned without the prior written approval of Metro.
- 16.4 To be effective, a waiver of any term or condition of this Franchise must be in writing, signed by the Executive Officer. Waiver of a term or condition of this Franchise shall not waive nor prejudice Metro's right otherwise to require performance of the same term or condition or any other term or condition.
- 16.5 This Franchise shall be construed, applied, and enforced in accordance with the laws of the State of Oregon.

- 16.6 If any provision of the Franchise shall be invalid, illegal, or unenforceable in any respect, the validity of the remaining provisions contained in this Franchise shall not be affected.

17. Notices

- 17.1 All notices required to be given to the Franchisee under this Franchise shall be delivered to:

Scott Ewbank, General Manager
SONAS Corporation
c/o Harold Gaisford
65 Valley Stream Parkway
Great Valley Corporate Center Suite 110
Malvern, PA 19355

- 17.2 All notices required to be given to Metro under this Franchise shall be delivered to:

Solid Waste Director
Solid Waste Department
Metropolitan Service District
2000 S.W. First Avenue
Portland, OR 97201-5398

- 17.3 Notices shall be in writing, effective when delivered, or if mailed, effective on the second day after mailed, postage prepaid, to the address for the party stated in this Franchise, or to such other address as a party may specify by notice to the other.

Facility Owner or
Owner's Representative

Rena Cusma, Executive Officer
Metropolitan Service District

Date: _____

Date: _____

Exhibit A

MINIMUM MONITORING AND REPORTING REQUIREMENTS

- 1 The Franchise Holder or designated Representative shall effectively monitor the processing facility operation and maintain records of the following required data. The records shall conform to the following format.

2 **Summary Sheet**

Total Tons Onsite at Beginning of Quarter	Total Tons Accepted During Quarter	Total Tons Treated During Quarter	Total Treated Tons Removed From Site During Month	Total Tons Remaining Onsite at the End of the Quarter

3 **Summary of Total Tonnage of PCS Accepted Per Site (list out-of-State after within State)**

DEQ File No.	Date(s) of First Loads Accepted	Generator Name and Address	Site of Origination	Total Tons Received During Quarter	Type of Communication

4 **Pre-Treatment Analysis of PCS Per Site (list out-of-State after within State)**

DEQ File Number(s)	Test # (attach copies of test results)

5 **Post-Treatment Analysis of PCS**

DEQ File Number(s)	Test # (attach copies of test results)

6 **Final Disposition of Treated Soils**

DEQ File Number(s)	Post-Treatment Test #	Destination of Load (County and Tax Lot #)	Date load Shipped to Destination	Total Tons Shipped to Destination During the Quarter

7 **Loads Rejected**

DEQ File Number(s)	Date of Load	Transporter Name	Weight of Load	Reason for Rejection	Destination of Rejected Load

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 92-454, FOR THE PURPOSE OF GRANTING A FRANCHISE TO THE SONAS SOIL RESOURCE RECOVERY OF OREGON, INC. (SONAS) FOR PROCESSING PETROLEUM CONTAMINATED SOIL

Date: May 5, 1992

Presented By: Bob Martin
Roosevelt Carter
Phil North

FACTUAL BACKGROUND AND ANALYSIS

The Sonas Soil Resource Recovery of Oregon, Inc. (SONAS), has applied for a Metro franchise to operate a facility that will process and treat soils contaminated by hydrocarbons. The primary source of materials will be from leaking underground storage tanks containing gasoline or oil. No materials classified as hazardous by federal regulations will be permitted into the facility.

In addition to a Metro franchise, the applicant has applied for and/or received a conditional use permit from the City of Portland and a solid waste permit and an air discharge permit from the DEQ.

The location of the proposed facility is on Tax Lot 55, Section 35, T2N R1W. The street location is near the intersection of North Burgard and North Metra Way. The location is physically a part of the Schnitzer Steel industrial properties.

The facility operations are summarized on Attachment 1.

The facility is expected to process approximately 125,000 tons per year. The anticipated service area is the greater Portland metropolitan area and surrounding region. The facility would not exclude materials that originate outside of the Metropolitan Service District.

Under the Metro Code, the facility would be exempt from the requirement of collecting and remitting a user fee. Also, the applicant has requested a variance from Metro rate-setting. This request is based on the nature of the facility, the need to respond rapidly to marketplace requirements and the contributions being made to Metro objective of minimizing or eliminating petroleum contaminated soils from landfills.

The Council may grant a variance in the interest of protecting the public health and welfare if the purpose and intent of the requirement (e.g., setting rates) can be achieved without strict compliance and that strict compliance:

"(1) Is inappropriate because of conditions beyond the control of the person(s) requesting the variance;; or

(2) Will be extremely burdensome or highly impractical due to special physical conditions or causes; or

(3) Would result in substantial curtailment or closing down of a business plant, or operation which furthers the objectives of the District."

Staff opinion is that the applicant's variance request is consistent with the spirit, intent and variance criteria (2) and (3) requirements. Staff recommendation is that the following findings be incorporated into the franchise if approved by the Council:

- A. Strict compliance with Metro Code provisions regarding rate-setting (Section 5.01.180) is not necessary to protect the public interest, health or welfare with respect to processors of petroleum contaminated soils.
- B. That the applicant (franchise) is performing a processing and recycling function by eliminating contaminants from soil.
- C. Soils treatment and processing facilities will be operating in a highly competitive marketplace which will require the need for rapid response to market needs.
- D. Metro does not collect user fees from processors of petroleum contaminated soils because of Metro policy to promote the processing and treatment of contaminated soil.
- E. That the objectives of the District in encouraging treatment and processing of petroleum contaminated soil at a reasonable cost to the public can be met without regulation of the applicant's rate.
- F. That regulation of rates at the applicant's facility can result in curtailment or closing down of the franchised facility to the detriment of the District's objectives to reduce or eliminate petroleum contaminated soils from landfills and to process and recycle contaminated soils.

Petroleum contaminated soil has been identified as a significant environmental and disposal problem in the District. At the present time, there are two franchised processors of these material. Additional franchise applications are also expected.

The high level of interest and number of potential processors assure a competitive marketplace, and an adequate processing capacity to meet District needs. Furthermore, the substantial capital investment and required permits to commence petroleum contaminated soil processing provides assurance of the commitment of processors to remain in the marketplace.

Criteria for Approval of Franchise

Final approval of the franchise requires in summary that the Franchisee supply:

1. Proof that the applicant can and will be covered during the term of the franchise by a surety bond.
2. Proof that the applicant can obtain liability insurance, including automotive coverage.
3. If the applicant is not an individual, a list of all stockholders holding more than five percent of the stock .
4. A duplicate copy of all applications necessary for DEQ permits or other information required by DEQ.
5. Consent of the owner of the property.
6. Proof of proper land use approval.
7. Such other information as the Executive Officer deems appropriate.

With respect to bonding, the Executive Officer recommends a minimum \$25,000 bond or equivalent. The size of the recommended bond is based upon the following factors:

- a. In the event of service failure, there are or will be at least three alternative soil processors in the region, without considering the availability of landfill disposal.
- b. Nearby land uses are industrial and the material handled at the facility will include only non-hazardous petroleum contaminated soil.

Applicant has satisfied or will satisfy the balance of approval criteria prior to issuance of the franchise agreement.

QUALIFICATIONS OF APPLICANT AND COMPLIANCE WITH THE CODE

SONAS applied for a DEQ solid waste disposal permit and air discharge permit. SONAS was issued a Use Compatibility Statement from the City of Portland on March 9, 1982.

The facility will be in compliance with the Regional Solid Waste Management Plan (RSWMP). Contaminated soil is classified as a "special waste" and the RSWMP calls for solutions to special waste management be developed as a component of the RSWMP. Ordinance No. 91-422B adopted by Council as an amendment to the Metro Code

pertaining to contaminated soils treatment was part of the process of encouraging alternative strategies for petroleum contaminated soil.

With respect to the need for the facility, the present facility is one of the first two facilities to be considered for a Metro franchise to process contaminated soil. At the present time, it is not recommended that restrictions be placed on entry into the petroleum contaminated soil processing business provided that applicants can satisfy DEQ and other regulatory requirements, and further provided that Metro is otherwise satisfied with the applicant's qualifications. Currently, demand for processing can only be estimated. Market demand should be a sufficient regulator of economic entry and departure from the soils processing business. In the interim, undue limitations upon entry into the processing market are not recommended. Furthermore, no geographic operations limitations on soil processors is recommended at this time.

In order for this ordinance to take effect immediately upon passage, an emergency clause has been added to the Ordinance.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 92-454.

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The objective of the proposed soil treatment facility is to be able to receive a wide variety of petroleum hydrocarbon contaminated soils from throughout the Metropolitan Service District area and to remove the petroleum contaminants down to or below DEQ/EPA approved levels. Following treatment the soils shall be free of petroleum contamination and made suitable for recycling in all areas where clean soils and clean aggregate materials are commonly used.

A second and equally important objective is to clean all incoming petroleum contaminated soils to levels low enough to relieve the responsible party or original owner of the soils from all future responsibility or environmental liability associated with the original petroleum hydrocarbon contamination as regulated by DEQ and EPA.

The facility will be strictly limited to the treatment of petroleum hydrocarbon contaminated soils and aggregates only. No other forms of contaminants or contaminated materials will be accepted.

The anticipated sources of all incoming soil materials to be treated shall be limited to DEQ supervised leaking underground storage tank removal sites such as service stations and industrial sites and from accidental petroleum spill areas such as leaking underground fuel distribution lines and surface spills.

Before being accepted for treatment, the person responsible for the site mitigation project shall have a soils analysis made at a DEQ/EPA approved, independent laboratory. All laboratory results will be submitted in advance and must receive the facility manager's written approval before the contaminated soils are accepted for treatment. In addition to the laboratory analysis requirements, only those soils that are removed from a DEQ sanctioned soil mitigation site will be accepted. Other restrictions shall include soils contaminated with mixed materials such as demolition and construction debris, large pieces of concrete and pavement, and all forms of pipe and fittings. All tanks of any kind are to be strictly prohibited.

Those soils that are accepted for treatment will be protected from the weather either by removable membrane covers or stored within a building on a paved surface. The time between acceptance and the beginning of treatment shall be kept to a minimum.

The primary type of treatment will be thermal desorption, which will only take place inside a fully enclosed, rotating drum under controlled temperature and air flow conditions. The heat source is to be a gas fired, counterflow burner located within the enclosed rotating drum. This produces an environment sufficient to raise soil temperatures above 800°F by the time the soil reaches the exit chamber behind the rotary drum. At this temperature the primary unit destroys 75% of all hydrocarbons and volatilizes all the remaining hydrocarbons before the soil is discharged from the dryer. The soil then moves along a closed conveyor where moisture is added to cool the soil and trap dust particulate within the soil matrix. The conveyor discharges soil to a stockpile in preparation of loadout to its final destination.

The ejected soil is periodically tested to verify treatment, and must contain 15 ppm or less total petroleum hydrocarbons and less than 10 ppb total benzene. Soil which does not meet these requirements is reprocessed.

The airstream collects the volatilized hydrocarbons and whatever dust is generated in the dryer and is exhausted to the primary dust separation units. This two stage primary dust system is comprised of a high efficiency cyclone

coupled with a multi-clone separator for a removal efficiency of greater than 90% for airborne particulate. The temperature of the exhaust gas from the dryer is approximately 730°F prior to dust removal. Due to the early evacuation of some particulate in the counterflow airstream, the particulate may also contain a low level of hydrocarbons. For this reason, the cyclone and multi-clone system are designed to discharge that particulate behind the burner into the exit chamber where the dust is mixed and processed in the 800°F environment for final purification and return to the soil flow.

The exhaust gas is then channelled through an induction fan to the thermal oxidizer. The oxidizer is designed to operate at 1500°F with a retention time of one full second for complete thermal destruction of the transient hydrocarbons. The thermal oxidizer is constructed of stainless steel and stationed horizontally for ease of maintenance. The 1500°F exhaust then passes through a high pressure venturi water jet system to completely saturate the exhaust with water to both lower the temperature and reduce the exhaust volume which had been greatly expanded in the thermal oxidizer by heating it to 1500°F. The exhaust volume must be reduced at this point to facilitate final particulate removal in a bag house dust collector which is designed for 72,000 ACFM. The actual exhaust volume is approximately 40,000 ACFM before the thermal oxidizer and after the venturi cooler. The exhaust must also be cooled to 350°F prior to entering the baghouse to protect the Nomex fabric filters utilized for particulate removal. The particulate collected in the baghouse is conveyed back to the primary rotary dryer and injected into the dryer along with the particulate returned by the primary dust collecting units. The exhaust gas is discharged from the baghouse to the ambient air and is monitored in accordance with the Air Discharge Permit. This completes the soil remediation process.

Management of End Product

The end product of this process is a clean soil which may be used for any purpose that a natural soil satisfies.

Coarse grained materials will be used in the production of asphalt paving materials, ready mix concrete, or construction aggregates. Finer grained materials would provide land fills with daily cover and construction fill materials for landscaping or site borrow.

Meeting Date: May 28, 1992
Agenda Item No. 7.1

RESOLUTION NO. 92-1624

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 92-1624, PROCLAIMING TUALATIN RIVER DISCOVERY DAY AND SUPPORTING ITS GOALS OF RECREATION AND PRESERVATION

Date: May 18, 1992

Presented by: Councilor Richard Devlin

PROPOSED ACTION

Resolution No. 92-1624 officially proclaims Tualatin River Discovery Day as the fourth Saturday in June and recognizes Metro's support of this annual event.

FACTUAL BACKGROUND AND ANALYSIS

Saturday, June 27, 1992, will be the third annual Tualatin River Discovery Day. This is free day-long festival encouraging the public to explore the endangered Tualatin River and visit an informal Environmental Fair at Tualatin Community Park. This annual event is supported by many governments, community groups, businesses and environmental organizations and was endorsed by Metro for the first time last year.

Metro sponsorship of this event is important because it was Metro which established the regional phosphate ban, in large part to help clean up the Tualatin River, which was the first river in Oregon for which maximum pollutant levels were established. As a result of this ban, all retail stores selling laundry detergents in the Metro region must stock only products without phosphates. It is hoped that in time with the ban in place, the Tualatin will slowly recover it's original purity.

The Tualatin River is 83 miles long, meandering through Washington and Clackamas Counties, with headwaters in the foothills of the Coast Range. It is the water source of Lake Oswego and is the principal river flowing through fast-growing Washington County. Wildlife abounds in and around the stream, which offers little public access.

Tualatin River Discovery Day provides a day for the public to enjoy the Tualatin River, to discover the wildlife, riparian environment and recreation created by the river, by access through mostly private lands and areas that would otherwise be inaccessible.

Metro's work with the phosphate ban and with the Metropolitan Greenspaces program seeks to restore, enhance and protect the Tualatin River and other significant resources in the region. It is, therefore, appropriate that Metro support the Tualatin River Discovery Day and the goals it represents.

RD:GR

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF PROCLAIMING	)	RESOLUTION NO. 92-1624
TUALATIN RIVER DISCOVERY DAY AND)	
SUPPORTING ITS GOALS OF RECREATION	)	Introduced by Councilor
AND PRESERVATION	)	Devlin

WHEREAS, Saturday, June 27, 1992 is the third annual Tualatin River Discovery Day, encouraging public access to an endangered river in Washington and Clackamas County, and;

WHEREAS, Tualatin River Discovery Day, with its informal Environmental Fair at Tualatin Community Park, is supported by many governments, community groups, businesses and environmental organizations, and;

WHEREAS, The Metropolitan Service District enacted a regional phosphate ban in large part to protect the Tualatin River from further phosphate pollution, and;

WHEREAS, Metro coordinates the Metropolitan Greenspaces program which seeks, in part, to enhance and protect the Tualatin River; now, therefore,

BE IT RESOLVED,

1. That the Council of the Metropolitan Service District supports the goals and activities developed for the Tualatin River Discovery Day, and;

2. That the Council of the Metropolitan Service District officially proclaims the fourth Saturday in June each year as "Tualatin River Discovery Day".

ADOPTED by the Metro Council this _____ day of June 1992.

Jim Gardner, Presiding Officer

92-1624.res
gr:5/18/92

Meeting Date: May 28, 1992
Agenda Item No. 7.2

RESOLUTION NO. 92-1613

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF APPROVING AN	)	RESOLUTION NO. 92-1613
RFP FOR A FINANCIAL IMPACT STUDY)	
OF A TRI-MET/METRO MERGER	)	Introduced by Councilor
	)	Tanya Collier

WHEREAS, The FY 91-92 budget of the Office of Government Relations contains \$40,000 for a study of issues relating to the potential transfer of Tri-Met to Metro; and

WHEREAS, The Office of Governmental Relations has prepared a Request for Proposals for a study to assess the potential financial impact of merging Tri-Met and Metro; and

WHEREAS, The study will not be completed in FY 91-92; and

WHEREAS, Section 2.04.033 (a) (1) of the Metro Code requires Council approval of contracts which commit the District to the expenditure of funds beyond the current fiscal year; and

WHEREAS, Section 2.04.033 (b) of the Metro Code authorizes the Council to waive approval of a multi-year contract at the time it approves the RFP for the contract; and

WHEREAS, The financial impact study is being commissioned solely for the purpose of determining whether a merger would produce a financial benefit for the citizens, taxpayers, and transit riders of the region, and does not imply that such a merger will be ordered; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District authorizes the issuance of an RFP for a financial impact study of a Tri-Met/Metro merger, and authorizes the Executive Officer to

execute the contract with the contractor chosen through the competitive bid process.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1992.

Jim Gardner, Presiding Officer

METROPOLITAN SERVICE DISTRICT
REQUEST FOR PROPOSALS
FINANCIAL IMPACT STUDY:
Tri-Met/Metro Merger

INTRODUCTION

Metro The Metropolitan Service District (Metro) is a multi-purpose regional government serving the urbanized areas of Multnomah, Washington and Clackamas counties. It is responsible for the management of the Metro Washington Park Zoo, Oregon Convention Center, Portland Center for the Performing Arts, Civic Stadium and Memorial Coliseum. Metro plans for and operates the region's solid waste system and does planning in the areas of land use, transportation and urban growth management.

Metro is a directly elected government with twelve (12) (thirteen (13) effective January 1993) councilors elected from districts (4 year terms) and one executive officer elected region-wide (4 year term). Metro is financed by service charges and user fees, local government dues, federal and state grants, property taxes for the Zoo and Convention Center construction debt and an excise tax on its own services.

Tri-Met The Tri-County Metropolitan Transportation District of Oregon (Tri-Met) is a single-purpose authority which operates bus and light rail systems in the tri-county area of Multnomah, Washington and Clackamas county.

The Tri-Met Board (7 members) is appointed by the Governor from districts within the Tri-Met service area. Board members serve at the pleasure of the Governor in four year terms.

Tri-Met is financed by a payroll tax of up to six tenths of one percent on wages, federal and state grants and farebox revenue.

Statutory Authority Metro has authority under ORS 268.370 to order transfer of Tri-Met's transit system to Metro; specifically, "...the governing body of the metropolitan service district may at any time order transfer of the transit system of the transit district to the metropolitan district."

Metro is investigating whether a transfer (merger) would produce financial savings through consolidation of the two agencies. Metro has not determined that it will order a transfer of Tri-Met, and this RFP should not be construed as a step in a process that will result in transfer. The purpose of this RFP is to determine whether such a transfer has the potential to produce a financial benefit to the taxpayers and transit riders of the region. Any further action to investigate the possibility of transfer will

depend on the results of the financial impact study called for in this RFP.

STUDY OBJECTIVE

The primary objective of this study is:

To measure the potential financial impact of a merger between the Tri-County Metropolitan Transportation District (Tri-Met) and the Metropolitan Service District (Metro).

PROPOSAL REQUEST

Metro is requesting development of a "scope of work" that defines the approach to answering the following five questions and addresses the three alternative organizational strategies described below.

Five Questions:

1. What would the effect of merger be on the long-term financial position of the Metropolitan Service District and Tri-Met?
2. What are the actual short-term costs for both agencies relative to merger?
3. What are the actual costs associated with merger of the retirement and pension systems of the two agencies?
4. What are the opportunities to restructure the revenue generating capacity of each entity?
5. What are the opportunities for increased efficiencies and reduction in the common costs of administration and overhead?

Organizational Alternatives:

1. Tri-Met retains its current board for a set time period. Board can hire/fire General Manager, approve labor contracts, purchase equipment, make operational decisions and retain current authorities. Metro Council approves budget and all taxes and ballot measures. Metro Executive Officer appoints board members. Board otherwise is an operating authority with broad powers. Board decisions are appealable to the Metro Council.
2. Metro establishes a new "Transportation Commission" with limited authority. Metro Council sets and approves budget; Executive Officer appoints members to the Commission with

Council approval. Commission hires/fires General Manager. Transportation Commission is an operating authority with limited powers. Most major decisions (changes in routes or fares) require Metro Council approval.

3. Tri-Met becomes a department of Metro, (similar to the Metro Washington Park Zoo). The Metro Council establishes a standing committee to oversee operations. The General Manager reports to the Executive Officer; some decisions appealable to the Council. Council action required for fare increases, route changes and major policy changes.

PROPOSAL INFORMATION

The 1991-92 FY budget contains an appropriation of \$40,000 to study this issue.

MINIMUM REQUIREMENTS

Proposers must meet the following minimum requirements:

1. Education and experience in public financial analysis.
2. Familiarity and experience in analyzing public pension systems, bonded indebtedness, and organizational strategies related to mergers and consolidations.

EVALUATION CRITERIA

- | | |
|--|-----------|
| 1. Experience in public financial analysis | 20 points |
| 2. Experience in business or government reorganization | 20 points |
| 3. References and reputation in financial community | 20 points |
| 4. Cost for services | 20 points |
| 5. Experience in managing a sensitive, public process | 20 points |

PROPOSAL INSTRUCTIONS

1. Deadline and Submission of Proposals:

Three copies of the Proposal shall be furnished to:

Attention: Betsy W. Bergstein
Office of Government Relations

Metropolitan Service District
2000 S.W. First Avenue
Portland, OR 97201-5398 until 5:00 p.m. PDT,
May 14, 1992.

Proposals will not be considered if received after
5:00 p.m. PDT, May 14, 1992.

All proposals must be clearly marked on the
exterior: "Proposal for Financial Impact Study:
Tri-Met/Metro Merger"

2. Basis for Proposals:

The Request for Proposals represents the most
definitive statement Metro will make concerning
information upon which the Proposals are to be
based. Any verbal information which is not
addressed in this Request for Proposals will not be
considered by Metro in the evaluation process. All
questions relating to the Request for Proposals
should be addressed to Betsy W. Bergstein. Any
questions, which in the opinion of Metro, warrant a
written reply or Request for Proposals amendment
will be furnished to all parties receiving this
Request for Proposals.

3. General Proposal and Contract Conditions:

Limitation and Award --- This Request for Proposals
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 accept any
or all Proposals received as the result of this
request, to negotiate with all qualified sources,
or to cancel all or part of this Request for
Proposals.

4. Contract Type:

Metro intends to award a Personal Services Agreement with the selected individual or firm for this project. A copy of the standard agreement form which the successful consultant will be required to execute is attached.

5. Validity Period and Authority:

The Proposal shall be considered valid for a period of at least 90 days and shall contain a statement to that effect. The Proposal shall also contain the name, title, address and telephone number of the individual(s) with authority to bind the firm during the evaluation period.

6. Terms of Agreement:

The initial term of this contract shall be from approximately May 21, 1992 through and including July 31, 1992, or completion of this issue.

PROPOSAL CONTENT

All Proposals must be submitted in the format described below. Submissions which do not address all questions posed or are otherwise incomplete will be deemed nonresponsive and not considered as part of this competitive process.

1. General Information. Provide name, address of provider, date established and brief description of individual or firm's background.
2. Describe number of personnel in firm, background, education, experience and general duties.
3. Describe background and professional credentials of the staff who would be assigned to perform this work. Attach resumes of relevant individuals.
4. Provide a copy of your firm's Affirmative Action Plan.
5. Provide a Scope of Work to address the five questions and three organizational strategies described above.
6. Provide references we may contact.

Attachment (Personal services contract)

The attached personal services contract represents a standard document approved by Metro General Counsel. Any proposed changes in the language or construction of the document must be raised and resolved prior to and as a part of the proposal evaluation process. Award of contract constitutes acceptance of the standard contract terms and conditions. Therefore, Metro shall consider subsequent requests for material changes to the contract as a request to withdraw the original bid.

Project _____
Contract No. _____

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is between the METROPOLITAN SERVICE DISTRICT, a municipal corporation organized under ORS Chapter 268, referred to herein as "Metro," located at 2000 S.W. First Avenue, Portland, OR 97201-5398, and _____, referred to herein as "Contractor," located at _____.

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

1. Duration. This personal services agreement shall be effective _____, and shall remain in effect until and including _____, unless terminated or extended as provided in this Agreement.

2. Scope of Work. Contractor shall provide all services and materials specified in the attached "Exhibit A – Scope of Work," which is incorporated into this Agreement by reference. All services and materials shall be provided by Contractor in accordance with the Scope of Work, in a competent and professional manner. To the extent that the Scope of Work contains additional contract provisions or waives any provision in the body of this Agreement, the Scope of Work shall control.

3. Payment. Metro shall pay Contractor for services performed and materials delivered in the maximum sum of _____ AND ____/100THS DOLLARS (\$ _____), in the manner and at the time specified in the Scope of Work.

4. Insurance.

a. Contractor shall purchase and maintain at the Contractor's expense, the following types of insurance, covering the Contractor, its employees, and agents:

(1) Broad form comprehensive general liability insurance covering personal injury and property damage, with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and

(2) Automobile bodily injury and property damage liability insurance.

b. Insurance coverage shall be a minimum of \$500,000 per occurrence, \$250,000 per person, and \$50,000 property damage. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.

c. Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSURED. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.

d. Contractor, its subcontractors, if any, and all employers working under this Agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Contractor shall provide Metro with certification of Workers' Compensation insurance including employer's liability.

e. If required by the Scope of Work, Contractor shall maintain for the duration of this Agreement professional liability insurance covering personal injury and property damage arising from errors, omissions, or malpractice. Coverage shall be in the minimum amount of \$500,000. Contractor shall provide to Metro a certificate of this insurance, and 30 days' advance notice of material change or cancellation.

5. Indemnification. Contractor shall indemnify and hold Metro, its agents, employees and elected officials harmless 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 Agreement, with any patent infringement arising out of the use of Contractor's designs or other materials by Metro and for any claims or disputes involving subcontractors.

6. Maintenance of Records. Contractor shall maintain all of its records relating to the Scope of Work on a generally recognized accounting basis and allow Metro the opportunity to inspect and/or copy such records at a convenient place during normal business hours. All required records shall be maintained by Contractor for three years after Metro makes final payment and all other pending matters are closed.

7. Ownership of Documents. All documents of any nature including, but not limited to, reports, drawings, works of art and photographs, produced by Contractor pursuant to this Agreement are the property of Metro, and it is agreed by the parties that such documents are works made for hire. Contractor hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such documents.

8. Project Information. Contractor shall share all project information and fully cooperate with Metro, informing Metro of all aspects of the project including actual or potential problems or defects. Contractor shall abstain from releasing any information or project news without the prior and specific written approval of Metro.

9. Independent Contractor Status. Contractor shall be an independent contractor for all purposes and shall be entitled only to the compensation provided for in this Agreement. Under no circumstances shall Contractor be considered an employee of Metro. Contractor shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified in the Scope of Work. Contractor is solely responsible for its performance under this

Agreement and the quality of its work; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified in the Scope of Work; and for meeting all other requirements of law in carrying out this Agreement. Contractor shall identify and certify tax status and identification number through execution of IRS form W-9 prior to submitting any request for payment to Metro.

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

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

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

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

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

15. Modification. This Agreement is the entire agreement between the parties, and may only be modified in writing, signed by both parties.

CONTRACTOR

METROPOLITAN SERVICE DISTRICT

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Meeting Date: May 28, 1992
Agenda Item No. 7.3

RESOLUTION NO. 92-1628



METRO

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

Memorandum

DATE: May 22, 1992

TO: Metro Council
Executive Officer
Interested Parties

FROM: Paulette Allen, Clerk of the Council *PA*

RE: AGENDA ITEM NO. 7.3; RESOLUTION NO. 92-1628

The materials for the item referenced above will be distributed at the May 28 Council meeting.

Meeting Date: May 28, 1992
Agenda Item No. 8.1

RESOLUTION NO. 92-1580A

TRANSPORTATION AND PLANNING COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 92-1580 ADOPTING BYLAWS TO ESTABLISH THE METRO COMMITTEE FOR CITIZEN INVOLVEMENT (METRO CCI)

Date: May 13, 1992

Presented by: Councilor McLain

Committee Recommendation: At the May 12 meeting, the Transportation and Planning Committee voted unanimously to recommend Council adoption of Resolution No. 92-1580. Voting in favor: Councilors Devlin, McLain, Bauer, Buchanan, and Washington.

Committee Issues/Discussion: Betsy Bergstein, Senior Management Analyst, Office of Government Relations, presented the staff report. She discussed the process utilized by the citizen's group writing the Metro CCI Bylaws and identified the various changes adopted by the group that appear in this final version. The first task of the Metro CCI will be to write a hand-book and acronym list.

Councilor Bauer asked whether the Metro CCI's function is to deal purely with "process" or to also deal with "policy". Jackie Tomas, representing the citizen group, responded that the intent is for the group to focus on "process". For instance, it would be appropriate for the group to conduct a public opinion survey on an issue important to Metro, but it would not be their task to offer an opinion on the subject. Peggy Lynch, representing the citizen group, said the purpose of the Metro CCI was to act as a conduit of information between citizen's and citizen's groups and the Metro Council.

Councilor McLain expressed a concern about the proclivity of some elected officials to believe that citizen's groups can only offer "local" opinions, and do not represent a broad enough constituency to carry much weight in the decision making process. She hoped that this will change with creation of the Metro CCI because the group will be "regionally" diverse and more representative of the region as a whole.

Councilor Devlin discussed the improvement in the selection process for the representative for Metro District #4. He suggested that in the future, following another redistricting in 2001, there may be less than "3" counties involved and than an amendment to the exhibit should be made to delete "3".

The motion to recommend approval by the Council was made with the implication that the reference to "3" in Section 2, subsection c be removed.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

A RESOLUTION ADOPTING BYLAWS
TO ESTABLISH THE METRO
COMMITTEE FOR CITIZEN
INVOLVEMENT (METRO CCI)

)
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RESOLUTION NO.92-1580A
INTRODUCED BY COUNCILOR
RICHARD DEVLIN

WHEREAS, Metro's regional planning program requires a partnership with citizens, cities, counties, special districts, school districts, and state and regional agencies;
and

WHEREAS, That partnership is described in Goal I, Regional Planning Process, of the Regional Urban Growth Goals and Objectives (RUGGO), adopted by the Metro Council on September 26, 1991; and

WHEREAS, Implementation of that partnership is intended to occur, in large part, through the Regional Policy Advisory Committee (RPAC); and

WHEREAS, The RPAC was established by Resolution No. 91-1489B on September 26, 1991; and

WHEREAS, Objective 1, Citizen Participation, of the RUGGOs states that Metro shall develop and implement an ongoing program for citizen participation in all aspects of the regional planning program and that such program shall be coordinated with local programs for supporting citizen involvement in planning processes, and shall not duplicate those programs; and

WHEREAS, Objective 1.1 states that Metro shall establish a Regional Citizen Involvement Coordinating Committee to assist with the development, implementation and evaluation of its citizen involvement program and to advise the Regional Policy Advisory

Committee regarding ways to best involve citizens in regional planning activities; and

WHEREAS, Beginning in October of 1991, members of Clackamas County CCI, Multnomah County CIAC, Washington County CCI and subsequently citizen representatives of the cities of Portland, Gresham, Lake Oswego, Beaverton and Forest Grove met to develop a draft set of bylaws to establish the RCICC; and

WHEREAS, These bylaws have been developed and sent out for comment to the Metro Council, Clackamas County CCI, Multnomah County CIAC, Washington County CCI, neighborhood associations and interested citizens; and

WHEREAS, These bylaws have been revised to incorporate comments and suggestions received by the above groups; now, therefore,

BE IT RESOLVED,

1. That the bylaws for the Metro Committee for Citizen Involvement (Metro CCI), dated April 14, 1992, and attached to this resolution as Exhibit [A]B, are hereby adopted.

2. That the Metro Council directs the Presiding Officer to initiate the selection process for nomination to the Metro CCI no later than July 1, 1992.

ADOPTED BY THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT
this 28th. day of May, 1992.

Jim Gardner, Presiding Officer

EXHIBIT A

METRO COMMITTEE FOR CITIZEN INVOLVEMENT(METRO CCI)BYLAWS

April 14, 1992

Article I NAME

This committee shall be known as the METRO COMMITTEE FOR CITIZEN INVOLVEMENT (METRO CCI).

Article II GEOGRAPHICAL AREA

The area served by this committee shall be the entire area within the boundaries of Clackamas, Multnomah and Washington Counties.

Article III MISSION AND PURPOSE

Section 1. It is the mission of the Metro CCI to advise and recommend actions to the Metro Council on matters pertaining to citizen involvement as Metro creates and implements a participatory regional planning partnership to address areas and activities of metropolitan significance. The Metro CCI will encourage citizen participation by a broad cross-section of the community and will provide or facilitate a direct line of communication between citizens and Metro and between existing citizen involvement groups and Metro.

Section 2. The Metro CCI is a permanent committee and was established by Metro (Ordinance No. 91-418B). The Metro CCI will serve as the officially recognized citizen participation resource committee committed to the success of citizen participation in the Metro regional planning process. The Metro CCI will evaluate the citizen involvement process and promote the expansion of citizen involvement at Metro. The Metro CCI will assist Metro in complying with LCDC goals regarding citizen involvement.

Section 3. In order to facilitate effective citizen involvement in the planning and development of all matters affecting the quality of life and the livability of the Tri-County community, the Metro CCI shall assist Metro to:

a. Provide a citizen involvement process during the development and review of Metro's regional planning activities, including implementation of the Regional Urban Growth Goals and Objectives (RUGGO), development of new functional plans, and periodic review of the region's urban growth boundary.

b. Develop opportunities for citizens to become involved in a forum for identifying and discussing areas and activities of metropolitan significance.

c. Involve the citizens of all cities and counties within the Tri-County area in the process for the development and implementation of regional growth management strategies.

d. Coordinate citizen involvement activities associated with the Joint Policy Advisory Committee on Transportation (JPACT) so that citizen involvement in regional transportation planning is linked and consistent with citizen involvement in regional growth management efforts.

e. Coordinate with existing citizen involvement organizations to ensure the existence of a citizen involvement process (1) to allow review and comment on the regional land use and growth management issues affecting or affected by local comprehensive plans or plans of state and regional agencies, and (2) during the discussion of land use and growth management issues of regional or subregional significance.

f. Provide a citizen involvement process if coordinating links with Vancouver and Clark County, Washington, and other parts of the State of Oregon are established by Regional Policy Advisory Committee (RPAC) or Metro to address land use and growth management issues of common interest.

g. Develop programs that educate and inform Tri-County citizens about citizen involvement in the regional planning partnership.

h. Develop programs for public notification about citizen involvement on specific Metro or regional issues and activities.

i. Promote and advertise citizen involvement opportunities to be used by Metro and Metro staff.

Section 4. Additionally, with the assistance of Metro staff, the Metro CCI shall:

a. Work with Metro staff in planning and participating in the annual Metro growth conference.

b. Report regularly (at least twice annually) to local citizen involvement groups on the proposals and actions of the Metro CCI, RPAC, JPACT and Metro.

c. Confer with Metro and Tri-County officials about ways to enhance citizen involvement.

d. At the request of a member, review and evaluate the citizen involvement process on a specific Metro or regional issue and, upon a majority vote of the Metro CCI, report to the Metro Council on its evaluation.

e. Review and evaluate Metro's citizen involvement program and budget annually and report to the Metro Council on its evaluation.

Article IV
MEMBERSHIP

Section 1. Composition of the Metro CCI

a. The Metro CCI shall have nineteen (19) members. Each member position shall have an alternate. Membership shall consist of:

1) One (1) representative from each of the thirteen (13) Metro Council Districts (for a total of 13);

2) One (1) representative from each of the areas outside of the Metro District boundaries of Clackamas, Multnomah, and Washington Counties (for a total of 3);

3) One (1) representative from each of Clackamas County's Committee for Citizen Involvement (CCI), Multnomah County's Citizen Involvement Advisory Committee (CIAC) and Washington County's Committee for Citizen Involvement (CIC) (for a total of 3).

b. A Metro staff member shall act as a non-voting advisor for the Metro CCI.

c. Members and alternates shall not be elected officials.

d. Alternates for each member shall be appointed to serve in the absence of the regular members (and shall be encouraged to attend meetings on a participatory but non-voting basis).

e. Members (or designated alternates) shall be expected to represent the interests of their constituency at all meetings of the Metro CCI.

Section 2. Membership Selection Process

Members and alternates for the Metro CCI will be appointed using the following process:

a. Metro, Committees for Citizen Involvement (CCIs) and County Planning Organizations (CPOs) will advertise openings on the Metro CCI to citizens of the region, utilizing ads, mailings, etc. but, at a minimum, recognized neighborhood associations and citizen participation organizations. Interested existing citizen organizations will be asked to nominate members and alternates to the Metro CCI. Applications shall include a statement of interest, a community service resume, a statement of commitment signed by the applicant and, if possible, a nomination by an existing citizen organization.

b. Metro will collect the applications and sort them by county and distribute them to each county citizen involvement committee.

c. The CCI/CIAC organizations from each county shall review the nominations and select the members and alternates from that pool of applicants. Each Metro Councilor shall be invited to participate in the selection process for nomination of the representative from their district. Separately, each County CCI/CIAC shall appoint their representative and alternate to the Metro CCI. In the case of overlapping jurisdictions the county with the greatest population in the district will convene a meeting of

the county CCI/CIACs effected and make the nomination.

d. One nomination for each of the 38 positions shall be forwarded to the Metro Council for appointment to the Metro CCI. Nominations shall be accepted or rejected by the Metro Council. If a nomination is rejected, it shall be returned to its originating body for a subsequent nomination.

Section 3. Duties

The duties of each member and alternate shall be to implement the Mission and Purpose of the Metro CCI as stated in Article III of these bylaws.

Section 4. Tenure

a. Each Metro CCI members's term and alternate's term of appointment shall be three years, except during the initial period as stated in Section 4(b) of these bylaws. Members seeking reappointment cannot participate in their own selection process.

b. Metro CCI positions will be numbered from one to nineteen as follows:

Metro CCI Positions Corresponding to Metro Council Districts:

Metro CCI Position #1:	Council District #1
#2:	#2
#3:	#3
#4:	#4
#5:	#5
#6:	#6
#7:	#7
#8:	#8
#9:	#9
#10:	#10
#11:	#11
#12:	#12
#13:	#13

County Positions Outside Metro District Boundaries:

#14:	#14 (Clackamas Co.)
#15:	#15 (Multnomah Co.)
#16:	#16 (Washington Co.)

County Citizen Involvement Committee Positions:

#17:	#17 (Clackamas Co.CCI)
#18:	#18 (Multnomah Co.CIAC)
#19:	#19 (Washington Co. CCI)

For the first three year term, membership will be staggered as follows:

One Year #4, #5, #8, #11, #13, #16, #18

Two Year #2, #7, #10, #15, #17

Three Year #1, #3, #6, #9, #12, #14, #19

c. Members will be expected to attend all regularly scheduled meetings and special meetings. Unexcused absence from regularly scheduled meetings for three (3) consecutive months shall require the Chair to declare a vacancy in the position. The designated alternate shall be appointed to fill the unexpired term of the member and a new alternate shall be appointed by the original appointing body.

Article V OFFICERS AND DUTIES

Section 1. Officers

a. The Officers of the Metro CCI shall be a Chair and Vice Chair to be elected by a majority vote of the members present at the first meeting and annually in June thereafter. The Chair shall set the agenda, preside at all meetings and shall be responsible for the expeditious conduct of the Metro CCI's business. In the absence of the Chair, the Vice Chair shall assume the duties of the Chair. Both the Chair and the Vice Chair are entitled to vote on all issues, except their own reappointment to the Metro CCI.

b. Metro shall provide a staff member to serve as Recording Secretary for the Metro CCI. The Recording Secretary shall be a non-voting member of the Metro CCI and the Steering Committee.

c. The Chair, Vice Chair and three additional Metro CCI members elected by a majority vote of the Metro CCI members present at the first meeting and annually in June thereafter, will serve as the Steering Committee for the Metro CCI. The Metro CCI shall attempt to elect a Steering Committee that is broadly representative of the geographic areas and interests of the total membership of the Metro CCI. The Steering Committee may act in an emergency or temporary manner for the Metro CCI, but such actions shall be reviewed by the Metro CCI at the next regular meeting.

Section 2. Term of Office

Officers and Steering Committee members shall hold office for a period of one year, from July 1 through June 30 corresponding to Metro's fiscal year.

Article VI
MEETINGS, CONDUCT OF MEETINGS AND QUORUM

Section 1. Regular meetings of the Metro CCI shall be held monthly at a time and place established by the Chair, after consultation with the membership. Special or emergency meetings may be called by the Chair or a majority of the members of the Metro CCI polled by the Recording Secretary.

Section 2. Notice

a. Notice, agenda and draft minutes of all regular meetings shall be mailed by the Recording Secretary to all members and alternates of the Metro CCI at least five (5) regular business days before such meetings.

b. Metro shall maintain a mailing list of persons and organizations who have expressed their interest in citizen involvement and the Metro CCI. Notice of Metro CCI meetings shall be mailed to everyone who has asked to be on that list.

Section 3. A majority of the members (or designated alternates) shall constitute a quorum for the conduct of business. The act of a majority of those present at meetings at which a quorum is present shall be the act of the Metro CCI.

Section 4. Subcommittees may be appointed by the Chair.

Section 5. All meetings shall be conducted in accordance with Robert's Rules of Order, Newly Revised.

Section 6. The Metro CCI may establish additional rules of procedure as deemed necessary for the conduct of business.

Section 7. Metro shall provide staff to handle Metro CCI business, correspondence and public information. Other Metro resources may be called upon as necessary.

Section 8. The Recording Secretary shall prepare formal minutes of meetings for distribution at the next regular meeting subject to Metro CCI approval. Metro shall keep on file all minutes, as well as, a current roster of members and any other records of the Metro CCI's actions as necessary and appropriate. Approved minutes shall be forwarded to Metro Council.

Article VII
AMENDMENTS

Section 1. Amendment and Repeal of Bylaws

These by-laws may be amended by a two-thirds vote of the full membership of the Metro CCI and a majority vote of the Metro Council. Written notice of proposed amendment or repeal and the nature thereof shall have been given to the membership of the committee at least one consecutive month prior to the date of the meeting at which the amendments are to be considered.

Section 2. Review of Bylaws

Bylaws will be reviewed at least every three (3) years. The first review shall occur no later than 1995. Written notice of such review shall be provided before the review.

Staff Report

CONSIDERATION OF RESOLUTION NO. 92-1580, FOR THE PURPOSES OF ADOPTING THE BYLAWS AND INITIATING THE PROCESS TO ESTABLISH THE METRO COMMITTEE FOR CITIZEN INVOLVEMENT

Date: May 12, 1992

Presented by: Betsy Bergstein

Background. Metro Council adoption of the Regional Urban Growth Goals and Objectives (RUGGO) on September 26, 1991 included citizen participation as the first objective under Goal 1, the Regional Planning Process.

Objective number one states that Metro shall develop and implement an ongoing program for citizen participation in all aspects of the regional planning program. Such a program shall be coordinated with local programs for citizen involvement in planning processes, and shall not duplicate those programs. It goes on to state (1.1) that Metro shall establish a Regional Citizen Involvement Coordinating Committee to assist with the development, implementation and evaluation of its citizen involvement program and to advise the Regional Policy Advisory Committee regarding ways to best involve citizens in regional planning activities.

Over a six month period beginning in October of 1991, citizen representatives of Clackamas County CCI, Multnomah County CIAC, Washington County CCI and the cities of Portland, Gresham, Lake Oswego, Beaverton, Forest Grove and other cities of the region met regularly to draft these bylaws. In November of 1991 a letter was sent to Presiding Officer Tanya Collier announcing the formation of an ad hoc group whose mission was to develop a draft set of bylaws for the RCICC. The bylaws for the Regional Policy Advisory Committee (RPAC), the State of Oregon's Citizen Advisory Committee and bylaws from other citizen groups were used as guidelines to put together a beginning draft of bylaws for the RCICC.

This draft was refined and rewritten and sent out for public comment to CPOs, neighborhood associations and citizen organizations in the region on February 19, 1992. The bylaws were discussed at the Transportation and Planning Committee on March 24, 1992. All comments were requested to be received by April 3, 1992.

On April 14, 1992 the ad-hoc committee drafting the bylaws met and revised the bylaws incorporating the comments received from individual citizens, citizen involvement groups and Metro Council members.

The following summarizes the comments and changes made to the bylaws which have been incorporated in to the final draft:

1. The name was changed from the Regional Citizen Involvement Coordinating Committee (RCICC) to the Metro Committee for Citizen Involvement (Metro CCI).
2. The Membership Selection Process (page 3) was amended to add **Each Metro Councilor shall be invited to participate in the selection process for nomination for their district.**
3. In the same paragraph, the treatment of Council District #4 was changed to read...**the county with the greatest population in the district will convene a meeting of the three county CCI/CIAC effected and made the nomination.**
4. In the following paragraph (page 4) a sentence was added **Nominations shall be accepted or rejected by the Metro Council. If a nomination is rejected, it shall be returned to its originating body for a subsequent nomination.**
5. Section 2b., in Membership Selection Process, was deleted so that now there is one process to select members rather than an initial process and a succeeding process.
6. The chart showing membership terms on page 5 was reorganized to delete identification of positions by county.
7. The section on Amendment and Repeal of Bylaws (Section 1, Article VII, page 7) was changed so that the first sentence is identical to the process in the bylaws for the RPAC.

Meeting Date: May 28, 1992
Agenda Item No. 8.2

RESOLUTION NO. 92-1616

TRANSPORTATION AND PLANNING COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 92-1616 DECLARING INTENT TO SEEK VOTER APPROVAL OF AUTHORITY AND FINANCING FOR ACQUISITION, DEVELOPMENT, MAINTENANCE AND OPERATION OF REGIONAL GREENSPACES

Date: May 13, 1992

Presented by: Councilor Devlin

Committee Recommendation: At the May 12 meeting, the Transportation and Planning Committee voted unanimously to recommend Council adoption of Resolution No. 92-1616. Voting in favor: Councilors Devlin, McLain, Bauer, Buchanan, and Washington.

Committee Issues/Discussion: Andrew Cotugno, Planning Director, presented the staff report. He described the series of activities that are currently underway that will culminate in adoption of the Metropolitan Greenspaces Master Plan and referral of a bond measure to the voters of the region. The Master Plan will be the document that identifies what constitutes "regional" areas of importance. The resolution referring the bond measure will identify the ballot title, and amount of the measure. Before the issue is referred to the voters it must be reviewed by the Portland Metropolitan Area Local Government Boundary Commission (PMALGBC) and the Tax Supervising and Conservation Commission (TSCC).

The Council must file with the PMALGBC for the authority to take on a new function regarding "operation" of open space. The TSCC reviews the intent to file for a bond measure.

Committee discussion centered on the fact that the Metro Council appoints members of this Boundary Commission and will now seek approval of this resolution by the same commission. This has happened twice before; when Metro took over operation of the Zoo and the Convention Center. The Legislature approved Metro's authority to appoint the Commission since that time. It is questionable whether the Legislature considered this potential awkwardness when making the decision. The committee discussed, without resolution, the option of making this issue part of the Legislative package for 1993.

In July, the full Council will have before them resolutions that determine: a) if we move ahead with the Metropolitan Greenspaces project; b) how large the project will be; and c) the cost of acquisition and operation.

The intent is to place the issue on the same November ballot as the proposed Metro Charter. The most recent version of the Charter permits Metro to acquire, but not operate, a system of Greenspaces. Hopefully, the Charter language will be changed, but if not, the Greenspaces resolution could appear in the form of a Charter amendment.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF DECLARING INTENT)	RESOLUTION NO. 92-1616
TO SEEK VOTER APPROVAL OF AUTHORITY)	
AND FINANCING FOR ACQUISITION,)	Introduced By Rena Cusma,
DEVELOPMENT, MAINTENANCE AND)	Executive Officer
OPERATION OF REGIONAL GREENSPACES)	

WHEREAS, The Metropolitan Service District has taken a leadership role in identifying remaining natural areas in the region and planning for their protection and potential acquisition; and

WHEREAS, Such activities have been and will continue to be coordinated with the local governments and citizens in the region; and

WHEREAS, Numerous planning efforts, studies and recommendations have been proposed over the past 90 years to develop a system of interconnected greenspaces for the Portland/Vancouver region as evidenced by the Olmsted plan to the Portland Parks Bureau in 1903; the Lewis Mumford report to the Portland City Club which promoted the concept of a bi-state regional natural areas system in 1938; the Columbia Region Association of Governments (CRAG) 1971 study: "The Urban Outdoors; A Proposal to the Portland-Vancouver Community for a Metropolitan Park and Open Space System;" 1984 Metropolitan Citizens League recommendation that Metro undertake a study of regional park needs; the series of Columbia-Willamette Futures citizen forums and workshops held during 1984-86 on regional parks which recommended the need for regional planning and cooperation in parks planning; and the regional parks inventory and study conducted by Metro during 1987-89; and

WHEREAS, In 1988 Metro initiated a Regional Parks Forum series to bring together federal, state, local jurisdictions and nonprofit conservation organizations to coordinate parks and natural areas studies and inventories; and

WHEREAS, The February 1989 "Metro Recreation Resource Study" recommended that natural areas planning on a regional basis be initiated, including a regional inventory, regional goals and objectives and regional preservation plans; and

WHEREAS, On February 9, 1989, by Resolution No. 89-1043, the Metro Council established five specific tasks for regional natural areas planning:

1. Maintain and expand the parks database.
2. Continue regularly scheduled parks forums.
3. Coordinate natural areas planning in the region.
4. Coordinate and assist in the planning, acquisition and development of regional trails, greenways and wildlife corridors.
5. Work cooperatively with local jurisdictions, state and federal agencies, park advocate organizations and the private sector to identify potential regional park and recreational opportunities, potential action plans to preserve, acquire and protect key resources; and

WHEREAS, On August 24, 1989, by Resolution No. 89-1129, Metro approved a scope of work for an inventory and analysis of natural areas within the region; and

WHEREAS, On June 28, 1990, by Resolution No. 90-1261, the Metro Council established a Policy Advisory Committee to assist the Council in coordinating its Natural Areas Planning Program and to develop a regional consensus in the development of a Metropolitan Greenspace plan; and

WHEREAS, On December 13, 1990, by Resolution No. 90-1344, Metro established a Technical Advisory Committee to assist the Metro Council in coordinating the Metropolitan Greenspaces Program and plan; and

WHEREAS, From May 1990 through December 1991 all four counties (including Clark County, Washington) in the Portland/Vancouver metropolitan area, and 22 of 24 cities within the Metro Boundary, and Vancouver, Washington, Tualatin Hills Park and Recreation District, and various conservation organizations and neighborhood associations approved resolutions supporting Metro's continued planning and coordination efforts for protecting natural areas through the Metropolitan Greenspaces Program; and

WHEREAS, On April 29, 1992, Metro began distribution of a Public Review Draft Metropolitan Greenspaces Master Plan recommending Metro assume responsibility for planning, financing, acquiring, developing, maintaining and operating a cooperative regional system of natural areas, open space, trails and greenways of metropolitan significance for wildlife and people; and

WHEREAS, SB 1185 in the 1991 Legislative Session requires new tax coordination procedures, including a special public hearing by

the Tax Supervising and Conservation Commission for any proposed bond issue under ORS 294.655; and

WHEREAS, The Metropolitan Service District is authorized by ORS 268.312(1)(c) to acquire, develop, maintain and operate a system of parks, open space and recreational facilities of metropolitan significance subject to prior voter approval; and

WHEREAS, All districts, including Metropolitan Service District, are required by ORS 199.464(2) to obtain Portland Metropolitan Area Local Government Boundary Commission approval of a proposal to initiate an additional function of the District prior to referral to the voters; now, therefore,

BE IT RESOLVED,

1. That approval of the Portland Metropolitan Area Local Government Boundary Commission be sought for the District to seek voter approval to exercise authority under ORS 268.312(1)(c) to acquire, develop, maintain and operate a system of parks, open space and recreational facilities of metropolitan significance.

2. That the Tax Supervising and Conservation Commission be notified of the Metro Council's intent to seek voter approval of a general obligation bond to finance a system of regional greenspaces at the November 1992 election for the purpose of conducting the public hearing required by ORS 294.655 and 1991 SB 1185.

3. That the Council declares its intent to adopt a Metropolitan Greenspaces Master Plan after public review, comment and amendment of the current draft.

4. That the Council authorizes the Executive Officer to take the actions necessary to allow the District to fulfill the intent of this Resolution, and to return to the Council at the appropriate time with the necessary implementing actions.

ADOPTED by the Council of the Metropolitan Service District
this ____ day of _____, 1992.

Jim Gardner, Presiding Officer

ATTEST:

Clerk of the Council

srs
925100

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 92-1616 FOR THE PURPOSE OF DECLARING INTENT TO SEEK VOTER APPROVAL OF AUTHORITY AND FINANCING FOR ACQUISITION, DEVELOPMENT, MAINTENANCE AND OPERATION OF REGIONAL GREENSPACES

Date: May 12, 1992

Presented By: Andy Cotugno and
Patrick Lee
Planning Dept.

FACTUAL BACKGROUND AND ANALYSIS

Metro has taken a leadership role in the Portland/Vancouver metropolitan area to coordinate regional planning efforts related to parks, open space and natural areas through various resolutions as outlined in Resolution No. 92-1616, and through its budgets and work programs since 1988. Metro has also been working cooperatively with the cities and counties, park districts, state and federal agencies, conservation organizations, and citizens of the region in developing the Greenspaces Program, Master Plan and financing options to protect and acquire open space.

The Public Review Draft of the Metropolitan Greenspaces Master Plan recommends that Metro assume operations and management responsibilities for regionally significant greenspaces, and recommends that a general obligation bond issued by the District be seriously considered by the Council as an important greenspaces protection tool to be used for acquisition and capital improvement of important greenspaces.

Resolution No. 92-1616 fulfills statutory requirements in order for Metro to implement these recommendations, at its discretion, through deliberations on the Master Plan and a bond referral ordinance, both scheduled for consideration by the Council in July. The notices of intent do not bind Metro to a certain course of action, but must be filed in order for the Council to consider the recommendations as policy options during Master Plan and bond referral deliberations.

Metro can become a parks, open space and greenspaces provider, but only with the approval of the voters of the District. ORS 268.312 (1) (c) authorizes Metro to acquire, develop, maintain and operate a system of parks, open space and recreational facilities of metropolitan significance, subject to prior voter approval. ORS 199.464 (2) requires that Metro notify The Portland Metropolitan Area Local Government Boundary of its intent to seek voter approval of this authority. The Boundary Commission must approve Metro's proposal to initiate an additional function of the District. The acquisition bond measure referral could serve as the vehicle for voter approval of the authority.

Metro must also notify the Tax Supervising and Conservation Commission (TSCC) about its intent to seek voter approval of a general obligation bond measure to finance a system of regional greenspaces at the November 1992 election. The TSCC would then hold a hearing on the issue as required by ORS 294.655 and 1991 SB 1185. The District has already complied with other tax consultation requirements associated with Ballot Measure 5.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 92-1616.

Meeting Date: May 28, 1992
Agenda Item No. 8.3

RESOLUTION NO. 92-1617



METRO

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

Memorandum

DATE: May 22, 1992

TO: Metro Council
Executive Officer
Interested Persons

FROM: Paulette Allen, Clerk of the Council *PA*

RE: AGENDA ITEM NO. 8.3; RESOLUTION NO. 92-1617

The Council agenda will be printed before the Transportation & Planning Committee meets to consider Resolution No. 92-1617 on May 26. Committee reports will be distributed in advance to Councilors and available at the Council meeting May 28.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ADOPTING)
A POLICY ON HIGHWAY BRIDGE)
REPLACEMENT FUNDS)

RESOLUTION NO. 92-1617

Introduced by
Councilor Richard Devlin

WHEREAS, The Intermodal Surface Transportation Efficiency Act of 1991 increased the level of funding available for highway bridge replacement and rehabilitation (HBR); and

WHEREAS, The need for rehabilitation and repair of the Willamette River bridges account for 11 percent of the HBR funds allocated to the state of Oregon; and

WHEREAS, The cost of Willamette River bridge rehabilitation and replacement is 12 times that of conventional bridges due to the large size, age and movable design; and

WHEREAS, The Willamette River bridges are vital to mobility in the Portland metropolitan area; and

WHEREAS, the Willamette River bridge needs are not being met through the past and proposed administration of the HBR program; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District does hereby:

1. Request that ODOT defer programming of HBR funds in years 1995, 1996, 1997 and 1998 in the upcoming adoption of the Six-Year Transportation Improvement Program in order to allow consideration of alternative allocation procedures.

2. Request that the ODOT/AOC/LOC-sponsored Roads Finance Study acknowledge the cost of rehabilitation and replacement of

the Willamette River Bridges as a need to be reflected in the study.

3. Request that the Roads Finance Study evaluate the adequacy of the HBR Program to meet the Willamette River bridge needs and other state and local bridge replacement and rehabilitation needs.

4. Request that the Oregon Transportation Commission work with the AOC/LOC Bridge Committee to consider policy options in developing a ranking system, criteria and process that addresses statewide bridge needs, including large unfunded local bridges.

5. Request that the Roads Finance Study recommend a funding solution through the HBR Program or other federal or state mechanisms to ensure adequate funding for the full range of statewide bridge needs, including:

- . State Highway High Cost Bridges
- . City/County High Cost Bridges
- . State Highway Routine Bridges
- . City/County Routine Bridges -- on the Federal Highway System
- . City/County Off-System Bridges

6. Request that ODOT, AOC and LOC defer amendment of the Interagency Agreement for administration of the HBR Program until a revised ranking system has been established.

7. Request that ODOT assist the Portland region in developing a bridge management system as required by ISTEA.

ADOPTED by the Council of the Metropolitan Service District
this ____ day of _____, 1992.

Jim Gardner, Presiding Officer

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 92-1617 FOR THE PURPOSE OF ADOPTING A POSITION ON HIGHWAY BRIDGE REPLACEMENT FUNDS

Date: May 6, 1992

Presented by: Andrew Cotugno

PROPOSED ACTION

Resolution No. 92-1617 adopts a regional position on Highway Bridge Replacement (HBR) funds as follows:

1. Request that ODOT defer programming of HBR funds in years 1995, 1996, 1997 and 1998 in the upcoming adoption of the Six-Year Transportation Improvement Program in order to allow consideration of alternative allocation procedures.
2. Request that the ODOT/AOC/LOC-sponsored Roads Finance Study acknowledge the cost of rehabilitation and replacement of the Willamette River bridges as a need to be reflected in the study.
3. Request that the Roads Finance Study evaluate the adequacy of the HBR program to meet the Willamette River bridge needs and other state and local bridge replacement and rehabilitation needs.
4. Request that the Oregon Transportation Commission work with the AOC/LOC Bridge Committee to consider policy options in developing a ranking system, criteria and process that addresses statewide bridge needs, including large unfunded local bridges.
5. Request that the Roads Finance Study recommend a funding solution through the HBR Program or other federal or state mechanisms to ensure adequate funding for the full range of statewide bridge needs, including:
 - . State Highway High Cost Bridges
 - . City/County High Cost Bridges
 - . State Highway Routine Bridges
 - . City/County Routine Bridges -- on the Federal Highway System
 - . City/County Off-System Bridges
6. Request that ODOT, AOC and LOC defer amendment of the Interagency Agreement for administration of the HBR Program until a revised ranking system has been established.
7. Request that ODOT assist the Portland region in developing a bridge management system as required by ISTEA.

FACTUAL BACKGROUND AND ANALYSIS

1. The ISTEA of 1991 increased the Highway Bridge Replacement Program significantly, resulting in a funding increase for Oregon from \$7.8 million in FY 1991 to \$25 million in FY 1992. Despite this increase, the need for replacement or rehabilitation of the Willamette River bridges remains unfunded in the Draft Six-Year Program.
2. The Willamette River Bridges are high traffic volume bridges and, in many cases, high in transit ridership, bike and pedestrian traffic.

	<u>Current ADT</u>	<u>Spring '90 Daily Transit Ridership</u>
Sellwood	31,700 veh.	796
Hawthorne	27,000 veh.	12,154
Morrison	49,000 veh.	3,676
Burnside	38,000 veh.	7,182
Broadway	<u>30,000 veh.</u>	<u>1,955</u>
	175,700 veh.	25,763

In addition, because of their size, the fact that the Willamette River is a navigable stream, the high cost lift spans involved and the age of the structures, rehabilitation or replacement is very expensive as compared to conventional bridges:

Major Movable Bridge Replacement Cost = \$1500/sq. ft.
Major Fixed Span Replacement Cost = \$125/sq. ft.
Conventional Bridge Replacement Cost = \$55/sq. ft.

As a result, the unmet 10-year Willamette River bridge needs are significant:

Various electrical, mechanical, structural, illumination, rehabilitation	\$ 24 million
Commercial Sandblast and Paint.	43 "
Seismic Retrofit.	20 "
Sellwood Bridge Replacement	<u>42 "</u>
	\$129 million

Bridge needs of this magnitude are atypical for any unit of local government in Oregon.

3. HBR funds are distributed to the states on the basis of each state's total bridge replacement/rehabilitation needs as a percentage of national bridge replacement/rehabilitation needs. The same unit costs for similar types of bridges nationwide are used in this calibration. The high cost of the Willamette River bridges are included in Oregon's needs and account for 11 percent of the statewide needs. As such, 11 percent of the total HBR funds allocated to Oregon are due to the needs identified for the Willamette River bridges. Simply allocating the Willamette River bridges 11 percent of the HBR funds over the six-year life of the ISTEA would

produce \$16.8 million towards meeting the Willamette River bridge needs. The draft Six-Year Program envisions none of these funds being allocated to the Willamette River bridges.

4. Administration of HBR funds has historically been established through an interagency agreement between ODOT, AOC and LOC. By statute, at least 15 percent of the HBR system must be spent on bridges off the federal highway system. These are generally small bridges under jurisdiction of local governments. An additional 15-20 percent has been allocated to city/county bridges on the federal highway system with the remaining 65-70 percent programmed by ODOT on state highway system bridges. For the upcoming Six-Year Program update, ODOT proposes to allocate 15 percent off-system, 15 percent local on-system, and 70 percent ODOT.

Over the past six years, the local on and off-system bridges have been ranked according to the following criteria:

Sufficiency Rating (on a 1-100 scale)	71.4 percent
Cost Factor	7.1 percent
Deficient Structure	14.3 percent
Historic Status	7.1 percent

Using this system, the Willamette River bridges ranked in the top five in the overall local bridge needs. However, few of these bridges were funded due to the limited availability of funds and the desire to cap the dollar amount that would be allocated to any single jurisdiction.

In the upcoming Six-Year Program, ODOT proposes to revise the ranking criteria as follows:

Sufficiency Rating (on a 1-100 scale)	25 percent
Cost Factor	20 percent
Jurisdiction Need (resources available per road mile)	20 percent
Load Capacity	35 percent

Under this ranking system, the Willamette River bridges ranked poorly at numbers 37, 38, 43, 44 and 58 out of a possible 67 bridges. Due to these changes, it appears that once again, the Willamette River bridges would go unfunded for the next six years.

5. There is no apparent basis for establishing the split between state and local bridges. As proposed, the funding would be split: 70% ODOT/30% local, with no funds allocated to Multnomah County. Multnomah County earns 11 percent of the HBR funds allocated to the state. Additionally, there should be a comparison of the ranking of ODOT bridges versus local bridges to establish the split between state and local bridges.

RECOMMENDATION

1. Restrict programming of HBR funds in the upcoming Six-Year Program to the first two years in order to allow for development of a revised HBR allocation process.
2. Ensure that the "needs" analysis being compiled by the Oregon Roads Finance Study includes the high cost for replacement/rehabilitation of Willamette River bridges.
3. Request that the Oregon Road Finance Study evaluation of needs versus revenues conduct an evaluation of the HBR Program to meet the Willamette River bridge and other statewide needs and to recommend a funding package designed to ensure a solution to meeting the needs of all critical statewide needs, including:
 - . State Highway High Cost Bridges
 - . City/County High Cost Bridges
 - . State Highway Routine Bridges
 - . City/County Routine Bridges -- on the Federal Highway System
 - . City/County Off-System Bridges

Ensure that no single category of bridge needs go unmet while the remaining categories are partially or fully met.

4. Request that the Oregon Transportation Commission work with the AOC/LOC Bridge Committee to consider policy implications involved in developing a revised bridge ranking system, criteria and process that meets the needs of all bridges statewide, including high cost local bridges.
5. Request that ODOT, AOC and LOC defer amendment to the interagency agreement dealing with the administration of HBR funds until the revised system described above is developed.
6. Request that ODOT assist the Portland region in developing a bridge management system as required by ISTEA.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 92-1617.

Meeting Date: May 28, 1992
Agenda Item No. 8.4

RESOLUTION NO. 92-1610



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503.221-1646

Memorandum

DATE: May 22, 1992

TO: Metro Council
Executive Officer
Interested Parties

FROM: Paulette Allen, Clerk of the Council *PA*

RE: AGENDA ITEM NO. 8.4; RESOLUTION NO. 92-1610

The Council agenda will be printed before the Transportation & Planning Committee meets to consider Resolution No. 92-1610 on May 26. Committee reports will be distributed in advance to Councilors and available at the Council meeting May 28.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ESTABLISHING)	RESOLUTION NO. 92-1610
THE TPAC TRANSPORTATION DEMAND)	
MANAGEMENT SUBCOMMITTEE)	Introduced by
	Councilor Jim Gardner

WHEREAS, The Joint Policy Advisory Committee on Transportation (JPACT) and the Transportation Policy Alternatives Committee (TPAC) will be addressing a number of Transportation Demand Management policy, program, and project activities over the coming years as a result of federal, state and local actions; and

WHEREAS, The TDM activities are 1) promoted through the Clean Air Act Amendments of 1990, the Intermodal Surface Transportation Efficiency Act of 1991, the State Transportation Rule 12, the draft Policy Element of the Oregon Transportation Plan, the adoption of the Regional Urban Growth Goals and Objectives (RUGGO) and the adopted Regional Transportation Plan (RTP); and 2) are being examined through the Governor's Task Force on Automobile Emissions in the Portland Area, the Region 2040 study and the 1992 update of the RTP; and

WHEREAS, The TDM activities require substantial background analysis, study and associated effort leading to regional coordination and consensus; and

WHEREAS, The associated work and effort are in addition to the current duties, responsibilities and activities of both JPACT and TPAC; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District adopts the following recommendations:

1. That a TPAC TDM Subcommittee be appointed by TPAC for the purpose of being responsible for the initial development, evaluation and recommendations related to the region's TDM planning, programming and implementation activities, in particular, to those federal, state and regional actions identified above in this resolution.

2. That the TPAC TDM Subcommittee would report to and develop recommendations for TPAC consideration. Where appropriate, recommendations will be forwarded to JPACT and the Metro Council for review and adoption.

3. That the TPAC TDM Subcommittee include representatives of Metro; ODOT; Tri-Met; Washington, Clackamas and Multnomah Counties; City of Portland; Oregon Department of Energy; DLCD; DEQ; one citizen member; one bicycle/pedestrian advocacy member; one representative from the other cities; one business representative; and a representative from the Clark County Strategic Planning Group.

4. That the TPAC TDM Subcommittee be chaired by Metro; that meetings be held monthly (unless otherwise noted); that Metro, through consultation with TPAC, JPACT and the subcommittee, be responsible for meeting agendas; and that Metro keep regular meeting reports.

5. That establishment of the TPAC TDM Subcommittee be effective immediately upon adoption of this resolution.

ADOPTED by the Council of the Metropolitan Service District
this ____ day of _____, 1992.

Jim Gardner, Presiding Officer

92-1610.RES/5-5-92

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 92-1610 FOR THE PURPOSE OF ESTABLISHING THE TPAC TRANSPORTATION DEMAND MANAGEMENT SUBCOMMITTEE

Date: April 22, 1992

Presented by: Andrew Cotugno

PROPOSED ACTION

Adopt Resolution No. 92-1610 establishing a TPAC Transportation Demand Management (TDM) Subcommittee; outline general subcommittee duties and responsibilities; and establish general subcommittee membership and meeting guidelines. This resolution and establishment of the subcommittee respond to recent federal, state and regional actions which have numerous TDM or TDM-related planning and program requirements.

TPAC has reviewed this TDM Subcommittee structure and recommends approval of Resolution No. 92-1610.

FACTUAL BACKGROUND AND ANALYSIS

Background of Regional TDM Activities

Recent action at the federal, state and regional level calls for a number of policy, planning and programming requirements which relate either directly or indirectly to TDM. These actions and their inherent requirements or milestones are summarized below. Substantial TPAC/JPACT involvement and coordination will be necessary in order to address these respective requirements and milestones.

1. Federal Actions:

- . Clean Air Act Amendments of 1990. The Portland metropolitan area is designated as a "non-attainment" area for both ozone and carbon monoxide (CO). Attainment deadlines for the area are November 1993 for ozone and November 1995 for CO. Based on recent analyses, the area will meet the deadlines. However, in conjunction with applying for attainment, the region must submit an approved "maintenance plan" which identifies appropriate "transportation control measures" (TCMs) intended to maintain air quality within federal standards. Most TCMs are TDM-related. The TCMs and the maintenance plan will require regional consensus and approval through the TPAC/JPACT process.
- . Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991. This act has two major areas of TDM implication. First, the funding programs provide more flexibility in their distribution. Congestion Mitigation/Air Quality, STP

and NHS funds are available for TDM and transit projects. The programming of such funds for TDM actions will require regional consensus and approval. Second, ISTEA requires urban areas to develop a Congestion Management Program. The program will likely include TDM measures and again will require regional approval.

2. State Actions:

- . State Transportation Rule 12. The Rule establishes goals related to the reduction of single-occupant automobile use through improved transportation and land use efficiencies. Requirements related to per capita VMT reductions will require substantial consideration of TDM strategies (see Regional Activities below).
- . Oregon Transportation Plan (OTP). Echoing Rule 12, the draft Policy Element of the OTP calls for balanced multi-modal passenger transportation systems in urban areas. The systems are to be consistent with Rule 12 goals for reducing reliance on the single-occupant automobile.
- . Governor's Task Force on Automobile Emissions in the Portland Area. The Task Force was established by the 1991 Legislature and is examining emission reduction strategies in order to ensure air quality in the Portland region. The work is being coordinated with regional activities identified below. Results of the Task Force will be forwarded to the 1993 Legislature. Ultimately, specific emission strategies may be incorporated into the air quality maintenance plan and possibly the Congestion Management Plan and RTP.
- . ODOT TDM Work Group. ODOT hired staff in the fall of 1990 to establish state project development and funding guidelines related to TDM activities which primarily provide for better efficiencies on the state highway system. The Work Group is responsible for developing TDM project recommendations for consideration in ODOT's Six-Year Program. The Work Group consists of representatives of local jurisdictions, Metro, ODOT, Tri-Met, LCDC and the Department of Energy. It is the intention of this resolution to transform the Work Group into the TPAC TDM Subcommittee and charge them with the responsibility of advising TPAC on significant and appropriate regional TDM activities.

3. Regional Actions:

- . RUGGO/Region 2040. The Regional Urban Growth Goals and Objectives also call for a regional transportation system which reduces reliance on the single-occupant automobile in order to improve air quality, reduce energy consumption and minimize system costs and environmental impacts. The

Region 2040 study will incorporate TDM strategies as part of each of its transportation/land use scenarios.

- . Regional Transportation Plan (RTP). The RTP calls for a balanced transportation system which includes strategies for transit, highways/arterials and TDM. To achieve this balance and to meet Rule 12 requirements, updates to the RTP will likely include a significant number of additional TDM recommendations.
- . Metro TDM Study. The Metro TDM study will expand on the work of the Governor's Task Force to identify specifically appropriate TDM strategies for the region. Recommendations of the study will be forwarded for adoption into the RTP.

In addition to the above activities, periodic TDM opportunities may arise related to funding. An example is the FHWA/FTA Operation Action Program related to urban mobility. The program seeks innovative methods to address mobility. The majority of methods fall under the TDM category.

TPAC TDM Subcommittee

As mentioned, each of the above activities will require review and possibly formal action through TPAC/JPACT and the Metro Council. Ancillary to each are any number of studies and other planning activities which will require regional review and coordination. Finally, many if not all will have planning and programming implications for local jurisdictions and may require local adoption.

To assist TPAC in the review and development of regional TDM-related activities, it is recommended that the ODOT TDM Working Group for the Portland should be restructured and assigned as the TPAC TDM Subcommittee. The subcommittee's activities and structure would be as follows:

Purpose: The TPAC TDM Subcommittee would be responsible for the initial development, evaluation, review and recommendations of regional TDM planning, programming and implementation activities. The subcommittee would report to and develop recommendations for TPAC consideration. Where appropriate, recommendations will be forwarded for JPACT review and adoption.

Participants: The subcommittee is recommended to include representatives from the agencies currently represented on the ODOT TDM Working Group: ODOT; Tri-Met; Metro; Washington, Clackamas and Multnomah Counties; City of Portland; Oregon Department of Energy, DLCD; and DEQ. In addition, one citizen member, one bicycle advocacy member, one representative from the other cities, one business representative and a representative from the Clark County Strategic Planning Group should also participate. Selection of the committee is the responsibility of the participating jurisdiction or agency and appointments shall be made by

TPAC. Each jurisdiction should appoint a representative and an alternate. Jurisdictions and agencies are free to substitute members dependent upon issues and required expertise.

To keep the subcommittee at a manageable size, non-represented local jurisdictions should be apprised monthly of subcommittee activities through their respective county coordinating committee.

Meetings: The subcommittee is recommended to meet monthly on the second Thursday at 1:30 p.m. The day and time best provides for the subcommittee to receive input from both TPAC and JPACT and allows sufficient time to prepare for upcoming TPAC/JPACT meetings.

The subcommittee will be chaired by Metro and Metro will be responsible for agendas and meeting reports. ODOT, Metro and Tri-Met will act as a regional TDM management team in order to coordinate upcoming TDM actions and requirements and ensure their placement on appropriate agendas. Agenda items may also be recommended by the subcommittee or directed by either TPAC or JPACT. All meetings are open to the public consistent with Oregon's open public meeting laws.

The subcommittee is essentially considered a working group similar to a technical advisory committee. However, where appropriate, the chair may invoke Robert's Rules of Order to ensure completion of agenda items or establish subcommittee votes on contentious issues.

Duties: The TDM Subcommittee will be responsible for identification of regional TDM issues related, but not limited, to any of the federal, state and regional actions identified in this report. In general, the subcommittee will not be substituted for regular project-related technical advisory committee activities.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 92-1610.

Meeting Date: May 28, 1992
Agenda Item No. 8.5

RESOLUTION NO. 92-1621



METRO

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

Memorandum

DATE: May 22, 1992

TO: Metro Council
Executive Officer
Interested Parties

FROM: Paulette Allen, Clerk of the Council *PA*

RE: AGENDA ITEM NO. 8.5; RESOLUTION NO. 92-1621

The Council agenda will be printed before the Transportation & Planning Committee meets to consider Resolution No. 92-1621 on May 26. Committee reports will be distributed in advance to Councilors and available at the Council meeting May 28.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF RELEASING A	)	RESOLUTION NO. 92-1621
REQUEST FOR PROPOSALS FOR BIOLOGICAL)	
MONITORING IN SMITH AND BYBEE LAKES	)	Introduced by Executive
MANAGEMENT AREA AND ALLOWING EXECUTIVE)		Officer Rena Cusma
OFFICER TO EXECUTE THE CONTRACT)	

WHEREAS, the Metropolitan Service District adopted the Natural Resource Management Plan for Smith and Bybee Lakes by Ordinance No. 90-367; and,

WHEREAS, the Management Plan designates Metro as the environmental monitor and the manager of the Lakes Trust Fund established by the Plan's adoption; and,

WHEREAS, the Management Plan outlines the need for increased monitoring of the Management Area, specifically, increased biological monitoring; and,

WHEREAS, the Smith and Bybee Lakes Technical Advisory Committee has approved of the biological monitoring plan proposed in the Request For Proposals; and,

WHEREAS, funds were allocated in the Fiscal Year 1991-92 budget for expending up to \$100,000 in personal services with "A" contract designation for environmental monitoring, from which, to date, no funds have been spent; and,

WHEREAS, biological monitoring must proceed as soon as possible due to unusual weather and rapidly changing conditions in the Management Area; therefore,

BE IT RESOLVED:

1. That the Council of the Metropolitan Service District approves the release of the Request For Proposals for biological monitoring in Smith and Bybee Lakes Management Area to vendors; and

2. The Council authorizes the Executive Officer to execute the contract to conduct the biological monitoring in the Management Area upon selection of the successful vendor.

ADOPTED by the Council of the Metropolitan Service District this ____ day of May, 1992.

Jim Gardner, Presiding Officer

REQUEST FOR PROPOSALS

FOR

Biological Monitoring

in Smith and Bybee Lakes Management Area

May 1992

Metropolitan Service District
2000 S.W. First Avenue
Portland, Oregon 97201-5398
(503) 221-1646

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A	Metro DBE/WBE Policy
B	Metro Personal Services Agreement

**REQUEST FOR PROPOSALS
Biological Monitoring
in Smith and Bybee Lakes Management Area**

I PROJECT DESCRIPTION

Introduction

Smith and Bybee Lakes Management Area is a 2000-acre that includes two shallow lakes, wetlands, sloughs, portions of Columbia Slough, uplands, and the closed St. Johns Landfill. The lakes/wetland complex is the largest remnant of Columbia River bottomlands remaining in the Portland metropolitan area. Located near the confluence of the Willamette and Columbia Rivers (see attached map), the lakes area is both a local and regional significant natural area within the urban environment.

In 1989, the Natural Resources Management Plan for Smith and Bybee Lakes was adopted and the Lakes Trust Fund was established. The area will be managed primarily for enhancement of wildlife habitat while providing passive recreational opportunities. The Management Plan outlines numerous environmental projects that are needed, including an environmental assessment of the Management Area. As the Trust Fund Manager, Metro is responsible for managing the environmental assessment.

The comprehensive monitoring plan for the Management Area has been divided into two components: (1) hydrology/water quality and (2) biological monitoring. The hydrology and water quality are principally influenced by the Columbia Slough, St. Johns Landfill, and adjacent industrial activities. The hydrology/water quality component of the lakes monitoring plan will include ground and surface water, sediment, and fish tissue monitoring. As part of Metro's responsibility in closing St. Johns Landfill, this component of the monitoring plan will be conducted separately from biological monitoring that may have objectives different from landfill closure objectives. Fishery assessment will be conducted by U.S. Fish and Wildlife Service.

This Request For Proposal (RFP) seeks proposals for development and implementation of the biological monitoring plan for the Smith and Bybee Lakes Management Area.

Objectives

Proposals for the biological monitoring program for the Management Area should be designed to meet the following objectives:

To assess the current usage of the Smith and Bybee Lakes Management Area by birds, amphibians, reptiles, and mammals.

To evaluate the current wildlife usage in relation to historical and expected usage.

To establish baseline data for detecting significant changes in habitat and usage over time.

To incorporate an educational component in the monitoring plan that enlists direct participation of middle to high school and college-level students.

II PROJECT SCHEDULE

Upon execution of the contract, the vendor is expected to commence development and implementation of the biological monitoring program as needed to timely acquire seasonal data. Since this RFP is being released during the nesting season of fauna found in the Management Area, the vendor may need to be immediately available upon contract execution. The first year of biological monitoring should end in July 1993. A summary report will be due in September 1993.

III RESOURCES AVAILABLE

A maximum of \$50,000.00 is available to complete the professional services contract.

IV METHODOLOGY

Proposals should consider but not be limited to the suggestions given below. Intrinsic to the assessment of each compartment of the ecosystem should be the recording of field observations. Qualitative descriptions of weather, habitat conditions, water quality, and observations of parameters other than what is being immediately assessed should be included for all monitoring activities.

Historical Data

Biological monitoring data acquired in this project will be compared to historical data as well as providing baseline data for future studies. Prior to development of the biological monitoring plan, all historical biological monitoring data acquired in the Management Area should be reviewed in context of development of the proposed monitoring plan. At a minimum, this should include the 1987 Environmental Studies by Fishman Environmental Services and the files of Oregon Fish and Wildlife Service.

Photographic Documentation

Two types of photo documentation should be conducted:

- I. At numerous locations selected according to habitat type and critical area, a single-frame photograph will be taken using a 35 mm camera, a 50 mm lens, and ASA 100 color print film. Photos will be taken during the February, June, and September sampling periods in a specified compass direction.
- II. A photomosaic will be made on or about June 1 of each year at selected sites. A contiguous set of photos will be taken using a 35 mm camera, a 50 mm lens, ASA 100 color print film, and a leveled tripod at a height of four feet. The center of the first and last frames will be at indicated compass directions, with each succeeding frame overlapping the previous frame by approximately 25%.

Vegetation/Habitat Survey

Three methods for assessing the vegetation communities should be employed: aerial CIR photography, transects, and plot and quadrat sampling.

Metro will provide aerial color-infrared photographs at 1:6000 scale (1"=500') enlarged to 1"=100' obtained from flights taken in July, approximately synchronizing with the June photographic documentation event. Plant communities will be delineated from the aerial photographs, with sufficient verification on the ground, and digitized for use in a geographical information system (GIS). Plant community and habitat categories will be similar to the classification system used by the U.S. Fish and Wildlife Service. The GIS will be utilized to map and quantify existing areal extent of communities and future surveys.

Habitat types should include the following, at a minimum:

Open Water	Shore Line
Smartweed Swamp	Willow Swamp
Sedge Meadow	Reed Canary grassland
Forest	Upland grassland (fringes and older areas of landfill)

A description of plants along seven transects made in 1982 (U.S. Army Corps of Engineers) and 1986 (Fishman) should be repeated for comparison. Additional transects should be made in representative habitat areas normally not inundated year-round, such as upland forests and grasslands.

Permanent plots will be established for (1) tree and shrub vegetation, (2) quadrates for herbaceous ground cover, and (3) quadrates for emergent/submergent vegetation. Plots and quadrates should be located along transects by randomly determining distances along the transects within a homogeneous habitat area (i.e. stratified sampling). Special areas, such as ephemeral ponds, sedge meadows and isolated ponds, should also be characterized by transect surveys.

- (1) The tree and shrub plots should be designated from points along a transect, plots radiating out from the center point to encompass a certain distance from the center. Species number and size should be recorded, along with density and type of detritus and standing snags.
- (2) Herbaceous ground cover includes both upland and seasonal wetland plant communities. At each designated distance along a transect, a 1 m² quadrat should be located and marked at two diagonal corners with stakes. The quadrats should be 1 meter on each side, sub-divided into four quarters using string or wire for making visual estimation easier. Total plant cover should be visually estimated. Species and relative abundance should be recorded.
- (3) Emergent vegetation should be assessed using the quadrat frames set over diagonal corner markers at permanent sites. Total emergent plant cover should be estimated as well as total submergent plant cover. Emergent and submergent plant species should be listed in each quadrat, and the relative order of abundance of species is to be determined. Identification and estimation of relative density of aquatic macrophytes should be coordinated with the CIR aerial imaging (occurring in July) and the aquatic macroinvertebrate survey. Special note should be made of location and relative abundance of Eurasian milfoil.

During any part of the plant survey, any detection of purple loosestrife (Lythrum salicaria) should be noted and removed, if possible.

Algae

The population of phytoplankton (algae suspended in the water column) should be assessed throughout the lakes and adjacent sloughs, including the isolated ponds and sloughs near Marine Drive, North Slough, and Columbia Slough. The latter two water bodies should be sampled on the same point in the tidal cycle each sampling date. One-liter samples from the entire water column should be taken in May, June, August, and November.

Phytoplankton should be identified to, at least, the genus level using a phase contrast microscope. Density and relative abundance should be calculated. Analysis for chlorophyll a should be conducted from samples taken from phytoplankton-count sites.

Periphyton (algae attached to substrate) samples should be obtained when its presence is observed during phytoplankton sampling runs. Samples should be taken for later identification and field estimation of relative abundance should be made.

Aquatic Macroinvertebrates

Benthic and wetland aquatic invertebrates samples should be collected using an Ekman dredge and screened using 1.0 mm mesh. Sample material should be preserved in buffered formalin for lab identification to major taxonomic category. Sediment composition should be noted as to its percentage silt and sand and the relative volume of detritus.

Epiphytic and epibenthic macroinvertebrates population assessment should be conducted, particularly for those associated with submersed and emergent aquatic plants such as amphipods, mysids, snails and insects. This sampling may be coordinated with the aquatic macrophyte survey to insure each aquatic plant community is surveyed for its macroinvertebrate residents. Large areas of the dominant aquatic plant in the lakes, swamp smartweed (*Polygonum amphibium*), may be harvested in the near future. The role of this of other aquatic plants in providing habitat for macroinvertebrates has to be considered.

Zooplankton samples should be collected using a 130 micron mesh net with a 0.5 m diameter opening. The net should be towed through a known volume of water consistent between sampling sites. Animals should be identified to the lowest possible taxonomic level. Standing crop and relative species abundance should be determined.

In locating sampling sites, an attempt should be made to correspond with previous macroinvertebrate survey locations, notably the 1982 USGS and 1986 Fishman surveys. Sampling should occur on approximately the same date each year in early June and September. Sampling in the Columbia and North Slough should occur on the same point in the tidal cycle on each sampling date.

Birds

A representative sampling site for each type of habitat within the Management Area will be selected. Unique areas, such as ephemeral ponds and remnant sloughs, should be included. Habitat types should include those distinguished in the vegetation/habitat survey.

Sampling should occur in January, April, June, and September to cover the breeding and migratory seasons. Censuses should be conducted on approximately the same dates each year, taking place between one-half hour before sunrise and three hours after sunrise. The total time period of census transect will be 40 minutes, accumulated from 5-minute observations at 8 points along the transect. Birds will be identified visually and by their vocalizations. All species will be logged by habitat use and abundance.

More frequent bird surveys may be possible through enlisting the cooperation of knowledgeable volunteers, such as the Portland Audubon Society or wildlife students. Permanent transects may be established for regularly-scheduled volunteer surveys.

Evaluation of historical usage of the lakes area by birds will help in indicating usage trends. Observed and potentially occurring species of birds, based on historical data and observations made in similar habitats nearby, should be listed for perspective.

A standard reporting form will be developed to record casual observations made by other observers at anytime of year. Incidental observations of other wildlife types, including mammals, amphibians, and reptiles, will be noted while conducting the avian surveys.

Herptofauna

The amphibian and reptile population will be assessed during the breeding season. Both trapping and time-constraint search methods are sampling terrestrial species. Two methods recommended are:

- 1) collection using pitfall traps (plastic buckets) located along 50-meter long drift fences; and/or,
- 2) timed one-person hour searches along transects in each habitat type.

Traps should be checked daily and specimens should be removed immediately to avoid morbidity or mortality. Traps should be promptly removed to minimize impact.

Special attention should be given to survey habitats likely to support critical or rare species, such as the western pond turtle. At least one transect or drift fence will be established to sample each habitat type.

Mammals

Small mammals should be detected using live or pitfall traps placed along 100 meter transects in representative habitat types. The presence of large mammals will be determined by observations of signs (e.g. tracks, scat) or observations. Frequency of sampling should be sufficient to assess possible presence of all species that may be found in this habitat, including threatened or endangered species.

V PRODUCTS AND DELIVERABLES

Within one month of the execution of contract, the vendor must deliver a detailed biological monitoring plan to Metro. This plan will be a further refinement of the successful vendor's proposal, changes being made after at least one meeting with Metro staff. Included in the monitoring plan will be a detailed educational component that incorporates public school participation from the St. Johns area.

The vendor may need to proceed in field data acquisition, dependent on the timing of the contract award and field condition (e.g. timing of nesting conditions). This decision will be made by Metro staff in concert with the successful vendor after the contract award.

The vendor will submit reports and all data in digital form as it is acquired on a quarterly basis. A draft summary report will be submitted by July, 1993 for Metro staff review. A final report will be expected in September, 1993.

VI PROPOSAL INSTRUCTIONS

The following section defines the form and content required for submission of proposals.

A. Proposal Submission

Three copies of the consultant's proposal must be provided to Metro, directed to the attention of:

Jim Morgan
Planning Department
Metropolitan Service District
2000 S.W. First Avenue
Portland, Oregon 97201-5398

Proposals are due June 10, 1992, 4:30 p.m. (PDT). Proposals will not be considered if submitted after the deadline. Postmarks are not acceptable.

B. Format and Content

The format required for the proposal is as follows:

Letter of Transmittal
Part 1 - Proposed Work Plan
Part 2 - Project Staffing
Part 3 - Budget/Cost Proposal

Each part should be clearly labeled for easy reference.

1. Letter of Transmittal

The Letter of Transmittal should contain a brief summary of the key points of the proposal and must include:

- An identification of firms involved in the proposal with a clear designation of prime consultant and lead contact person;
- A statement as to which components of the scope of work are included in the consultant's proposal; and
- A statement that the proposal remain in effect for ninety (90) days after receipt by Metro.

2. Part 1 - Work Plan

The consultant should describe the proposed methodology for carrying out the work tasks described in this RFP. The work plan should be clearly separated into the components outlined in the Scope of Work and should clearly delineate whether the proposal is for all or part of the work defined in this RFP, complete with itemized costs.

3. Part 2 - Project Staffing

Each principal staff person to be assigned to the project will be identified for both the prime and any subconsultant(s). For each person, relevant experience should be described with particular emphasis on the following:

- Role and responsibility proposed for this project and an estimate of time commitment for the individual.
- Relevant experience in biological assessment, particularly plants, herptofauna, birds, and mammals.

Proposals must identify a single person as project manager to work with Metro. The consultant must assume responsibility for any subconsultant work and shall be responsible for the day-to-day direction and internal management of the consultant effort.

4. Part 3 - Budget/Cost Proposal

The consultant should summarize all expected products and services to be delivered and provide a proposed budget for the overall proposal. Budget details should be provided for the following:

- Delineation of personnel by level (i.e., Principal, Professional and Administrative), hourly rate, person-days assumed and cost;
- Delineation of materials and other direct costs; and
- Administrative support and overhead.

C. Evaluation

All proposals will be evaluated by representatives from Metro's Planning Department. Each component for which the consultant submits a proposal will be evaluated based upon the following criteria:

<u>Criteria</u>	<u>Percent</u>
<ul style="list-style-type: none"> ● <u>Corporate Experience</u> Offerer's collective experience in biological assessment of terrestrial and aquatic plants, herptofauna, birds, and mammals. 	20
<ul style="list-style-type: none"> ● <u>Technical Approach</u> The degree of understanding of the monitoring objectives and the plan design to meet those objectives. 	30
<ul style="list-style-type: none"> ● <u>Innovative Educational Component</u> Incorporating educational component into monitoring program in a fashion that maximizes local student participation while minimizing monitoring cost. 	25
<ul style="list-style-type: none"> ● <u>Cost of proposed service.</u> 	25

D. RFP as Basis for Proposals

This RFP represents the most definitive statement Metro will make concerning information upon which proposals are to be based. No information, other than that which is contained in this RFP, will be considered by Metro in evaluating the proposals. All questions relating to the RFP or the project must be submitted in writing to Jim Morgan, who will determine if a written response or RFP amendment to all parties receiving a copy of this RFP is required. All questions must be received by June 5, 1992.

E. Subconsultants; Disadvantaged Business Program

The following DBE/WBE utilization program requirements should be considered in the context of a letter dated October 22, 1991, and by the Deputy Executive Officer, Richard D. Engstrom, included herein as Appendix A.

Metro has made a strong commitment to provide maximum opportunities for Disadvantaged Businesses in its contracting activities. As such, the successful proposer shall be required to meet the DBE goal of 7 percent and the WBE goal of 5 percent for this contract or demonstrate that a good faith effort has been made to meet the goals. All said DBE's and WBE's for purposes of this requirement must be certified by the State of Oregon by the submittal deadline.

The proposal submitted must contain fully completed Disadvantaged Business Program Compliance form (see Attachment A). Detailed procedures for completing this form, and the additional DBE Utilization form which must be submitted by the close of the next working day following the proposal submission date and any other forms, are contained in Metro Code Section 2.04.155 and 2.04.160(b). Proposers should note the following requirement of the latter section:

"Advertisement in trade association, general circulation, minority and trade-oriented, women-focus publications, if any, and through a minority-owned newspaper or minority-owned trade publication concerning the subcontracting of material supply opportunities at least 10 days before bids or proposals are due."

The following are minority newspapers published in the Portland metropolitan area:

The Skanner	The Portland Observer	The American
2337 N. Williams	P. O. Box 3137	Contractor
Portland, OR 97211	Portland, OR 97208	P. O. Box 1
503/287-3562	503/288-0033	Portland, OR 97211
		503/285-9000

If a proposal does not include at least the minimum participation for both DBE and WBE, then the proposal shall include all (1 through 4) of the following, or it is highly probable that the proposal will be disqualified:

1. Copies of ads seeking the deficient WBE and/or DBE participation published at the proposer's expense at least 10 days prior to the proposal due date in: a

newspaper of general circulation, and a minority oriented publication, or, a trade association publication, or a women-focused publication.

2. Copies of letters addressed to five or more DBE's and/or five or more WBE's addressed not less than 10 days before the proposal due date. In the event that less than five DBE's or five WBE's are certified within the professionals category, and described as having biological monitoring expertise in the current list of certified DBE/MBE/WBE firms by the Office of Minority and Women Businesses, State Executive Department, Salem, OR 97310, 503/378-5651, then all DBE's and WBE's listed within the professionals category, and described as having biological monitoring expertise shall be contacted by letter. In addition, a signed statement from the proposer shall affirm that the proposer has mailed the above-referenced letters by regular or certified letter not less than 10 days before the proposal due date.
3. Copies of a phone log documenting the name of the WBE/DBE contacts, the proposers contact name, the dates and times of follow-up calls, and a summary of the discussion made not later than five days prior to the proposal due date to those WBE/DBE's referred to above.
4. Copies of letters dated at least 10 days before the proposal date from the proposer and addressed to at least five minority community organizations, local, state and federal minority business assistance offices, other organizations identified by the State of Oregon Executive Department's Advocate for Minority and Women Business. Such copies of letters shall be accompanied by statement signed by the proposer affirming that said letters were mailed by regular or certified mail at least 10 days prior to the proposal due date.

A subconsultant is any person or firm proposed to work for the prime consultant on this project. Metro does not wish any subconsultant selection to be finalized prior to contract award. For any task or portion of a task to be undertaken by a subconsultant, the prime consultant shall not sign up a subconsultant on an exclusive basis. Metro reserves the right at all times, during the period of this agreement, to monitor compliance with the terms of this paragraph and Metro's Disadvantaged Business Program.

NOTE: The aforementioned items to be considered in the context of letter of October 22, 1991, contained in Attachment A

GENERAL PROPOSAL/CONTRACT CONDITIONS

- A. **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 accept or reject any or all proposals received as a result of this request, to negotiate with all qualified sources, or to cancel all or part of this RFP.
- B. **Contract Type** -- Metro intends to award a personal services contract with the selected firm for this project. A copy of Metro's standard personal services agreement, which the successful consultant will be required to execute, is contained in Appendix B.
- C. **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. A monthly billing, accompanied by a progress report, will be prepared by the selected firm for review and approval by Metro.
- D. **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.

NOTE: The aforementioned items to be considered in the context of letter of October 22, 1992, contained in Attachment A.

APPENDICES

Appendix A - Metro DBE/WBE Policy and Requirements

Appendix B - Metro Personal Services Agreement

Appendix A

METRO

2000 SW First Avenue
Portland, OR 97201-5398
(503) 221-1646
Fax 241-7417

October 22, 1991

Dear Potential Bidder/Proposer:

For the past ten years, the Metropolitan Service District has had a special contracting program to encourage participation in Metro contracts by businesses owned by minorities including women. This program has been applied to both federally funded and locally funded projects.

We have now been advised by our General Counsel that the Metro Code provisions relating to participation by minority-owned businesses in locally funded contracts are unconstitutional.

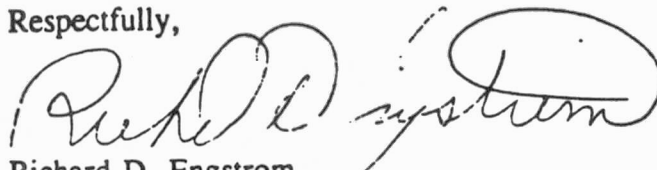
Therefore, I must reluctantly advise you that until the Metro Council acts to correct this defect and/or adopts a new program, I cannot and will not act in probable violation of the law and attempt to enforce the present Metro DBE and WBE Program requirements on locally funded projects.

The economy of the Metro region is comprised of a multitude of emerging and small businesses which mirror the racial diversity within our boundaries. They're our customers and clients. They pay taxes. They hire the local work force. They determine the health of the local economy. Supporting those businesses should not be viewed as just a requirement. Supporting those businesses should be viewed as good business!

I, therefore encourage you to set the legal question aside and voluntarily follow good faith efforts to utilize Disadvantaged, Minority and Women Owned Business Enterprises as your subcontractors and suppliers.

Please consider these issues carefully. Talk to your legal counsel. Reflect upon the larger issue. If you have questions, please contact Rich Wiley at Metro 221-1646 x 116.

Respectfully,



Richard D. Engstrom
Deputy Executive Officer

Executive Officer
Rena Cusma

Metro Council

Tanya Collier
Presiding Officer
District 4

Jim Gardner
Deputy Presiding
Officer
District 3

Susan McLain
District 1

Lawrence Bauer
District 2

Richard Devlin
District 4

Tom DeJardin
District 5

George Van Bergen
District 6

Ruth McFarland
District 7

Judy Wyers
District 8

Roger Buchanan
District 10

David Knowles
District 11

Sandi Hansen
District 12

DISADVANTAGED BUSINESS PROGRAM COMPLIANCE FORM

(To be submitted with Bid or Proposal)

Name of Metro Project: _____

Name of Contractor: _____

Address: _____

Phone: _____

In accordance with Metro's Disadvantaged Business Program, the above-named contractor has accomplished the following:

- _____ 1. Has fully met the contract goals and will subcontract _____ percent of the contract amount to DBEs and _____ percent to WBEs.
- _____ 2. Has partially met the contract goals and will subcontract _____ percent of the contract amount to DBEs and _____ percent to WBEs. Contractor has made good faith efforts prior to bid opening (or proposal submission date, as applicable) to meet the full goals and will submit documentation of the same to Metro within two working days of bid opening (or proposal submission date).
- _____ 3. Will not subcontract any of the contract amount to DBEs or WBEs but has made good faith efforts prior to bid opening (or proposal submission date, as applicable) to meet the contract goals and will submit documentation of such good faith efforts to Metro within two working days of bid opening (or proposal submission date).

Authorized Signature

Date

Disadvantaged Business Program Compliance Form

(To be submitted with ~~Bid or~~ Proposal)

Name of Metro Project: _____

Name of Contractor: _____

Address: _____

Phone: _____

In accordance with Metro's Disadvantaged Business Program, the
above-named contractor has accomplished the following:

- _____ 1. Has fully met the contract goals and will subcontract
_____ percent of the contract amount to DBEs and
_____ percent to WBEs.
- _____ 2. Has partially met the contract goals and will
subcontract _____ percent of the contract amount to
DBEs and _____ percent to WBEs. Contractor has made
good faith efforts prior to bid opening (or proposal
submission date, as applicable) to meet the full
goals and will submit documentation of the same to
Metro within two working days of bid opening (or
proposal submission date).
- _____ 3. Will not subcontract any of the contract amount to
DBEs or WBEs but has made good faith efforts prior to
bid opening (or proposal submission date, as
applicable) to meet the contract goals and will
submit documentation of such good faith efforts to
Metro within two working days of bid opening (or
proposal submission date).

Authorized Signature

Date

DISADVANTAGED BUSINESS ENTERPRISE UTILIZATION FORM

1. Name of Metro Project _____
2. Name of Contractor _____
- Address of Contractor _____
3. The above-named contractor intends to subcontract _____ percent of the contract amount to the following Disadvantaged Business Enterprises (DBEs):

**Names, Contact Persons,
Addresses and Phone Numbers
of DBE Firms Contractor
Anticipates Utilizing**

**Nature of
Participation**

**Dollar
Value of
Participation**

Total

Amount of Total Contract

DBE Percent of Total Contract

Authorized Signature

Date:

THIS FORM IS TO BE COMPLETED, SIGNED AND SUBMITTED

BY THE CLOSE OF THE NEXT WORKING DAY FOLLOWING

~~BID~~ OPENING/PROPOSAL SUBMISSION

WOMEN BUSINESS ENTERPRISES UTILIZATION FORM

1. Name of Metro Project _____
2. Name of Contractor _____
Address of Contractor _____
3. The above-named contractor intends to subcontract _____ percent of the contract amount to the following Women Business Enterprises (WBEs):

Names, Contact Persons,
Addresses and Phone Numbers
of WBE Firms Contractor
Anticipates Utilizing

Nature of
Participation

Dollar
Value of
Participation

Total

Amount of Total Contract

WBE Percent of Total Contract

Authorized Signature

Date:

THIS FORM IS TO BE COMPLETED, SIGNED AND SUBMITTED

BY THE CLOSE OF THE NEXT WORKING DAY FOLLOWING

~~BID OPENING/PROPOSAL SUBMISSION~~

Appendix B

Appendix B - Metro Personal Services Agreement

The attached personal services contract represents a standard document approved by Metro General Counsel. Any proposed changes in the language or construction of the document must be raised and resolved prior to and as part of the proposal evaluation process. Award of contract constitutes acceptance of the standard contract terms and conditions. Therefore, Metro shall consider subsequent requests for material changes to the contract as a request to withdraw the original bid.

Project _____
Contract No. _____

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is between the METROPOLITAN SERVICE DISTRICT, a municipal corporation organized under ORS Chapter 268, referred to herein as "Metro," located at 2000 S.W. First Avenue, Portland, OR 97201-5398, and _____, referred to herein as "Contractor," located at _____.

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

1. Duration. This personal services agreement shall be effective _____ and shall remain in effect until and including _____, unless terminated or extended as provided in this Agreement.
2. Scope of Work. Contractor shall provide all services and materials specified in the attached "Exhibit A -- Scope of Work," which is incorporated into this Agreement by reference. All services and materials shall be provided by Contractor in accordance with the Scope of Work, in a competent and professional manner. To the extent that the Scope of Work contains additional contract provisions or waives any provision in the body of this Agreement, the Scope of Work shall control.
3. Payment. Metro shall pay Contractor for services performed and materials delivered in the maximum sum of _____ AND _____/100THS DOLLARS (\$_____) in the manner and at the time specified in the Scope of Work.
4. Insurance.
 - a. Contractor shall purchase and maintain at the Contractor's expense, the following types of insurance, covering the Contractor, its employees, and agents:
 - (1) Broad form comprehensive general liability insurance covering personal injury and property damage, with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and
 - (2) Automobile bodily injury and property damage liability insurance.
 - b. Insurance coverage shall be a minimum of \$500,000 per occurrence, \$250,000 per person, and \$50,000 property damage. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.

c. Metro, its elected officials, departments, employees, and agents shall be named as **ADDITIONAL INSURED**S. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.

d. Contractor, its subcontractors, if any, and all employers working under this Agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Contractor shall provide Metro with certification of Workers' Compensation insurance including employer's liability.

e. If required by the Scope of Work, Contractor shall maintain for the duration of this Agreement professional liability insurance covering personal injury and property damage arising from errors, omissions, or malpractice. Coverage shall be in the minimum amount of \$500,000. Contractor shall provide to Metro a certificate of this insurance, and 30 days' advance notice of material change or cancellation.

5. Indemnification. Contractor shall indemnify and hold Metro, its agents, employees and elected officials harmless 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 Agreement, with any patent infringement arising out of the use of Contractor's designs or other materials by Metro and for any claims or disputes involving subcontractors.

6. Maintenance of Records. Contractor shall maintain all of its records relating to the Scope of Work on a generally recognized accounting basis and allow Metro the opportunity to inspect and/or copy such records at a convenient place during normal business hours. All required records shall be maintained by Contractor for three years after Metro makes final payment and all other pending matters are closed.

7. Ownership of Documents. All documents of any nature including, but not limited to, reports, drawings, works of art and photographs, produced by Contractor pursuant to this Agreement are the property of Metro, and it is agreed by the parties that such documents are works made for hire. Contractor hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such documents.

8. Project Information. Contractor shall share all project information and fully cooperate with Metro, informing Metro of all aspects of the project including actual or potential problems or defects. Contractor shall abstain from releasing any information or project news without the prior and specific written approval of Metro.

9. Independent Contractor Status. Contractor shall be an independent contractor for all purposes and shall be entitled only to the compensation provided for in this Agreement. Under no circumstances shall Contractor be considered an employee of Metro. Contractor shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified in the Scope of Work. Contractor is solely responsible for its performance under this Agreement and the quality of its work; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for

payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified in the Scope of Work; and for meeting all other requirements of law in carrying out this Agreement. Contractor shall identify and certify tax status and identification number through execution of IRS form W-9 prior to submitting any request for payment to Metro.

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

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

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

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

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

15. Modification. This Agreement is the entire agreement between the parties, and may only be modified in writing, signed by both parties.

CONTRACTOR

METROPOLITAN SERVICE DISTRICT

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

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STAFF REPORT

FOR THE PURPOSE OF RELEASING A REQUEST FOR PROPOSALS FOR BIOLOGICAL MONITORING IN SMITH AND BYBEE LAKES MANAGEMENT AREA AND ALLOWING EXECUTIVE OFFICER TO EXECUTE THE CONTRACT FOR THE MONITORING

Date: May 28, 1992

Presented by: Cotugno/Morgan

FACTUAL BACKGROUND

On November 8, 1990, the Metropolitan Service District and City of Portland, in a joint session of councils, adopted the Natural Resource Management Plan for Smith and Bybee Lakes. By the adoption of this plan, a Lakes Trust Fund was established and Metro was designated the Trust Fund Manager and environmental monitor for the Management Area.

The Management Plan outlined the need for increased environmental monitoring in the Management Area, including biological monitoring. In the Smith and Bybee Lakes Management FY91-92 budget, \$100,000 was allocated for environmental monitoring. To date, no funds have been spent from this allocation.

ANALYSIS

Biological monitoring in the Management Area must proceed as quickly as possible in order to fully characterize the biota during this year's nesting season. Field observations indicate that, due to the unusual warm, dry year to date, breeding and nesting activities may be occurring earlier than normal. Establishment of baseline monitoring data this year is important given the changes anticipated in managing the lakes in the next year. Examples of management changes include regulating the lake water levels over a wider range and introducing more recreational use in the Management Area. The effects of these activities on the biota must be known for Metro to make informed management decisions in the future.

An outline of the biological monitoring plan was reviewed and approved by the Smith and Bybee Lakes Technical Advisory Committee. This proposed monitoring plan is included in the scope of work developed for the Request For Proposals (RFP). Stated in the RFP, a maximum of \$50,000 is allowed for the monitoring.

Funds for environmental monitoring were given an "A" contract listing in the FY91-92 budget, requiring Council review in the contract process. It is anticipated that any expenditure for monitoring will not occur until the beginning of FY92-93, given the time required to select a contractor and execute the contract.

Given the imperative need to proceed with the biological monitoring as quickly as possible, it is important that a contract to conduct

this monitoring be executed expeditiously. The Council can save critical time essential to timely implementation of the monitoring plan by allowing the release of the Request For Proposals and authorizing the Executive Officer to execute the contract for biological monitoring in the Management Area.

Proposed Resolution No. 92-1621 requests that the Council release the Request for Proposals for biological monitoring in Smith and Bybee Lakes Management Area. The resolution also requests the Council authorize the Executive Officer to execute the contract upon selection of the contractor to conduct the biological monitoring.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 92-1621.