



METRO

Agenda

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

DATE: June 25, 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

(20 min.) **3.1 Briefing on Greenspaces Master Plan and Bond Measure**

5:55
(5 min.) **4. CONSENT AGENDA (Action Requested: Motion to Adopt the Consent Agenda)**

4.1 Minutes of May 14, 1992

REFERRED FROM THE GOVERNMENTAL AFFAIRS COMMITTEE

4.2 Resolution No. 92-1631, For the Purpose of Approving an Intergovernmental Agreement with the Special Districts Association of Oregon (SDAO) to Provide Legislative Service to the Metropolitan Service District

4.3 Resolution No. 92-1635, For the Purpose of Accepting the May 19, 1992, Primary Election Abstract of Votes of the Metropolitan Service District

4.4 Resolution No. 92-1643, For the Purpose of Revising Guidelines for Council Per Diem, Councilor Expense and General Council Materials & Services Accounts

REFERRED FROM THE FINANCE COMMITTEE

4.5 Resolution No. 92-1634, For the Purpose of Authorizing an Exemption to Metro Code Chapter 2.04.041(c), Competitive Bidding Procedures, and Authorizing a Sole Source Contract with Eastman Kodak Company to Provide Maintenance and Repair Service on the Kodak 300 Duplicator

6:00
(5 min.)

5. ORDINANCES, FIRST READINGS

5.1 Ordinance No. 92-466, For the Purpose of Repealing Metro Code Sections 2.04.100-.180, and For the Purpose of Enacting New Provisions Establishing and Governing Metro's Contracting Procedures for Minority, Women, and Disadvantaged Business Enterprises (Action Requested: Motion to Refer to the Governmental Affairs Committee)

(Continued)

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

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6. ORDINANCES, SECOND READINGS

REFERRED FROM THE FINANCE COMMITTEE

6:05 (30 min.) 6.1 Ordinance No. 92-449B, For the Purpose of Adopting the Annual Budget for Fiscal Year 1992-93, Making Appropriations and Levying Ad Valorem Taxes Public Hearing (Action Requested: Motion to Adopt the Ordinance) Van Bergen

REFERRED FROM THE SOLID WASTE COMMITTEE

6:35 (10 min.) 6.2 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 Public Hearing (Action Requested: Motion to Adopt the Ordinance) Wyers

REFERRED FROM THE FINANCE COMMITTEE

6:45 (15 min.) 6.3 Ordinance No. 92-464, For the Purpose of Amending Metro Code Chapter 7.01 to Modify the Reporting of Excise Tax and the Application of the Receipts Public Hearing (Action Requested: Motion to Adopt the Ordinance) Hansen

7:00 (5 min.) 6.4 Ordinance No. 92-463A, An Ordinance Amending Ordinance No. 91-390A Revising the FY 91-92 Budget and Appropriations Schedule for the Purpose of Transferring Appropriation Within the Council Department Public Hearing (Action Requested: Motion to Adopt the Ordinance) Devlin

7. NON-REFERRED RESOLUTIONS

URBAN GROWTH BOUNDARY RESOLUTION

7:05 (10 min.) 7.1 Resolution No. 92-1630, For the Purpose of Expressing Council Intent to Amend Metro's Urban Growth Boundary for Contested Case No. 91-4 Public Hearing (Action Requested: Motion to Adopt the Resolution)

7:15 (5 min.) 7.2 Resolution No. 92-1642, For the Purpose of Making Council Committee Appointments for the Remainder of 1992 (Action Requested: Motion to Adopt the Resolution)

8. RESOLUTIONS

REFERRED FROM THE SOLID WASTE COMMITTEE

BEFORE THE CONTRACT REVIEW BOARD

7:20 (10 min.) 8.1 Resolution No. 92-1632, For the Purpose of Authorizing the Executive Officer to Enter Into a Contract with Jensen Drilling Co. for Work Associated with the Groundwater Monitoring Well Improvements and Piezometer Installation at St. Johns Landfill (Action Requested: Motion to Adopt the Resolution) Wyers

(Continued)

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8. RESOLUTIONS (Continued)

REFERRED FROM THE SOLID WASTE COMMITTEE

BEFORE THE CONTRACT REVIEW BOARD

7:30
(10 min.) **8.2 Resolution No. 1633, For the Purpose of Authorizing an Exemption to the Competitive Procurement Procedures of Metro Code 2.04.053 and Authorizing a Change Order to the Design Services Agreement with Parametrix, Inc. (Action Requested: Motion to Adopt the Resolution)** Hansen

REFERRED FROM THE TRANSPORTATION & PLANNING COMMITTEE

7:40
(10 min.) **8.3 Resolution No. 92-1625A, For the Purpose of Endorsing City of Portland and Tri-Met Applications for FHWA/FTA Urban Mobility Grant Funds (Action Requested: Motion to Adopt the Resolution)** Washington

7:50
(10 min.) **8.4 Resolution No. 92-1626, For the Purpose of Establishing the Region's Priority Transportation Enhancement Program Projects for Inclusion in ODOT's Six-Year Program (Action Requested: Motion to Adopt the Resolution)** McLain

8:00
(15 min.) **8.5 Resolution No. 92-1618A, For the Purpose of Amending the Total Amount of the Region 2040 Consulting Contract (Action Requested: Motion to Adopt the Resolution)** Devlin

8:15
(5 min.) **8.6 Resolution No. 92-1641, For the Purpose of Approving a Contract between Metro and Tri-Met for Metro's Participation on the Westside Corridor High Capacity Transit Project (Action Requested: Motion to Adopt the Resolution)**

REFERRED FROM THE FINANCE COMMITTEE

8:20
(5 min.) **8.7 Resolution No. 92-1636A, For the Purpose of Adopting the FY 1992-93 Pay Plan for District Employees and Awarding a Cost of Living Adjustment for Designated Non-Represented Employees (Action Requested: Motion to Adopt the Resolution)** Wyers

8:25
(10 min.) **9. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS**

8:35 **ADJOURN**

Meeting Date: June 25, 1992
Agenda Item No. 4.1

MINUTES

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

May 14, 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

Presiding Officer Gardner called the regular meeting to order at
5:30 p.m.

1. INTRODUCTIONS

None.

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

April Olbrich, citizen, invited the Council to the Tualatin River
Discovery Day Event to be held on June 27, 1992, asked for the
Council's endorsement of same and noted it was a Greenspaces
sponsored event. Councilor Collier suggested the Council issue a
proclamation. Councilor Wyers suggested a resolution be drafted
to endorse this and all future Tualatin River Discovery Events.
The Council directed Council staff to draft a resolution
endorsing the event for introduction at the next regular Council
meeting. Ms. Olbrich thanked the Council for their support of
the event.

3. EXECUTIVE OFFICER COMMUNICATIONS

3.1 Briefing on Greenspaces Master Plan

Executive Officer Cusma introduced the Planning Department staff
who would give the briefing on the Greenspaces Master Plan.

Andy Cotugno, Director of Planning, reviewed work done to-date on
the Master Plan, Greenspaces ballot measure and financing
mechanisms. David Ausherman, Associate Regional Planner,
reviewed and described maps and details of the Master Plan.
Planning staff concluded their presentation. Executive Officer
Cusma said Planning staff had done an excellent job on a complex,
large program, and applauded their efforts. The Council
discussed the Greenspaces Program, ballot measure and financing
mechanisms.

4. CONSENT AGENDA

4.1 Consideration of April 9, 1992 Minutes

4.2 Resolution No. 92-1606, For the Purpose of Authorizing an Intergovernmental Agreement with Clackamas County to Provide Litter Collection Services

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

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

5. ORDINANCES, FIRST READINGS

5.1 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

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

Presiding Officer Gardner announced Ordinance No. 92-453 had been referred to the Solid Waste Committee for consideration.

5.2 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

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

Presiding Officer Gardner announced Ordinance No. 92-454 had been referred to the Solid Waste Committee for consideration.

6. ORDINANCES, SECOND READINGS

6.1 Ordinance No. 92-455A, For the Purpose of Amending Metro Code Chapter 5.02, Disposal Charges and User Fees at Metro Facilities

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

Presiding Officer Gardner announced Ordinance No. 92-455 was first read on March 12, 1992, and referred to the Solid Waste

Committee for consideration. The Solid Waste Committee considered the ordinance on May 13 and recommended Ordinance No. 92-455A to the full Council for adoption.

Motion: Councilor Wyers moved, seconded by Councilor Hansen, for adoption of Ordinance No. 92-455A.

Councilor Wyers gave the Solid Waste Committee's report and recommendations. She said the ordinance would establish Metro's solid waste disposal rates for FY 1992-93 and contained an emergency clause to declare the effective date July 1, 1992. She said the rate would increase from \$68 per ton to \$75 per ton for a total increase of 10.3 percent. She said the ordinance was being considered at this time to allow haulers and local governments time to adjust their collection rates to reflect the increase in disposal charges.

Councilor Wyers referred to the "Rate Comparison" chart comparing rates in FY 1991-92 and FY 1992-1993 (attachment to Solid Waste Committee report). She explained the tonnage adjustment of \$2.46 was meant to build up an almost depleted operating contingency and said if future tonnage projections were more accurate, that increase would be a one-time only occurrence.

Councilor Wyers explained the major solid waste disposal and transportation contracts contained annual inflation adjustment clauses and that Solid Waste Department staff estimated the average inflation rate of 3.83 percent would apply to those contracts. She said that figure also included contractual and merit-related pay increases for department employees.

Councilor Wyers said the Council had approved an increase in the current excise tax rate from 5.25 percent to 6 percent. She said the higher excise tax rate per ton would be \$.82 per ton higher than that collected in the current fiscal year.

Councilor Wyers explained because of legislative and administrative actions, solid waste disposal fees payable to the Department of Environmental Quality (DEQ) would increase by \$.50 per ton.

Councilor Wyers explained the Tier One User Fee of \$19.00 paid for the fixed system costs, including central staff, administrative staff and overhead, as well as the various recycling and waste reduction programs. She said the Tier Two Fee of \$7.00 paid the fixed costs associated with the major transportation and disposal contracts, debt service for Metro Central Station and capital expenditures from the General Account. She explained the Regional Transfer Charge of \$9.00

paid the operating costs of the transfer stations. She explained the disposal fee of \$38.25 paid the operational and contractual costs of landfilling waste, including the Jack Gray Transport, Inc. contract and the Oregon Waste Systems, Inc. contract at Columbia Ridge Landfill. Councilor Wyers explained Tier costs and other considerations further. Councilor Wyers said increased costs meant \$.50 more per can per month for all regional users, depending on franchise agreements.

Councilor Wyers discussed the Rate Review Committee's recommendations also printed in the committee report. She said the Committee made four recommendations: 1) Move the Budgeted Contingency from an allocation across the Tiers entirely to Tier One; 2) Move the cost of operating the St. Johns Landfill from Tier Two to Tier One; 3) Remove any subsidy of yard debris rates from Tier One rates as long as the rate for yard debris remained lower and the incentive to separate yard debris was maintained; and 4) Set limits on the annual percent increase of the total dollar amount of administrative, budgeting, planning, transfers, other general overhead costs and general government costs funded by the solid waste rates and limit those costs to external indexes such as the Consumer Price Index with exceptions for program changes approved by the Council or otherwise mandated by law. Councilor Wyers thanked the Rate Review Committee for their work on the solid waste rates.

Councilor Wyers explained amendment language and considerations that led to the "A" version of the ordinance and referred those present to Legal Counsel Todd Sadlo's May 5, 1992, memorandum on the ordinance and necessary changes.

Councilor Wyers said the Solid Waste Committee considered the ordinance at a special meeting on May 13 and heard Rate Review Committee testimony. She said the Solid Waste Committee decided to discuss the limits recommended by the Rate Review Committee in more detail at a later date. She said the Committee discussed the recommendation on yard debris rates. She said it was important to maintain the lower yard debris rate as an incentive to keep it out of the landfill. She said the Rate Review Committee recommended a yard debris rate of \$65 per ton and said that rate was too high. Councilor Wyers said she recommended a rate of \$54 per ton for clean yard debris for a negative budget impact of \$32,000 to be covered by Contingency.

Presiding Officer Gardner opened the public hearing.

Estle Harlan, Tri-County Council, said Metro's bringing St. John's Landfill costs into Tier One lowered rates which the haulers appreciated. She said a subsidy for yard debris was

unwelcome because the hauling industry had gone to great lengths to set up curbside recycling. She noted her previous service on Metro's Waste Reduction Committee and said that committee had wanted to create a clear disparity between what haulers and processors would charge. She said the processing rate would likely go up from \$28 to \$35 per ton. She said the amendment as proposed by Councilor Wyers was introduced late in the process and haulers would not be able to respond to the changed rate.

Councilor Gronke asked if all haulers were supportive of yard debris curbside recycling. Ms. Harlan said they were. She said some pick-up programs already implemented had proven to be quite successful. She said one hauler already had 50 percent participation.

Susan Keil, Manager of Solid Industrial Waste, City of Portland, said the City would reimburse haulers for lost costs until the new rate structure began July 1992. She discussed pick-up times and other considerations.

Presiding Officer Gardner asked why citizens taking yard debris directly to processors would negatively impact the program because they paid for yard debris disposal already. Ms. Keil said two cans meant the cost of the second can paid for the cost of the first can. Ms. Harlan agreed. She said it was mandatory for the hauler to offer the programs, although not mandatory for customers to sign off on it.

Councilor McLain said the testifiers were concerned that support for curbside would be taken away and whether Metro would be competitive with haulers in the future. She said the curbside program was extremely important and asked how self-haulers could be encouraged to use the program. Ms. Harlan said home composting information would be helpful. She said self-haulers should use Grimm's or McFarlane's Bark if they really had to self-haul. She said the financial effects were little, but that haulers felt strongly about the yard debris curbside programs.

Councilor Devlin said Councilor McLain was right when she discussed subsidy issues. He asked what Metro did with yard debris at Metro transfer stations. Bob Martin, Director of Solid Waste, said Metro had a small contract with a hauler to take it to the processors. Councilor Devlin said the factors that would warrant an amendment were not in place and said he would vote nay on the amendment. The Council discussed the proposed amendment and testimony further. Councilor McFarland supported the amendment and said the Council had the right to change the rate. She said the issue should be addressed and discussed next year.

Presiding Officer Gardner asked if anyone else present wished to testify on the ordinance. No other persons appeared to testify and the public hearing was closed.

Motion to Amend: Councilor Wyers moved, seconded by Councilor Van Bergen, to amend the ordinance by changing the yard debris rate from \$49 per ton to \$54 per ton with the difference coming from the Contingency Fund.

Vote on Motion to Amend: Councilors Collier, Gronke, McFarland, Van Bergen, Washington, Wyers and Gardner voted aye. Councilors Bauer, Buchanan, Devlin, Hansen and McLain voted nay. The vote was 7 to 5 in favor and the motion to amend the ordinance passed.

Vote on the Main Motion as Amended: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington, Wyers and Gardner voted aye. Councilor Bauer was absent. The vote was unanimous and Ordinance No. 92-455B was adopted.

7. RESOLUTIONS

7.1 Resolution No. 92-1608, For the Purpose of Authorizing a Sole Source Contract with Charles Sax, AIA to Create a Booklet: Meet "MRF" An Introduction to Materials Recovery Facilities and Transfer Stations

Motion: Councilor Hansen moved, seconded by Councilor Devlin, for adoption of Resolution No. 92-1608.

Councilor Hansen gave the Solid Waste Committee's report and recommendations. She explained the resolution would authorize a contract to produce a booklet related to locating material recovery and transfer stations in local communities. She said the booklet would explain how such facilities operated in an effort to overcome traditional local reactions to siting such facilities. She said local communities could adapt it for their own needs. Councilor Hansen noted Metro had applied for Environmental Protection Agency (EPA) funding to subsidize the cost of the booklet.

Vote: Councilors Buchanan, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilors Bauer, Collier and Wyers were absent. The vote was unanimous and Resolution No. 92-1608 was adopted.

7.2 Resolution No. 92-1614A, For the Purpose of Authorizing Issuance of a RFB for Groundwater Monitoring Well Improvements and Piezometer Installation at St. Johns Landfill

Motion: Councilor Van Bergen moved, seconded by Councilor Hansen, for adoption of Resolution No. 92-1614A.

Councilor Van Bergen gave the Solid Waste Committee's report and recommendations. He explained the resolution would authorize issuance of an RFB for work to address DEQ's request that Metro make certain improvements in the groundwater quality monitoring well system at the St. Johns Landfill. He said DEQ would also require the installation of piezometers to measure groundwater levels. Councilor Van Bergen supported the resolution, but questioned Metro's having to expend funds when the request by DEQ was not an actual order. He asked for advice from the General Counsel. General Counsel Dan Cooper said Metro was not ordered or required to do the work. Councilor McFarland said citizens in the area were quite concerned about the lack of groundwater monitoring and would take legal action if Metro did not take steps. Councilor Hansen noted the \$30 to \$40 million cost to close the St. Johns Landfill did not compare with Superfund site costs in other states, and said the cost of this contract would be nominal in comparison. The Council discussed the resolution further.

Vote: Councilors Bauer, Buchanan, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington, Wyers and Gardner voted aye. Councilor Collier was absent. The vote was unanimous and Resolution No. 92-1614A was adopted.

7.3 Resolution No. 92-1609, Establishing Guidelines and Criteria for the Second Year of Greenspaces Restoration and Enhancement Grants

Motion: Councilor Devlin moved, seconded by Councilor Hansen, for adoption of Resolution No. 92-1609.

Councilor Devlin gave the Transportation & Planning Committee's report and recommendations. He explained the program would award \$250,000 to local governments, school districts and non-profit organizations to restore urban wetlands, streams and upland sites. He said workshops would be held to assist grant applicants.

Vote: Councilors Bauer, Buchanan, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington, Wyers and Gardner voted aye. Councilor Collier was absent. The vote was unanimous and Resolution No. 92-1609 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. 7.4.

7.4 Resolution No. 92-1615, For the Purpose of Amending Contract 901-395 Between Metro and 1000 Friends of Oregon

Motion: Councilor Washington moved, seconded by Councilor Wyers, for adoption of Resolution No. 92-1615.

Councilor Washington gave the Transportation & Planning Committee's report. He explained the resolution would amend Metro's earlier contract with 1000 Friends of Oregon for a total contract cost of \$127,000. He said the contract had to be amended because the previous resolution overlooked necessary LUTRAQ work.

Councilor Van Bergen noted the contract stated "the Project Manager has the necessary authority to alter work" and asked who the project manager was. Mr. Cotugno said he served as the project manager. The Council briefly discussed the resolution and the Metro Code contract provisions. Mr. Cooper briefly addressed the issues.

Vote: Councilors Buchanan, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilors Bauer, Collier and Wyers voted aye. The vote was unanimous and Resolution No. 92-1615 was adopted.

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

8. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS

Councilor Van Bergen asked that the Quarterly Investment Report dated March 31, 1992, be scheduled for review by the Finance Committee on May 21.

Presiding Officer Gardner referred the Council to his May 14 memorandum with information on communications to-date with Tri-

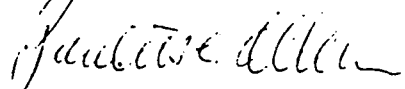
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Met and the Portland Chamber of Commerce regarding the proposed Tri-Met/Metro merger financial impact study.

Council Administrator Don Carlson reminded the Council to turn in their draft biographies for inclusion in the Metro Council brochure.

All business having been attended to, Presiding Officer Gardner adjourned the meeting at 7:54 p.m.

Respectfully submitted,



Paulette Allen
Clerk of the Council

Meeting Date: June 25, 1992
Agenda Item No. 4.2

RESOLUTION NO. 92-1631

GOVERNMENTAL AFFAIRS COMMITTEE REPORT

RESOLUTION NO. 92-1631, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE SPECIAL DISTRICTS ASSOCIATION OF OREGON (SDAO) TO PROVIDE LEGISLATIVE SERVICE TO THE METROPOLITAN SERVICE DISTRICT

Date: June 19, 1992

Presented by: Councilor Collier

COMMITTEE RECOMMENDATION: At its June 18, 1992 meeting the Governmental Affairs Committee voted 3-0 to recommend Council adoption of Resolution No. 92-1631. Voting were Councilors Collier, Devlin, and Gronke. Councilors Bauer and Wyers were absent.

COMMITTEE DISCUSSION/ISSUES: Betsy Bergstein of the Office of Government Relations presented the staff report. She explained that the contract with SDAO provides for Metro's legislative services to be performed by Western Advocates. The FY 1992-93 contract will be the second year Western Advocates performs these services. The budgeted amount of \$68,000 is the same as the prior year, though the contract amount is higher for 92-93. The difference is that expenses are included in the contract amount, where they were previously carried in a separate line item. The contract covers the 1993 legislative session, six interim committees, any special legislative session, and intergovernmental relations work with the cities, counties, and special districts in the region.

Councilor Gronke asked for clarification regarding a \$7,500 contract authorized in 91-92 for public opinion surveys, which was not executed. He asked if the \$68,000 included the \$7,500 in question or if it would be added. Ms. Bergstein said the \$7,500 was a separate item to be addressed in a separate contract; that work is to perform public attitude surveys for the Council.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF APPROVING AN)
INTERGOVERNMENTAL AGREEMENT WITH)
THE SPECIAL DISTRICTS ASSOCIATION)
OF OREGON (SDAO) TO PROVIDE LEGIS-)
LATIVE SERVICE TO THE METROPOLITAN)
SERVICE DISTRICT)

RESOLUTION NO. 92-1631

Introduced by Rena Cusma,
Executive Officer

WHEREAS, The Metropolitan Service District needs to produce, coordinate and advance its legislative agenda and intergovernmental relations at the 1993 Oregon State Legislative session; and

WHEREAS, The Metropolitan Service District is a member of the Special Districts Association of Oregon (SDAO); and

WHEREAS, Adequate funds for such services are included in the FY 1992-93 budget for the Metro legislative and intergovernmental activities; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District hereby authorizes the Executive Officer to execute an Agreement with the Special Districts Association of Oregon in substantially the same form as shown in the enclosed Attachment for the purpose of coordinating the legislative agenda of the agency during the FY 1992-93.

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

Jim Gardner, Presiding Officer

EXHIBIT A

SCOPE OF WORK

The Special Districts Association of Oregon (SDAO) shall provide the following services to Metro through a contract with Western Advocates, Inc., for a not to exceed fee of \$5,650.00 per month. Out of pocket expenses will be covered in this monthly sum.

1. **1993 Legislative Session.**
During the 1993 session, Metro will provide a quarter-time intern to assist with duties of the session.
2. **Interim Legislative Committees and Task force representation.**
The six interim committees and/or task forces meeting between legislative sessions that will require special attention and monitoring are:
 - * Joint Committee on Revenue
 - * Joint Committee on Land Use
 - * Ways and Means
 - * Task force on Local Government Mandates
 - * Joint Committee on Oregon's Future
 - * House and Senate Water Policy Committee's
3. **Contact with Individual Legislators.**
Western Advocates will maintain contact with individual legislators between sessions. It is important that Metro issues be communicated as an ongoing part of the governmental relations activity.
4. **Intergovernmental Relations Activity.**
Western Advocates will be responsible for continuing contacts with Cities, Counties and Special Districts located within Metro Boundaries.

The purpose of these contacts will be to maintain a clear line of information regarding problems and issues that affect Metro, Cities, Counties and Special Districts. This will require Western Advocates to attend meetings such as Metro Managers Organization, Regional Governance Committee, Future Focus, and other such activities.

The major objectives of these activities will be the exchange of information about Metro policy and program initiatives that affect local jurisdictions.

5. Coordination and management of Contract

Direction and oversight of the Scope of Work shall be accomplished through a committee consisting of the:

- * Executive Officer or her designee
- * Chairman of the Government Affairs Committee
- * Deputy Executive Officer
- * Council Administrator
- * Presiding Officer

Western Advocates shall meet with the committee once a month to transmit a progress report and receive guidance regarding the Scope of Work. Additional meetings may be scheduled upon request by either party.

6. Western Advocates shall attend and represent Metro before any special session of the Legislature that may be held.

7. Western Advocates shall meet with Metro staff on a monthly basis to insure familiarity with Metro programs and issues. Western Advocates shall also maintain a desk at Metro in order to ease contact with the Metro staff and Council.



GRANT/CONTRACT SUMMARY

METROPOLITAN SERVICE DISTRICT

GRANT/CONTRACT NO. 902473

BUDGET CODE NO. 010-060000-524190-00000

FUND: General DEPARTMENT: OGR

(IF MORE THAN ONE) - - - - -

SOURCE CODE (IF REVENUE) - - - - -

INSTRUCTIONS

1. OBTAIN GRANT/CONTRACT NUMBER FROM CONTRACTS MANAGER. CONTRACT NUMBER SHOULD APPEAR ON THE SUMMARY FORM AND ALL COPIES OF THE CONTRACT.
2. COMPLETE SUMMARY FORM.
3. IF CONTRACT IS -
 - A. SOLE SOURCE, ATTACH MEMO DETAILING JUSTIFICATION.
 - B. UNDER \$2,500, ATTACH MEMO DETAILING NEED FOR CONTRACT AND CONTRACTOR'S CAPABILITIES, BIDS, ETC.
 - C. OVER \$2,500, ATTACH QUOTES, EVAL FORM, NOTIFICATION OF REJECTION, ETC.
 - D. OVER \$50,000, ATTACH AGENDA MANAGEMENT SUMMARY FROM COUNCIL PACKET, BIDS, RFP, ETC.
4. PROVIDE PACKET TO CONTRACTS MANAGER FOR PROCESSING

1. PURPOSE OF GRANT/CONTRACT To provide legislative services to Metro.

2. TYPE OF EXPENSE

<input type="checkbox"/> PERSONAL SERVICES	<input type="checkbox"/> LABOR AND MATERIALS	<input type="checkbox"/> PROCUREMENT
<input type="checkbox"/> PASS THROUGH AGREEMENT	<input checked="" type="checkbox"/> INTER-GOVERNMENTAL AGREEMENT	<input type="checkbox"/> CONSTRUCTION
		<input type="checkbox"/> OTHER

OR

TYPE OF REVENUE GRANT CONTRACT OTHER

3. TYPE OF ACTION

<input type="checkbox"/> CHANGE IN COST	<input type="checkbox"/> CHANGE IN WORK SCOPE
<input type="checkbox"/> CHANGE IN TIMING	<input type="checkbox"/> NEW CONTRACT

4. PARTIES Special Districts Association of Oregon & Metropolitan Service District

5. EFFECTIVE DATE July 1, 1992 TERMINATION DATE June 30, 1993
 (THIS IS A CHANGE FROM - - - - -)

6. EXTENT OF TOTAL COMMITMENT:

ORIGINAL/NEW	\$ <u>68,000.00</u>
PREV. AMEND	<u>- - - - -</u>
THIS AMEND	<u>- - - - -</u>
TOTAL	\$ <u>68,000.00</u>

7. BUDGET INFORMATION

A. AMOUNT OF GRANT/CONTRACT TO BE SPENT IN FISCAL YEAR ~~1992-93~~ 1992-93 \$ 68,000.00

B. BUDGET LINE ITEM NAME Misc. Prof. Svcs. AMOUNT APPROPRIATED FOR CONTRACT \$ 68,000.00

C. ESTIMATED TOTAL LINE ITEM APPROPRIATION REMAINING AS OF June 30, 1993 19 \$ -0-

8. SUMMARY OF BIDS OR QUOTES (PLEASE INDICATE IF A MINORITY BUSINESS ENTERPRISE)

SUBMITTED BY <u>- - - - -</u>	\$ <u>- - - - -</u>	<input type="checkbox"/> MBE
	AMOUNT	
SUBMITTED BY <u>- - - - -</u>	\$ <u>- - - - -</u>	<input type="checkbox"/> MBE
	AMOUNT	
SUBMITTED BY <u>- - - - -</u>	\$ <u>- - - - -</u>	<input type="checkbox"/> MBE
	AMOUNT	

9. NUMBER AND LOCATION OF ORIGINALS - - - - -

10. A. APPROVED BY STATE/FEDERAL AGENCIES? YES NO NOT APPLICABLE
 B. IS THIS A DOT/UMTA/FHWA ASSISTED CONTRACT YES NO
11. IS CONTRACT OR SUBCONTRACT WITH A MINORITY BUSINESS? YES NO
 IF YES, WHICH JURISDICTION HAS AWARDED CERTIFICATION _____
12. WILL INSURANCE CERTIFICATE BE REQUIRED? YES NO
13. WERE BID AND PERFORMANCE BONDS SUBMITTED? YES NOT APPLICABLE
 TYPE OF BOND _____ AMOUNT \$ _____
 TYPE OF BOND _____ AMOUNT \$ _____
14. LIST OF KNOWN SUBCONTRACTORS (IF APPLICABLE)
- | | | |
|-------------------------------------|----------------------------|------------------------------|
| NAME <u>Western Advocates, Inc.</u> | SERVICE <u>Legislative</u> | <input type="checkbox"/> MBE |
| NAME _____ | SERVICE _____ | <input type="checkbox"/> MBE |
| NAME _____ | SERVICE _____ | <input type="checkbox"/> MBE |
| NAME _____ | SERVICE _____ | <input type="checkbox"/> MBE |
15. IF THE CONTRACT IS OVER \$10,000
 A. IS THE CONTRACTOR DOMICILED IN OR REGISTERED TO DO BUSINESS IN THE STATE OF OREGON?
 YES NO
- B. IF NO, HAS AN APPLICATION FOR FINAL PAYMENT RELEASE BEEN FORWARDED TO THE CONTRACTOR?
 YES DATE _____ INITIAL _____
16. COMMENTS:

GRANT/CONTRACT APPROVAL

INTERNAL REVIEW _____ DEPARTMENT HEAD _____ FISCAL REVIEW <i>[Signature]</i> BUDGET REVIEW 6-10-92	CONTRACT REVIEW BOARD (IF REQUIRED) DATE _____ 1. _____ COUNCILOR 2. _____ COUNCILOR 3. _____ COUNCILOR	COUNCIL REVIEW (IF REQUIRED) _____ DATE
---	--	--

- LEGAL COUNSEL REVIEW AS NEEDED:
- A. DEVIATION TO CONTRACT FORM _____
- B. CONTRACTS OVER \$10,000 _____
- C. CONTRACTS BETWEEN GOVERNMENT AGENCIES _____

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 92-1631 FOR THE PURPOSE OF APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH SPECIAL DISTRICTS ASSOCIATION OF OREGON (SDAO) TO PROVIDE LEGISLATIVE SERVICES TO THE METROPOLITAN SERVICE DISTRICT.

Date: June 5, 1992

Presented by: Betsy Bergstein

PROPOSAL

It is recommended that Metro approve an Intergovernmental Agreement with the Special Districts Association of Oregon (SDAO). SDAO will provide legislative and intergovernmental services on behalf of its members through a contract with Western Advocates, Incorporated.

This contract will continue a relationship begun in FY 90-91, with SDAO.

SCOPE OF WORK

The Scope of Work as described in Exhibit A shall include:

The Special Districts Association of Oregon shall provide the following services to Metro through a contract with Western Advocates:

I. 1993 Legislative Session.

During the 1993 session Metro will provide a quarter-time intern to assist with duties of the session.

II. Interim Legislative Committees and Task Force representation.

There will be six interim committees and/or task forces meeting between legislative sessions that will require special attention and monitoring; Joint Committee on Revenue, Joint Committee on Land Use, Ways and Means, Task force on Local Government Mandates, Joint Committee on Oregon's Future, and House and Senate Water Policy Committee's.

III. Contact with Individual Legislators.

Contact will be maintained with individual legislators between sessions. It is important that Metro issues be communicated as an ongoing part of the governmental relations activity.

IV. Intergovernmental Relations Activity.

Western Advocates will continue contact with Cities, Counties and Special Districts located within Metro Boundaries to maintain a clear line of information regarding problems and issues that affect each jurisdiction.

V. Coordination and management of Contract.

Direction and oversight of the Scope of Work shall be accomplished through a committee consisting of the Executive Officer, Chairman of the Government Affairs Committee, Deputy Executive Officer, Council Administrator and the Presiding Officer. Western Advocates will meet with the committee once a month to transmit a progress report and receive guidance regarding the Scope of Work. Additional meetings may be scheduled upon request by either party.

VI. Representation before any special session of the Legislature that may be held.

VII. Western Advocates will meet with Metro staff on a monthly basis to insure familiarity with Metro programs and issues.

Metro will provide a monthly fee of \$5,650.00 not to exceed \$68,000 for FY 1992-93. Payments will be made on the Friday closest to the first of each month. Resources for this contract are budgeted in the Government Relations Division.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 92-1631 for the purpose of entering into an Intergovernmental Agreement with Special Districts Association of Oregon to provide legislative services to the Metropolitan Service District.

ATTACHMENT

CONTRACT NO. 902473

AGREEMENT FOR SERVICES

This Agreement dated this _____ day of _____, 1992, is between the METROPOLITAN SERVICE DISTRICT, a municipal corporation, (hereinafter referred to as "METRO"), whose address is 2000 S.W. First Avenue, Portland, OR 97201-5398, and the SPECIAL DISTRICTS ASSOCIATION OF OREGON (SDAO), (hereinafter referred to as "CONTRACTOR"), whose address is P.O. Box 12613, Salem, OR 97309, for the period of July 1, 1992 through June 30, 1993, and for any extensions thereafter pursuant to a new written agreement of both parties.

WITNESSETH:

WHEREAS, This Agreement is exclusively for Personal Services;

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

CONTRACTOR AGREES:

1. To perform the services and deliver to METRO the materials described in the Scope of Work attached hereto as Exhibit A;
2. To provide all services and materials in a competent and professional manner in accordance with the Scope of Work;
3. To comply with all applicable provisions and all other terms and conditions necessary to be inserted into public contracts in the state of Oregon, as if such provisions were a part of this Agreement;

4. To maintain resources relating to the Scope of Work on a generally recognized accounting basis and to make said records available to METRO at mutually convenient times; and

5. CONTRACTOR shall be an independent contractor for all purposes, shall be entitled to no compensation other than the compensation provided for in the Agreement, CONTRACTOR hereby certifies that it is the direct responsibility employer as provided in ORS 656.407, or a contributing employer as provided in ORS 656.411. In the event CONTRACTOR is to perform the services described in the Agreement without the assistance of others, CONTRACTOR hereby agrees to file a joint declaration with METRO to the effect that CONTRACTOR services are those of an independent contractor as provided under Oregon Laws 1979, chapter 864.

METRO AGREES:

1. To pay CONTRACTOR for services performed and materials delivered in the maximum sum of Sixty Eight Thousand and No/100th Dollars (\$68,000), and in the manner and at the time designated in the Scope of Work; and

2. To provide full information regarding its requirements for the work.

BOTH PARTIES AGREE:

1. That either party may terminate this Agreement upon giving the other party five (5) days written notice without waiving any claims or remedies it may have against the other party;

2. That in the event of termination, METRO shall pay CONTRACTOR for services performed and materials delivered prior to the date of termination; but shall not be liable for indirect or consequential damages;

3. That in the event of any litigation concerning this Agreement the prevailing party shall be entitled to reasonable attorneys' fees and court costs, including fees and costs on appeal to an appellate court; and

4. That 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.

**SPECIAL DISTRICTS ASSOCIATION
OF OREGON**

METROPOLITAN SERVICE DISTRICT

BY: _____

BY: _____

DATE: _____

DATE: _____

Approved as to form

Daniel B. Cooper
Metro General Counsel

Meeting Date: June 25, 1992
Agenda Item No. 4.3

RESOLUTION NO. 92-1635

GOVERNMENTAL AFFAIRS COMMITTEE REPORT

RESOLUTION NO. 92-1635, ACCEPTING THE MAY 19, 1992, PRIMARY ELECTION ABSTRACT OF VOTES OF THE METROPOLITAN SERVICE DISTRICT

Date: June 19, 1992

Presented by: Councilor Collier

COMMITTEE RECOMMENDATION: At its June 18, 1992 meeting the Governmental Affairs Committee voted 3-0 to recommend Council adoption of Resolution No. 92-1635. Voting were Councilors Collier, Devlin, and Gronke. Councilors Bauer and Wyers were absent.

COMMITTEE DISCUSSION/ISSUES: Council Analyst Casey Short presented the staff report. He said the resolution fulfills a requirement of state law, which requires the District to determine the result of the election upon receipt of the abstract of votes. The resolution includes copies of the abstract of votes from the three counties for the Council positions contested at the May 19 primary election. Those positions were in Districts 2, 3, 4, 5, 9, 10, 11, and 13. The resolution determines the results of those eight elections. Mr. Short pointed out the anomaly in the District 11 race which will require Councilor Ed Washington and Joe Ross to contest the race again in November.

Councilor Gronke asked what is an under-vote and an over-vote. Mr. Short said an under-vote was a blank ballot, and an over-vote was a ballot with more than one name marked.

Councilor Devlin said he planned to file for a partial recount in District 4, and may file for a full recount later. He asked General Counsel Dan Cooper if the result of adopting this resolution was simply to accept the results given by the counties' elections offices. Councilor Collier asked if it was correct that adoption of the resolution would not preclude such a request for a recount. Mr. Cooper said he believed both Councilors Collier and Devlin to be correct: that approval of the resolution would not preclude Councilor Devlin going ahead with the recount. He was not sure whether Council action on this resolution would limit the ability to recognize or effect a change in the results of the race if the recount did change the result. He said he would determine the answer to that before Council votes on the resolution on June 25, and would provide his answer to the Council.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ACCEPTING) RESOLUTION NO. 92-1635
THE MAY 19, 1992, PRIMARY)
ELECTION ABSTRACT OF VOTES OF) Introduced by Presiding
THE METROPOLITAN SERVICE) Officer Jim Gardner
DISTRICT)

WHEREAS, A Primary election was held in the Metropolitan Service District on May 19, 1992; and

WHEREAS, The positions of Metro Councilors representing Districts 2, 3, 4, 5, 9, 10, 11 and 13 appeared on the Primary election ballot; and

WHEREAS, ORS Ch. 255.295 requires that Metro shall determine the result of the election upon receipt of the abstract of votes; now, therefore,

BE IT RESOLVED,

1. That the Council of the Metropolitan Service District has received the abstract of votes of the May 19, 1992, Primary election attached hereto as Exhibit A.
2. That the voters of District 2 have nominated Larry Bauer and Jon Kvistad as candidates for the District 2 Council position for the General election to be held on November 6, 1992.
3. That the voters of District 3 have re-elected Jim Gardner to the position of Metro Councilor for a four-year term.
4. That the voters of District 4 have elected Audrey Castile to the position of Metro Councilor for a four-year term.
5. That the voters of District 5 have nominated Bill Atherton and Mike Gates as candidates for the District 5 Council position for the General election to be held on November 6, 1992.

6. That the voters of District 9 have elected Rod Monroe to the position of Metro Councilor for a four-year term.

7. That the voters of District 10 have re-elected Roger Buchanan to the position of Metro Councilor for a four-year term.

8. That the voters of District 11 have nominated Joe Ross and Ed Washington as candidates for the District 11 Council position for the General election to be held on November 6, 1992.

9. That the voters of District 13 have nominated Terry Moore and Wes Myllenbeck as candidates for the District 13 Council position for the General election to be held on November 6, 1992.

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

Jim Gardner, Presiding Officer

SUMMARY OF VOTES CAST

6/02/92
10:11

CLACKAMAS COUNTY, OREGON
PRIMARY ELECTION
MAY 18, 1992

ELR200

ISSUE 52

PAGE 1

JOHN KAUFFMAN, COUNTY CLERK

I CERTIFY THAT THE VOTES RECORDED ON THIS ABSTRACT CORRECTLY
SUMMARIZE THE RESULT OF VOTES CAST AT THE ELECTION INDICATED.

BY :

John Kauffman

DATE OF ABSTRACT :

JUN 5 1992

METRO SERVICE DISTRICT (4)
COUNCILOR ZONE 4

CANDIDATE KEYS:

- CAND-01 = CASTILE AUOREY
- CAND-02 = DEVLIN RICHARD
- CAND-97 = OVERVOTES
- CAND-98 = UNDERVOTES
- CAND-99 = TOTAL VOTES

POLL PRE	CAND-01	CAND-02	CAND-97	CAND-98	CAND-99
090	0	0	0	0	0
151	175	199	0	316	690
152	103	145	4	230	482
153	186	202	0	310	678
157	137	176	0	288	601
158	126	166	2	215	509
162	32	40	0	88	160
164	151	203	0	309	663
166	166	175	0	357	688
167	128	149	0	240	517
201	139	152	2	238	531
202	175	183	4	289	651
203	138	167	2	287	594
204	129	213	0	223	565
251	1	0	0	0	1
252	89	113	1	206	419
300	161	218	1	286	676
301	82	117	0	137	346
303	72	60	1	93	226
304	101	107	0	199	407
313	89	106	1	158	364
327	27	46	0	88	161
328	5	15	1	11	32
TOTALS	2,422	2,952	19	4,578	9,971

METRO SERVICE DIST 4

MISCELLANEOUS WRITE-INS 2

SUMMARY OF VOTES CAST
6/02/92
10:11

CLACKAMAS COUNTY, OREGON
PRIMARY ELECTION
MAY 19, 1992

ELR200 ISSUE 53
PAGE 1

JOHN KAUFFMAN, COUNTY CLERK

I CERTIFY THAT THE VOTES RECORDED ON THIS ABSTRACT CORRECTLY BY :
SUMMARIZE THE RESULT OF VOTES CAST AT THE ELECTION INDICATED.

John Kauffman

DATE OF ABSTRACT :
JUN 5 1992

METRO SERVICE DISTRICT (5)
COUNCILOR ZONE 5

CANDIDATE KEYS:

- CAND-01 = ATHERTON BILL
- CAND-02 = BEEBE BILL
- CAND-03 = GATES MIKE
- CAND-04 = HEINTZMAN RON
- CAND-05 = MAHONEY ROBERT H
- CAND-06 = MCDONALD KEVIN
- CAND-97 = OVERTOTES
- CAND-98 = UNDERVOTES
- CAND-99 = TOTAL VOTES

POLL PRE	CAND-01	CAND-02	CAND-03	CAND-04	CAND-05	CAND-06	CAND-87	CAND-98	CAND-99
001	53	28	104	47	39	69	1	175	516
002	80	25	79	59	52	58	1	185	539
005	38	43	82	44	49	50	4	188	498
006	70	31	148	65	64	89	5	310	782
007	80	31	110	51	72	64	5	305	718
008	26	21	48	31	37	43	1	135	342
009	29	13	51	12	16	29	0	86	236
010	0	0	0	2	0	0	0	0	2
031	13	14	49	21	12	13	0	84	206
032	19	10	29	21	16	26	2	123	246
033	54	22	80	58	62	49	2	266	603
034	55	39	79	65	82	69	1	221	611
037	21	7	14	20	12	21	1	69	165
038	60	15	45	34	24	36	1	163	378
039	48	29	52	40	33	43	0	167	412
130	51	27	198	23	18	27	1	147	492
131	77	37	222	49	42	42	1	109	567
132	39	16	149	25	21	34	4	117	405
133	43	15	173	17	27	41	2	131	449
134	29	18	122	17	25	38	0	86	335
135	62	37	211	23	16	52	3	127	531
136	70	34	214	23	19	71	2	123	556
137	0	0	7	0	0	1	0	3	11
138	84	34	205	12	11	56	4	143	549
139	106	22	278	24	20	50	0	138	638
140	41	22	152	13	10	38	0	92	368
155	170	56	66	52	36	93	3	302	778
159	162	53	51	42	25	47	2	312	694
160	162	52	43	29	18	34	4	261	603
162	80	32	49	55	16	38	1	286	557
163	192	50	99	33	26	51	3	249	703
165	118	35	71	35	23	51	1	201	535

SUMMARY OF VOTES CAST
6/02/82
10:11

CLACKAMAS COUNTY, OREGON
PRIMARY ELECTION
MAY 18, 1992

ELR200 ISSUE 53
PAGE 2
JOHN KAUFFMAN, COUNTY CLERK

305	12	3	7	1	0	5	0	23	51
306	4	1	0	1	1	3	0	5	15
312	33	7	12	7	8	11	2	63	143
326	82	10	89	32	13	34	2	118	380
327	41	16	57	18	19	30	5	112	298
530	45	28	49	55	30	40	2	211	460
531	47	22	56	48	58	44	3	331	609
532	50	13	40	47	38	35	2	123	348
533	78	32	43	34	30	44	0	188	450
538	23	18	23	14	15	15	0	68	177
549	40	10	39	28	18	20	0	86	251
551	66	39	105	52	49	80	2	280	673
552	22	8	24	13	12	17	0	85	181
555	44	29	91	60	38	52	1	273	588
560	32	26	76	29	45	31	1	208	448
561	12	7	29	16	23	19	0	80	186
562	0	2	5	0	1	1	0	25	34
563	46	31	82	54	59	52	2	233	559
565	0	0	0	0	0	0	0	0	0
568	13	6	10	17	12	19	0	52	129
569	3	2	11	2	6	6	0	19	49
587	5	5	9	8	7	9	0	27	70
TOTALS	2,831	1,183	4,147	1,572	1,405	1,990	77	7,919	21,124

METRO SERVICE DIST 5

MISCELLANEOUS WRITE-INS 2

48	MULTNORAH COUNTY PRIMARY ELECTION, MAY 19, 1992																	
	METROPOLITAN SERVICE DISTRICT					FOR COUNCILOR DISTRICT 3RD					AND 4TH							
	REGISTRATION	BALLOTS CAST	TURNOUT		METRO SERVICE DIST COUNCILOR, 3RD DIST	NP	OVER-VOTES	JIM GARDNER	ROBERT L. LIBERTY	MISC. WHITE INS		METRO SERVICE DIST COUNCILOR, 4TH DIST	NP	OVER-VOTES	AUDREY CASTILE	RICHARD DEVLIN	MISC. WHITE INS	
PCT 0141	15	3	60.0															
PCT 0181	15	3	61.9															
PCT 0184	79	22	27.7															
PCT 0158	192	80	41.6															
PCT 1013	1368	724	52.9															
PCT 1017	492	340	69.1															
PCT 1028	1032	483	46.8															
PCT 1028	741	292	39.4															
PCT 1031	1023	515	50.2															
PCT 1043	1040	464	44.6															
PCT 1049	1244	560	44.9															
PCT 1101	511	311	60.8															
PCT 1103	831	434	52.2															
PCT 1117	452	238	52.0															
PCT 1118	1250	537	43.1															
PCT 1143	977	531	54.3															
PCT 1155	377	181	48.0															
PCT 1154	1352	757	55.9															
PCT 1160	478	341	71.3															
PCT 1164	411	267	65.0															
PCT 1170	993	544	54.9															
PCT 1173	1352	800	59.1															
PCT 1177	607	235	38.7															
PCT 1179	484	241	49.5															
PCT 1183	1017	432	42.4															
PCT 1184	1313	718	54.4															
PCT 1189	1251	573	47.4															
PCT 1200	1338	694	52.0															
PCT 1205	1385	637	45.9															
PCT 1204	1437	664	46.2															
PCT 1211	479	371	77.4															
PCT 1213	934	364	38.8															
PCT 1218	1355	714	52.6															
PCT 1220	1300	618	47.5															
PCT 1222	1174	607	51.7															
PCT 1223	765	380	49.6															
PCT 1224	1327	732	55.1															
PCT 1225	879	428	48.6															
PCT 1226	1110	578	52.0															
PCT 1229	958	505	52.7															
PCT 1230	1271	614	48.4															
PCT 1232	1225	640	52.2															
PCT 1233	980	544	55.7															
PCT 1234	1437	735	51.0															
PCT 1238	819	353	43.1															
PCT 1240	484	384	79.3									20		0	14	23		
PCT 1244	1314	692	52.6															
PCT 1245	1010	479	47.4															
PCT 1246	482	340	70.5															
PCT 1248	943	493	52.3															
PCT 1250	744	340	45.7															
PCT 1252	23	48	208.6															
PCT 1253	464	241	51.9									100		0	48	68		
PCT 1305	830	268	32.2															
PCT 1308	584	208	35.6															
PCT 1313	1232	582	47.2															
PCT 1318	1091	584	53.5															
PCT 1320	428	170	39.7															
PCT 1400	1003	402	40.0															
PCT 1402	449	193	42.9															
PCT 1518	928	448	48.2									160		0	114	124		
PCT 1544	1071	534	51.9									45		0	54	73		
ABSENTEE TOTALS	55581	2642	4.7															
GRAND TOTALS	54938	29914	54.4									34		0	47	48		
												635		0	479	465		

MULTNOMAH COUNTY PRIMARY ELECTION, MAY 19, 1992
METROPOLITAN SERVICE DISTRICT FOR COUNCILOR DISTRICT 3rd & 4th

A large empty grid table with multiple columns and rows, intended for recording election results. The grid is mostly empty, with some faint, illegible markings in the lower right quadrant.

Certificate

*I certify that the votes recorded on this abstract
accurately summarize the tally of votes cast at the
election indicated.*

*Vicki K. Ewin
Vicki K. Ewin, Director of Elections
Multnomah County, Oregon*

49		MULTNOMAH COUNTY PRIMARY ELECTION, MAY 19, 1992 METROPOLITAN SERVICE DISTRICT 89TH AND 810TH FOR COUNCILOR DISTRICT											
	REGISTRATION	BALLOTS CAST	TURNOUT	METRO SERVICE DIST COUNCILOR, 9TH DIST NP BLANK	OVER-VOTES	ROD MONROE	STEPHEN D. ORR	Misc. WRITE INS	METRO SERVICE DIST COUNCILOR, 10TH DIST NP BLANK	OVER-VOTES	ALICE P. BLATT	ROGER BUCHANAN	Misc. WRITE INS
PCT 4338	352	100	28.4										
PCT 4339	1247	487	38.4	78	1	244	136		28	1	34	34	
PCT 5029	564	269	47.8						47		103	118	
PCT 5401	2	0	0.0						0		0	0	
PCT 5507	905	333	36.7						0		114	149	
PCT 5513	53	14	30.1	5	0	4	9		0		151	151	
PCT 5514	1210	493	40.7						0		144	231	
PCT 5519	74	24	32.4	8	0	10	8		0		61	82	
PCT 5540	919	284	31.2	84	0	103	93		0				
PCT 5549	1239	471	38.0	108	0	215	141						
PCT 5552	695	304	44.0	72	0	147	85						
PCT 5554	820	258	31.4	50	0	112	92						
PCT 5561	915	309	33.7	60	0	155	88						
PCT 5562	48	17	34.9	1	0	12	4						
PCT 5568	537	173	32.2										
PCT 5590	497	248	49.7						53	1	93	82	
PCT 5594	742	281	37.8						54		98	104	
PCT 5598	764	278	36.4	79	0	138	75		52		97	124	
PCT 5599	620	281	45.3										
PCT 5607	1082	424	39.1						59		93	134	
PCT 5608	1208	440	36.4						73		117	207	
PCT 5604	1061	343	32.3						0		164	207	
PCT 5648	730	281	38.4						61		124	154	
PCT 5649	811	331	40.8						43		117	115	
PCT 5671	1350	372	27.5						72		122	158	
PCT 5672	732	214	29.2						49		129	167	
PCT 5673	1154	378	32.8						38		78	98	
PCT 5901	640	248	38.7						60		127	148	
ABSENTEE TOTALS	85763	3851	4.4	470	1	797	477		64	1	82	98	
GRAND TOTALS	83175	38921	46.7	4881	37	8262	5111	45	565	12	627	879	41

Certificate

I certify that the votes recorded on this abstract correctly summarize the tally of votes cast at the election indicated.

Vicki K. Ewin
 Vicki K. Ewin, Director of Elections
 Multnomah County, Oregon

MULTNOMAH COUNTY PRIMARY ELECTION, MAY 19, 1992
 METROPOLITAN SERVICE DISTRICT FOR COUNCILOR DISTRICT 811TH (UNEXPIRED TERM)

	REGISTRATION	BALLOTS CAST	TURNOUT	METRO SERVICE DIST COUNCILOR, 11TH UNEXP BLANK	OVER-VOTES	JOE ROSS	ED WASHINGTON	MISC. WRITE INS											
PCT 0300	23	11	47.8																
PCT 0500	0	0	0.0																
PCT 0503	0	0	0.0																
PCT 2143	1349	528	39.1	194	1	177	150												
PCT 3000	463	299	64.6	101	0	88	102												
PCT 3001	1120	431	38.4	122	1	152	151												
PCT 3002	2164	516	23.8	172	1	177	161												
PCT 3008	1369	577	42.2	110	0	104	353												
PCT 3022	1270	600	46.9	127	2	122	344												
PCT 3052	1348	688	51.0	196	1	145	317												
PCT 3058	1367	551	40.3	158	0	151	233												
PCT 3080	1187	702	59.1	215	5	122	351												
PCT 3084	1033	457	44.2	137	1	147	159												
PCT 3090	950	487	51.4	161	0	114	210												
PCT 3109	1274	722	56.7	247	4	77	370												
PCT 3113	1408	856	60.7	317	0	140	394												
PCT 3122	1038	543	52.3	217	0	104	218												
PCT 3124	660	355	53.7	110	0	61	180												
PCT 3128	1351	723	53.9	230	0	138	349												
PCT 3135	878	535	59.9	194	1	111	224												
PCT 3138	1127	479	42.5	241	0	115	341												
PCT 3144	1302	746	57.2	202	1	72	445												
PCT 3151	1307	611	46.7	181	0	55	371												
PCT 3160	646	249	38.5	65	0	85	93												
PCT 3193	1014	523	51.5	201	0	77	219												
PCT 3196	941	487	51.7	172	0	130	158												
PCT 3203	1497	733	48.9	277	1	163	283												
PCT 3223	864	347	40.0	114	0	107	124												
PCT 3248	1042	494	47.4	160	0	118	210												
PCT 3253	979	413	42.1	122	1	67	215												
PCT 3258	1013	590	58.2	197	0	111	274												
PCT 3259	1591	771	48.4	319	0	123	323												
PCT 3263	1212	674	55.6	236	4	117	311												
PCT 3268	284	154	54.2	63	0	38	52												
PCT 3273	432	135	31.2	52	0	25	54												
PCT 3274	754	354	46.9	118	0	64	145												
PCT 3283	960	378	39.3	138	1	78	138												
PCT 3284	839	475	56.6	159	0	102	210												
PCT 3284	1234	712	57.6	263	1	113	324												
PCT 3290	910	532	58.4	174	0	143	213												
PCT 3292	805	453	56.2	149	1	71	209												
PCT 3297	1303	540	41.4	130	0	184	214												
PCT 3299	437	193	44.1	63	1	54	68												
PCT 4005	940	400	42.6	143	0	84	162												
PCT 4009	130	47	36.2	24	0	17	21												
PCT 4022	1441	546	37.8	184	1	98	252												
PCT 4024	1306	566	43.3	224	0	113	217												
PCT 4027	995	467	46.9	207	0	83	174												
PCT 4085	297	147	49.1	52	0	39	54												
ABSENTEE TOTALS	47314	2193	4.6	710	4	455	798												
GRAND TOTALS	47314	25218	53.2	8359	36	5571	10965	60											

Certificate
 I certify that the votes recorded on this abstract
 accurately summarize the tally of votes cast at the
 election indicated.
 Vicki K. Erwin
 Vicki K. Erwin, Director of Elections
 Multnomah County, Oregon

STATEMENT OF VOTES CAST
15:28:06 1-Jun-1992

MAY PRIMARY 1992

COUNTY COMMISSIONER - DISTRICT 3 - 4 YR TERM

- 1 KATHY CLAIR
- 2 ROY R ROGERS
- 3 JIMMIE L SALEEN, SR
- 4 Overvotes
- 5 Undervotes

JUSTICE OF THE PEACE

- 6 JAMES R SHARTEL, INCUMBENT

- 7 Overvotes
- 8 Undervotes
- METROPOLITAN SERVICE DIST - COUNCILOR - DISTRICT 2
- 9 LAWRENCE BAUER
- 10 JON KVISTAD
- 11 LIZ C (SCRUGGIN) STILLER
- 12 Overvotes
- 13 Undervotes

	1	2	3	4	5	6	7	8	9	10	11	12	13
0001 0001 ED BYROM S	53	94	14	0	85	91	0	155					
0002 0002 SHERWOOD I	101	159	22	1	105	165	0	223					
0003 0003 HOPKINS SC	40	78	12	1	40	68	0	103					
0004 0004 TUAL CDUNC	79	215	14	1	84	187	0	206					
0005 0005 K CITY TOW	146	200	29	6	283	239	0	425					
0006 0006 TUAL ELEM	71	167	16	0	91	152	0	193					
0007 0007 DURHAM CEN	64	97	8	0	57	106	0	120					
0008 0008 TERRA LIND						234	0	327					
0009 0009 CHRIST KIN	130	246	27	1	158	251	0	311					
0010 0010 KINNAMAN S						254	0	312					
0011 0011 GRONER SCH	88	65	16	0	67	90	0	146	8	6	3	0	7
0012 0012 GRONER SCH	170	178	27	3	157	208	0	327					
0013 0013 WITCH HAZE						84	0	110	16	16	10	0	39
0014 0014 COOPER HTN	91	79	20	1	117	76	0	123	41	95	46	0	101
0015 0015 METZGER PK	99	90	30	2	124	141	0	204	34	33	33	1	57
0016 0016 MAISON ARM	97	145	26	2	123	171	0	222	65	100	88	0	140
0017 0017 TUAL CDUNC	1	0	0	0	0	0	0	1					
0018 0018 TUAL ELEM	93	223	14	0	115	210	0	235					
0019 0019 E HASSELL						240	0	250	92	166	91	1	140
0020 0020 ALDHA PARK						152	0	166	65	109	49	0	95
0021 0021 MT VIEW IN						120	0	168	47	93	50	1	97
0022 0022 BUTTERNUT						197	0	248					
0023 0023 BUTTERNUT						247	0	239	96	128	61	0	141
0024 0024 TUAL COMM	15	31	2	0	21	33	0	36					
0025 0025 K CITY TOW	113	200	27	1	173	205	0	309					
0026 0026 GARDEN HOM	116	120	18	3	142	170	0	229					
0027 0027 METZGER PK	106	122	26	3	120	174	0	203	39	49	42	0	93
0028 0028 FOWLER MID	88	113	14	3	87	126	0	179	4	6	7	0	6
0029 0029 TUAL ELEM	74	299	8	4	144	220	0	309					
0030 0030 C F TIGARD	88	130	19	2	112	164	0	187					
0031 0031 TIGARD COM	120	201	22	1	116	219	0	241					
0032 0032 C F TIGARD	103	185	13	1	175	214	0	263					
0033 0033 M WOODWARD	90	228	29	3	146	212	0	284	67	160	94	2	158
0034 0034 J TEMPLETO	113	182	22	3	145	202	0	263					
0035 0035 PHIL LEWIS	64	117	23	0	100	132	0	172					
0036 0036 GRACE COMM	40	72	4	0	43	77	0	82					
0037 0037 HAZELDALE	95	128	27	2	150	154	0	248	100	95	65	0	142
0038 0038 ELDORADO V	176	220	36	4	212	268	0	380					
0039 0039 PIPERS RUN	23	18	2	0	37	25	0	55					
0040 0040 TUALITY MI	111	188	20	3	126	202	0	246					
0041 0041 SUMMERFLD	156	280	28	5	281	281	0	469					
0042 0042 GREENWAY E						166	0	146	55	78	66	0	113
0043 0043 ROYAL VILL	66	91	8	2	106	114	0	159					
0044 0044 CENTRAL CH						250	0	231	115	137	82	2	165
0045 0045 1ST UNITED						162	0	207	76	70	66	0	157
0046 0046 M WOODWARD	58	106	16	0	117	118	0	179	47	80	48	1	112

STATEMENT OF VOTES CAST
15:28:06 1-Jun-1992

MAY PRIMARY 1992

COUNTY COMMISSIONER - DISTRICT 3 - 4 YR TERM

- 1 KATHY CLAIR
- 2 ROY R ROGERB
- 3 JIMMIE L GALEEN, SR
- 4 Overvotes
- 5 Undervotes

JUSTICE OF THE PEACE

- 6 JAMES R SHARTEL, INCUMBENT

- 7 Overvotes
- 8 Undervotes
- METROPOLITAN SERVICE DIST - COUNCILOR - DISTRICT 2
- 9 LAWRENCE BAUER
- 10 JON KVISTAD
- 11 LIZ C (BCROOIN) STILLER
- 12 Overvotes
- 13 Undervotes

	1	2	3	4	5	6	7	8	9	10	11	12	13
0047 0047 M DAVIES C						278	0	368	152	158	114	1	221
0048 0048 FIR GROVE						254	0	276	106	190	60	0	174
0049 0049 HITEON ELE						256	0	332	97	194	74	2	221
0050 0050 FIR GROVE						225	0	274	111	133	86	0	169
0051 0051 VOSE SCHOO						273	0	309	143	194	61	1	183
0052 0052 VOSE SCHOO						147	0	222	79	89	74	1	126
0053 0053 HIGHLAND P						238	0	286	88	217	52	1	166
0054 0054 COMMUNITY						211	0	283	86	123	97	4	184
0055 0055 GREENWAY S						219	0	217	85	134	80	2	135
0056 0056 CHEHALEM S						210	0	226	93	122	64	0	157
0058 0058 MCKAY SCH						206	0	303					
0059 0059 ALDHA PK S						188	0	178	87	100	70	1	108
0060 0060 CE MASON B						146	0	210	79	69	51	1	143
0061 0061 HITEON SCH						260	0	307	107	192	61	1	206
0062 0062 GARDEN HM	69	48	16	1	79	87	0	126					
0063 0063 MONTCLAIR						248	0	330					
0064 0064 RALEIGH HL						241	0	374					
0065 0065 VALLEY COM						205	0	297					
0066 0066 RALEIGH PK						126	0	164					
0067 0067 VALLEY COM						188	0	259					
0068 0068 BT MATTHEW						134	0	198					
0069 0069 W SYLVAN S						236	0	308					
0070 0070 RIDGEWOOD						242	0	321					
0071 0071 BT MATTHEW						15	0	21					
0072 0072 C E MASON						219	0	302	106	145	67	0	181
0073 0073 W WALKER S						133	0	179					
0074 0074 CEDAR PK J						99	0	124					
0075 0075 CHEHALEM S						123	0	172	55	83	47	2	108
0076 0076 COOPER HT						1	0	3	0	3	0	0	1
0077 0077 CEDAR HILL						265	0	326					
0078 0078 BARNES BCH						182	0	242					
0079 0079 BEAVER ACR						230	0	264					
0080 0080 MEADOW PK						190	0	271					
0081 0081 MCKINLEY S						106	0	111					
0082 0082 PRINCE OF						160	0	198					
0083 0083 CHRIST UNI						164	0	244					
0084 0084 CEDAR HILL						69	0	101					
0085 0085 CEDAR HILL						198	0	267					
0086 0086 W TUALATIN						190	0	252					
0087 0087 W TUALATIN						197	0	292					
0088 0088 CHRIST UNI						189	0	264					
0089 0089 ST ANDREW						247	0	273					
0090 0090 CEDAR PK J						246	0	307					
0092 0092 RALEIGH PK						227	0	361					
0093 0093 MONTCLAIR						159	0	263					
0094 0094 GARDEN HM	124	106	21	1	157	141	0	268					

STATEMENT OF VOTES CAST
19:28:08 1-Jun-1992

MAY PRIMARY 1992

COUNTY COMMISSIONER - DISTRICT 3 - 4 YR TERM

1 KATHY CLAIR
2 ROY R ROGERS
3 JIMMIE L SALEEN, SR
4 Overvotes
5 Undervotes
JUSTICE OF THE PEACE
6 JAMES R SHARTEL, INCUMBENT

7 Overvotes
8 Undervotes
METROPOLITAN SERVICE DIST - COUNCILOR - DISTRICT 2
9 LAWRENCE BAUER
10 JON KVISTAD
11 LIZ C (SCROGGIN) STILLER
12 Overvotes
13 Undervotes

	1	2	3	4	5	6	7	8	9	10	11	12	13
0095 0095 WHITFORD J	88	107	18	4	156	139	0	234					
0096 0096 FAITH BIBL	.	.	.	.	.	142	0	180	65	92	53	0	112
0097 0097 HERITAGE V	.	.	.	.	.	200	0	213					
0098 0098 MCKAY SCHO	101	113	30	1	155	180	0	220					
0099 0099 GARDEN HM	89	62	5	1	98	91	0	164					
0100 0100 WHITFORD J	60	80	17	1	88	95	0	151					
0101 0101 ST MARY VA	.	.	.	.	.	121	0	140	49	96	44	2	70
0119 0119 BEXTON MT	.	.	.	.	.	236	0	283	99	161	73	2	184
0120 0120 BEAVER ACR	.	.	.	.	.	45	0	45					
0145 0145 GREENWAY B	.	.	.	.	.	200	0	185	103	95	74	0	113
0161 0161 HITEON ELE	.	.	.	.	.	214	0	250	101	158	51	0	154
0162 0162 SHERWOOD M	136	170	30	0	139	186	0	289					
0163 0163 HAZELDALE	.	.	.	.	.	186	0	195	83	105	66	2	125
0165 0165 CHRIST THE	97	89	4	3	82	118	0	157					
0166 0166 ORDNER SCH	27	41	8	2	36	48	0	62	3	6	6	0	5
0167 0167 FARMINGTON	.	.	.	.	.	20	0	18					
0170 0170 ORDNER SCH	13	17	7	1	30	25	0	43					
0180 0180 SUMMERFLD	138	195	24	2	195	235	0	319					
0182 0182 SW BIBLE C	27	18	7	0	37	39	0	50	12	21	23	0	33
0183 0183 TUAL COMM	17	16	5	1	10	19	0	30					
0184 0184 HOPKINS SC	14	20	3	1	12	16	0	34					
0185 0185 TUAL COMM	1	2	0	0	4	2	0	5					
0186 0186 PIPERS RUN	1	0	0	0	1	1	0	1					
0187 0187 PIPERS RUN	4	1	0	0	10	3	0	12					
0188 0188 COOPER MT	.	.	.	.	.	134	0	182	45	110	49	1	111
0189 0189 TUAL COUNC	61	95	14	1	84	128	0	127					
0190 0190 GARDEN HOM	38	27	2	0	37	.	.	.	3	3	6	0	5
0191 0191 MAISON ARM	3	6	1	0	7	.	.	.	31	66	46	0	90
0192 0192 METZGER SC	60	89	16	1	87	117	0	136	0	0	1	0	0
0193 0193 SW BIBLE C	19	28	4	0	23	38	0	36					
0194 0194 PHIL LEWIS	68	95	14	0	68	121	0	124					
0195 0195 FRIENDS CH	108	162	20	1	151	199	0	243					
0196 0196 OAK HILLS	.	.	.	.	.	25	0	23					
0197 0197 MONTCLAIR	12	7	2	0	21	.	.	.					
0198 0198 RIDGEWOOD	.	.	.	.	.	121	0	149					
0199 0199 CEDAR MILL	.	.	.	.	.	154	0	265					
0200 0200 MEADOW PK	.	.	.	.	.	55	0	70					
0207 0207 ED BYROM S	0	0	0	0	0	0	0	0					
0208 0208 ROYAL VILL	24	24	5	2	24	34	0	45					
0211 0211 MT VIEW SC	.	.	.	.	.	113	0	111	55	72	34	1	62
0213 0213 ED BYROM S	79	280	24	0	119	221	0	281					
0214 0214 E HABELL	.	.	.	.	.	212	0	218	78	168	61	1	122
0215 0215 C F TIGARD	35	78	7	1	54	73	0	102					
0216 0216 1ST UNITED	.	.	.	.	.	77	0	81	39	43	20	0	56
0217 0217 METZGER SC	3	4	0	0	3	5	0	5	4	1	2	0	3
0219 0219 FIVE OAKS	.	.	.	.	.	205	0	273					

STATEMENT OF VOTES CAST
15:28:12 1-Jun-1992

MAY PRIMARY 1992

COUNTY COMMISSIONER - DISTRICT 3 - 4 YR TERM

- 1 KATHY CLAIR
- 2 ROY R ROGERS
- 3 JIMMIE L SALEEN, SR
- 4 Overvotes
- 5 Undervotes

JUSTICE OF THE PEACE

- 6 JAMES R SHARTEL, INCUMBENT

- 0220 0220 BEXTON HT
- 0221 0221 FOWLER MID
- 0222 0222 CHEHALEM S
- 0223 0223 SHERWOOD I
- 0224 0224 FOWLER MID
- 0225 0225 CHUR OF CH
- 0226 0226 M WOODWARD
- 0228 0228 W TUALATIN
- 0232 0232 FIVE OAKS
- 0233 0233 CEDAR HILL
- 0235 0235 ED BYRON S

1	2	3	4	5	6	7	8
.	.	.	.	.	253	0	292
75	117	13	0	89	132	0	162
.	.	.	.	.	199	0	196
107	224	24	0	146	219	0	282
42	71	6	0	31	79	0	91
115	153	16	1	136	194	0	227
76	118	12	0	99	143	0	162
.	.	.	.	.	122	0	197
.	.	.	.	.	238	0	248
.	.	.	.	.	0	0	0
5	8	0	1	1	9	0	6

- 7 Overvotes
- 8 Undervotes
- METROPOLITAN SERVICE DIST - COUNCILOR - DISTRICT 2
- 9 LAWRENCE BAUER
- 10 JON KVISTAD
- 11 LIZ C (BCRD00IN) STILLER
- 12 Overvotes
- 13 Undervotes

9	10	11	12	13
102	136	84	1	222
52	106	45	0	91
108	114	61	0	112
34	46	29	1	60
49	111	58	0	87
.
.
.
.

TOTAL

5,074..7,738..1,014.....85..6,648 22,320.....0,28,802 3,576..5,277..2,845.....36..6,065

STATEMENT OF VOTES CAST
15:28:12 1-Jun-1992

MAY PRIMARY 1992

METROPOLITAN SERVICE DIST - COUNCILOR - DISTRICT 4

- 1 AUDREY CASTILE
- 2 RICHARD DEVLIN
- 3 Overvotes
- 4 Undervotes

- 8 BLAINE WHIPPLE
- 9 Overvotes
- 10 Undervotes
- BEAVERTON MAYOR - 4 YR TERM
- 11 LARRY D COLE
- 12 ROB DRAKE
- 13 Overvotes
- 14 Undervotes

METROPOLITAN SERVICE DIST - COUNCILOR - DISTRICT 13

- 5 GEOFFREY W HYDE
- 6 TERRY MOORE
- 7 WES MYLLENBECK

		1	2	3	4	5	6	7	8	9	10	11	12	13	14	
0001	0001	ED BYROM S	57	70	1	97										
0002	0002	SHERWOOD I	130	132	0	126										
0003	0003	HOPKINS BC	1	2	0	3										
0004	0004	TUAL COUNC	108	164	0	121										
0005	0005	K CITY TOW	186	190	1	287										
0006	0006	TUAL ELEM	103	131	0	111										
0007	0007	DURHAM CEN	91	70	0	65										
0008	0008	TERRA LIND	.	.	.	.	35	150	116	66	2	197			
0009	0009	CHRIST KIN	211	198	1	192										
0015	0015	METZGER PK	.	.	.	.	14	53	21	16	0	83			
0017	0017	TUAL COUNC	1	0	0	0										
0018	0018	TUAL ELEM	159	145	0	141										
0024	0024	TUAL COMM	24	24	0	21										
0025	0025	K CITY TOW	180	154	1	179										
0026	0026	GARDEN HOM	.	.	.	.	20	118	58	49	1	153			
0027	0027	METZGER PK	.	.	.	.	8	49	21	19	1	56			
0028	0028	FOWLER MID	110	62	0	110										
0029	0029	TUAL ELEM	138	195	1	195										
0030	0030	C F TIGARD	133	79	1	138										
0031	0031	TIGARD COM	212	123	1	124										
0032	0032	C F TIGARD	173	128	1	175										
0033	0033	M WOODWARD	5	4	0	6										
0034	0034	J TEMPLETO	205	112	1	147										
0035	0035	PHIL LEWIS	94	93	0	117										
0036	0036	GRACE COMM	49	57	0	53										
0038	0038	ELDORADO V	220	168	0	203										
0039	0039	PIPERB RUN	31	19	1	29										
0040	0040	THALITY HI	174	128	0	146										
0041	0041	SUMMERFLD	218	235	1	296										
0042	0042	GREENWAY E	.	.	.	.						113	133	0	66
0043	0043	ROYAL VILL	109	77	0	87										
0044	0044	CENTRAL CH	.	.	.	.						201	257	2	41
0045	0045	1ST UNITED	.	.	.	.						118	178	0	73
0046	0046	M WOODWARD	4	1	0	4										
0047	0047	M DAVIES C	.	.	.	.						
0048	0048	FIR GROVE	.	.	.	.						227	323	2	94
0049	0049	HITEON ELE	.	.	.	.						166	307	0	57
0050	0050	FIR GROVE	.	.	.	.						162	366	1	59
0051	0051	VOSE SCHOO	.	.	.	.						174	266	0	59
0052	0052	VOSE SCHOO	.	.	.	.						278	252	3	49
0053	0053	HIGHLAND P	.	.	.	.						142	183	0	44
0054	0054	COMMUNITY	.	.	.	.						144	319	1	60
0055	0055	GREENWAY S	.	.	.	.						179	243	1	71
0056	0056	CHEVALEN S	.	.	.	.						140	239	0	57
0058	0058	MCKAY SCHO	35	127	97	56	2	194	135	253	0	48
												192	270	0	49	

STATEMENT OF VOTES CAST
15:28:14 1-Jun-1992

MAY PRIMARY 1992

METROPOLITAN SERVICE DIST - COUNCILOR - DISTRICT 4

- 1 AUDREY CASTILE
- 2 RICHARD DEVLIN
- 3 Overvotes
- 4 Undervotes

METROPOLITAN SERVICE DIST - COUNCILOR - DISTRICT 13

- 5 GEOFFREY W HYDE
- 6 TERRY MOORE
- 7 WEB MYLLENBECK

- 8 BLAINE WHIPPLE
- 9 Overvotes
- 10 Undervotes
- BEAVERTON MAYOR - 4 YR TERM
- 11 LARRY D COLE
- 12 ROB DRAKE
- 13 Overvotes
- 14 Undervotes

	1	2	3	4	5	6	7	8	9	10	11	12	13	14
0060 0060 CE MASON S					0	3	1	2	0	5	137	139	0	80
0061 0061 HITEON SCH											180	329	0	58
0062 0062 GARDEN HM					11	64	33	31	1	73				
0063 0063 MONTCLAIR					34	160	97	85	2	200				
0064 0064 RALEIGH HL					25	177	121	84	3	205				
0065 0065 VALLEY CDM					30	122	88	55	2	205				
0066 0066 RALEIGH PK					12	67	61	38	2	110				
0067 0067 VALLEY CDM					27	138	81	50	2	149				
0068 0068 ST MATTHEW					20	99	58	53	3	99				
0069 0069 W SYLVAN S					38	112	113	73	2	206				
0070 0070 RIDGEWOOD					27	127	141	77	0	191				
0071 0071 ST MATTHEW					3	8	9	4	0	12	16	15	0	3
0072 0072 C E MASON					2	3	5	1	0	11				
0073 0073 W WALKER S					15	58	84	45	1	109				
0074 0074 CEDAR PK J					28	38	61	31	1	64				
0075 0075 CHEHALEM S											112	147	0	36
0076 0076 COOPER MT											4	0	0	0
0077 0077 CEDAR HILL					34	122	202	60	1	172				
0078 0078 BARNES SCH					42	84	78	58	1	161				
0079 0079 BEAVER ACR					41	100	102	77	0	174				
0080 0080 MEADOW PK					29	98	83	84	0	167				
0081 0081 MCKINLEY S					16	54	41	29	0	77				
0082 0082 PRINCE OF					36	101	56	47	2	116				
0083 0083 CHRIST UNI					23	103	88	41	0	153				
0084 0084 CEDAR HILL					14	45	26	32	0	53				
0085 0085 CEDAR HILL					48	127	81	73	2	134				
0086 0086 W TUALATIN					22	115	67	80	2	156				
0087 0087 W TUALATIN					28	103	111	81	2	164				
0088 0088 CHRIST UNI					31	94	115	62	0	151				
0089 0089 ST ANDREW					52	119	122	93	1	135				
0090 0090 CEDAR PK J					28	114	161	62	3	185				
0092 0092 RALEIGH PK					15	150	115	63	1	244				
0093 0093 MONTCLAIR					18	147	54	55	1	147				
0094 0094 GARDEN HM					21	132	52	46	1	157				
0095 0095 WHITFORD J					22	95	64	39	1	152				
0097 0097 HERITAGE V					39	122	58	62	2	130				
0098 0098 MCKAY SCHO					24	100	74	63	1	138	136	218	3	43
0099 0099 GARDEN HM					12	84	19	37	1	102				
0100 0100 WHITFORD J					16	96	34	26	0	74				
0119 0119 SEXTON MT											158	309	0	52
0120 0120 BEAVER ACR					10	24	12	11	0	33	36	37	0	17
0138 0138 TERRA LIND					14	42	51	20	1	102				
0139 0139 BETHANY SC					51	113	106	62	0	192				
0140 0140 ROCK CREEK					34	83	104	56	4	152				
0145 0145 GREENWAY S											162	180	0	43

STATEMENT OF VOTES CAST
15:28:16 1-Jun-1992

MAY PRIMARY 1992

METROPOLITAN SERVICE DIST - COUNCILOR - DISTRICT 4

- 1 AUDREY CASTILE
- 2 RICHARD DEVLIN
- 3 Overvotes
- 4 Undervotes

- 8 BLAINE WHIPPLE
- 9 Overvotes
- 10 Undervotes
- BEAVERTON MAYOR - 4 YR TERM
- 11 LARRY D COLE
- 12 ROB DRAKE
- 13 Overvotes
- 14 Undervotes

METROPOLITAN SERVICE DIST - COUNCILOR - DISTRICT 13

- 5 GEOFFREY W HYDE
- 6 TERRY MOORE
- 7 WEB MYLLENBECK

	1	2	3	4	5	6	7	8	9	10	11	12	13	14
0146 0146 BETHANY BA					39	71	95	49	1	151				
0147 0147 ROCK CREEK					12	43	54	24	0	60				
0155 0155 BETHANY SC					33	137	146	65	1	188				
0156 0156 OAK HILLS					11	30	19	10	0	43				
0159 0159 OAK HILLS					26	103	93	45	0	127				
0161 0161 HITEON ELE											159	248	1	56
0165 0165 CHRIBT THE	69	49	2	62										
0172 0172 BEAVER ACR					18	79	64	33	0	94				
0180 0180 SUMMERFLD	188	164	2	200										
0182 0182 SW BIBLE C											21	42	0	26
0183 0183 TUAL COMM	20	16	0	13										
0184 0184 HOPKINS 8C	20	14	0	16										
0185 0185 TUAL COMM	5	0	0	2										
0186 0186 PIPERS RUN	1	1	0	0										
0187 0187 PIPERS RUN	3	3	0	9										
0189 0189 TUAL COUNC	81	90	1	83										
0190 0190 GARDEN HOM					10	37	12	15	0	30				
0193 0193 SW BIBLE C	22	23	0	28										
0194 0194 PHIL LEWIS	104	76	0	65										
0195 0195 FRIENDS CH	166	127	0	149										
0196 0196 OAK HILLS					28	114	97	53	1	150				
0197 0197 MONTCLAIR					2	16	6	2	0	16				
0198 0198 RIDGEWOOD					13	57	53	47	1	99				
0199 0199 CEDAR MILL					27	131	75	43	1	142				
0200 0200 MEADOW PK					11	26	25	15	1	47				
0207 0207 ED BYROM S	0	0	0	0										
0208 0208 ROYAL VILL	38	16	0	25										
0209 0209 RALEIGH HL					2	6	3	4	0	18				
0213 0213 ED BYROM S	151	181	0	170										
0215 0215 C F TIGARD	54	50	1	70										
0216 0216 1ST UNITED											39	101	0	18
0219 0219 FIVE OAKS					30	116	87	46	0	199	166	232	1	79
0220 0220 SEXTON MT											111	363	0	71
0221 0221 FOWLER MID	0	0	0	0										
0222 0222 CHEHALEM S											114	226	1	54
0223 0223 SHERWOOD I	164	144	1	192										
0225 0225 CHUR OF CH	165	117	0	139										
0228 0228 W TUALATIN					20	94	53	43	1	108				
0232 0232 FIVE OAKS					30	90	82	65	0	219	126	270	0	90
0233 0233 CEDAR HILL					0	0	0	0	0	0	0	0	0	0
0235 0235 ED BYROM S	6	4	0	5										
0236 0236 WEST TUALA					0	0	1	0	0	0				
TOTAL	4,383	3,796	18	4,401	1,416	5,390	4,307	2,813	59	7,634	4,048	6,445	16	1,555

COUNCIL DEPARTMENT STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 92-1635, FOR THE PURPOSE OF
ACCEPTING THE MAY 19, 1992, PRIMARY ELECTION ABSTRACT OF
VOTES OF THE METROPOLITAN SERVICE DISTRICT

Date: June 8, 1992

Presented by: Don Carlson

FACTUAL BACKGROUND AND ANALYSIS:

A primary election was held on May 19, 1992 for Council District positions 2, 3, 4, 5, 9, 10, 11 and 13. ORS Ch. 255.295 requires the Council to determine the result of the election upon the receipt of the abstract of votes from the Multnomah County Director of Elections (the election official for the entire Metropolitan Service District).

Resolution No. 92-1635 states that the District has received the election abstract of votes (see Exhibit A to the resolution) and that the voters have taken the specific actions identified in the "Be It Resolved" sections of the resolution.

It should be noted that during the research on this matter, General Counsel became aware of the statutory provisions regarding the election in District 11 to fill the vacancy created by the resignation of Councilor Knowles. General Counsel Cooper's opinion is attached. It points out that the District 11 election was to nominate the persons to be on the ballot at the November General election. Therefore, the two persons who were on the ballot May 19 will be on the ballot in November. The appropriate Council standing committee may want to review these statutory provisions and consider a possible amendment for the 1993 Legislative session.



METRO

2000 SW First Avenue
Portland, OR 97201-5398
(503) 221-1646
Fax 241-7417

June 9, 1992

Executive Officer
Rena Cusma

Metro Council

Jim Gardner
Presiding Officer
District 3

Judy Wwers
Deputy Presiding
Officer
District 8

Susan McLain
District 1

Lawrence Bauer
District 2

Richard Devlin
District 4

Edward P. Gronke
District 5

George Van Bergen
District 6

Ruth McFarland
District 7

Tanya Collier
District 9

Roger Buchanan
District 10

Ed Washington
District 11

Sandi Hansen
District 12

Donald Carlson
Council Administrator
Metropolitan Service District
2000 S. W. First Avenue
Portland, OR 97201-5398

Dear Don:

Re: Results of May 19, 1992, Primary Election

Pursuant to ORS 255.295 the Metro Council is required to determine from the abstract of the votes received from election officials the results of the election held on May 19, 1992. At that election, nominations for eight different Council positions were being contested by candidates. ORS 249.088 provides "at the nominating election held on the date of the Primary election, two candidates shall be nominated for the nonpartisan office. However, when a candidate, other than a candidate for sheriff or a candidate to fill a vacancy, receives a majority of the votes cast for the office at the nominating election that candidate is elected."

In Metro Council districts 2, 5, and 13 more than two candidates were seeking the nomination for the Council position. In those subdistricts no one candidate received a majority of the votes cast and, therefore, the two individuals receiving the highest vote totals have been nominated by the voters for the General election to be held November 6, 1992.

In Council districts 3, 4, 8, and 10 only two candidates had filed for nomination for a full term on the Metro Council. In those subdistricts a candidate received a majority of the votes cast for the position and the person whose vote was the highest has been elected to the position and no election will be held on November 6, 1992, for those positions.

In Council district 11 two candidates had filed to be nominated to fill the vacancy created when Councilor Knowles resigned after having been elected in 1990 to fill a

Donald Carlson
Page 2
June 9, 1992

four-year term on the Metro Council. In that case, even though one candidate received a majority of the votes cast, the statute requires that both candidates (the persons receiving the two highest vote totals) in the Primary election have been nominated and both names must appear on the November 6, 1992, ballot.

I have reviewed the situation regarding the district 11 election with the Multnomah County Elections Officer, who serves as the District's election officer, and that office has confirmed that even though one candidate received a majority of the votes in district 11 at the May Primary, both candidates will appear on the November 6, 1992, ballot because the election was being held to fill a vacancy.

Yours very truly,



Daniel B. Cooper
General Counsel

gl
15742.13

cc: Ed Washington

Meeting Date: June 25, 1992
Agenda Item No. 4.4

RESOLUTION NO. 92-1643

GOVERNMENTAL AFFAIRS COMMITTEE REPORT

**RESOLUTION NO. 92-1643, REVISING GUIDELINES FOR COUNCIL PER DIEM,
COUNCILOR EXPENSE AND GENERAL COUNCIL MATERIALS & SERVICES ACCOUNTS**

Date: June 19, 1992

Presented by: Councilor Collier

COMMITTEE RECOMMENDATION: At its June 18, 1992 meeting the Governmental Affairs Committee voted 3-0 to recommend Council adoption of Resolution No. 92-1643. Voting were Councilors Collier, Devlin, and Gronke. Councilors Bauer and Wyers were absent.

COMMITTEE DISCUSSION/ISSUES: Council Analyst Casey Short presented the staff report. He said this is an annual housekeeping item to adjust Councilor per diem based on the consumer price index. The Councilor per diem rate will increase by \$2, from \$56 to \$58. The amounts authorized in the resolution for per diem and expenses are consistent with budgeted amounts for FY 92-93.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF REVISING	)	RESOLUTION NO. 92-1643
GUIDELINES FOR COUNCIL PER DIEM,)	
COUNCILOR EXPENSE AND GENERAL	)	Introduced by the
COUNCIL MATERIALS & SERVICES	)	Government Affairs Committee
ACCOUNTS)	

WHEREAS, the Council of the Metropolitan Service District adopted guidelines for the expenditure of Councilor per diem and expense accounts and Council-related expenses through Resolution No. 83-431; and

WHEREAS, the Council revised the guidelines for Councilor per diem, expense and general expenses through adoption of Resolution Nos. 85-541, 88-922, 89-1065A, 90-1281, and 91-1468;

WHEREAS, current expenditure guidelines include a cost of living adjustment for Councilor per diem which necessitates an annual revision of Council expenditures guidelines; now therefore

BE IT RESOLVED,

1. That the Council of the Metropolitan Service District amends the expenditure guidelines attached as Exhibit A which will supersede any previously adopted guidelines.

2. That the amended guidelines attached as Exhibit A will be effective on July 1, 1992.

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

Jim Gardner, Presiding Officer

EXHIBIT A

GUIDELINES FOR THE EXPENDITURES OF COUNCIL PER DIEM, EXPENSE AND GENERAL MATERIALS & SERVICES ACCOUNTS

GENERAL PROVISIONS

1. A Councilor may receive per diem, plus mileage to the meetings, and/or reimbursement for actual authorized expenses incurred, for attendance at Council, Council committee, Council task force meetings or other meetings as provided in these guidelines.
2. Reimbursement for travel and subsistence on official business shall only be for the amount of actual and reasonable expenses incurred during the performance of official duty as a Metro Councilor or Council employee.

COUNCILOR PER DIEM ACCOUNTS

1. Each Councilor is authorized to receive up to [~~\$8,064~~] \$8,352 each fiscal year in per diem from the Council Per Diem account. A Councilor who leaves the Council at the end of a calendar year or joins the Council at the start of a calendar year is authorized to receive up to [~~\$4,032~~] \$4,176 in per diem in that fiscal year.
2. Per diem shall be paid at a rate of [~~\$56~~] \$58 per day for attendance at an authorized meeting or meetings. The per diem rate shall be revised at the beginning of each fiscal year based on the change in the Portland All Urban Consumer CPI for the prior calendar year. The new per diem rate shall be rounded to the nearest dollar, and the amounts of per diem authorized in subsection 1 of this section shall be revised based on the new per diem rate times 144 meetings per year or 72 meetings for each half year.
3. Per diem shall be authorized as follows:
 - a) for attendance at any council meeting;
 - b) for attendance at any Council standing committee meeting; Council task force or standing committee task force meeting;
 - c) for attendance at a meeting of any other committee created by Council action or any meeting of a committee to which the councilor requesting per diem has been appointed by the Presiding Officer; or
 - d) for attendance at any other meeting at which District business is discussed.

Per diem shall be paid only if the councilor attends a substantial portion of the meeting for which the per diem is authorized.

4. Payments within these limits shall be authorized by the Council Administrator.

COUNCILOR EXPENSE ACCOUNTS

1. Each Councilor is authorized to receive up to [~~\$2,200~~] \$2,500 each fiscal year as reimbursement for authorized expenses incurred for Council-related activities. A Councilor who leaves the Council at the end of a calendar year or joins the Council at the start of a calendar year is authorized to receive up to [~~\$1,100~~] \$1,250 for authorized expenses for that fiscal year.
2. The Presiding Officer shall be authorized an additional [~~\$700~~] \$1,000 for each six months of service in his or her individual Councilor expense account for authorized expenses in carrying out official duties associated with that office.
3. Each request for reimbursement must be accompanied by supporting documentation which shall include the nature and purpose of the activity, the names and titles of all persons for whom the expense was incurred and receipts justifying the expense as required by the Internal Revenue Service. No reimbursement shall be authorized for any expense submitted without the above-named documentation.
4. In addition to necessary Council-related travel, meals and lodging expenses, expenses may include:
 - a. Advance reimbursement for specific expenses, provided that any advance reimbursement in excess of actual expenses incurred shall be returned or shall be deducted from subsequent expense reimbursement request;
 - b. Up to \$200 per year for memberships in non-partisan community organizations;
 - c. Mileage reimbursement for use of a personal auto while on district business at a rate of \$.26 per mile;
 - d. Expenses to publish and distribute a Council-related District newsletter which may not be mailed within 120 days of an election in which the Councilor is a candidate;
 - e. Council business-related books, publications and subscriptions;
 - f. Meeting or conference registration fees;
 - g. Child care costs for necessary Metro business with documentation as outlined in No. 2 of this section, including duration of the activity; and

h. Reimbursement for telephone and facsimile transmission expenses incurred while doing business of the District.

5. Only authorized expenses as identified herein shall qualify for reimbursement.
6. Payments within these limits shall be authorized by the Council Administrator.

TRANSFERS

Notwithstanding the limits on per diem and expenses indicated above, the Presiding Officer may, upon advance request of a Councilor, authorize the transfer of funds between a Councilor's per diem and expense accounts. Such transfers may be made only to the extent that the combined total of each Councilor's authorized per diem and expense accounts is not exceeded. Transfers between one Councilor's per diem and/or expense accounts and another Councilor's per diem and/or expense accounts are not authorized.

COUNCIL GENERAL ACCOUNT

1. The purpose of the Council General account is to provide support for the Council and the Council staff.
2. Authorized expenses which may be charged to appropriate Materials & Services categories in the Council General account include:
 - a. Meals for regular and special Council, Council committee and Council task force meetings and other Council-related business;
 - b. Facilities rentals for public meetings;
 - c. Meeting equipment such as audio-visual aids, public address systems, tape recorders, etc., for public meetings;
 - d. Receptions for guests of the Council, Council committees or Council task forces;
 - e. Honorials;
 - f. Expenses for official visitors;
 - g. General Council, Council committees or Council task force information, publications, promotional materials or supplies;
 - h. Remembrances from Council, Council committee or Council task force;
 - i. Professional services for the Council, Council committee or Council task force;
 - j. Outside consultants to the Council, Council committee or Council task force; and
 - k. Authorized travel on behalf of the Council, Council committee or Council task force. Mileage reimbursement for the use of a personal auto while on District business shall be at a rate of \$.26 per mile.
3. Only authorized expenses as identified herein shall qualify for reimbursement.

4. An individual Councilor may request reimbursement from the Council General account for expenses incurred for general Council business.
5. All requests by Councilors for reimbursement or expenditure from the Council General account shall be approved in advance in writing by the Presiding Officer. All other requests for reimbursement or expenditure shall be approved by the Council Administrator. Each request shall be accompanied by supporting documentation which shall include the nature and purpose of the expense, the names of all persons for which the expense was incurred and the receipts of justifying the expense. The Department of Finance and Management Information shall provide timely expenditure reports to Councilors and the Council Department.

SLmiscA:\91-1468.RES



METRO

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

Memorandum

June 16, 1992

TO: Government Affairs Committee
FROM: Donald E. Carlson, ^{DEC} Council Administrator
RE: Councilor Per Diem and Expense for FY 1992-93

Please be advised the Councilor per diem rate for FY 1992-93 will be \$58. This is an increase of \$2 over the current \$56 rate. The annual per diem rate is calculated based on the policy set forth in Resolution No. 91-1468 which states in part in Exhibit A:

"...The per diem rate shall be revised at the beginning of each fiscal year based on the change in the Portland All Urban Consumer CPI for the prior calendar year. The new per diem rate shall be rounded to the nearest dollar,..."

The change in the All Urban Consumer CPI for calendar year 1991 was 4.08% based on the following information:

<u>CPI ON</u>	<u>CPI ON</u>	<u>DIFFERENCE</u>	<u>% CHANGE</u>
01/01/91	12/31/91		
129.8	135.1	+5.3	4.08

The new per diem rate is determined by the following calculation:

\$56 X .0408 = \$2.2848
\$2.2848 rounded to the nearest dollar is \$2.

It should be pointed out the current Council expenditure guidelines are out of date as the per diem rate is stated at \$56 and the maximum amount authorized for each Councilor is \$8,064 for a full year and \$4,032 for a half year based on 144 and 72 meetings respectively.

Given the new per diem rate, the expenditure guidelines should be changed to 1) set the per diem rate at \$58; and 2) increase the authorized Councilor per diem amount to \$8,352 annually and \$4,176 for Councilors who serve only 6 months.

The expenditure guidelines should also be revised to set each Councilors expense account at \$2,500 annually and \$1,250 for a half year. This change reflects the amount of funds included in the Approved FY 1992-93 Council Department budget.

Attached for the Committee's consideration is a draft copy of Resolution No. 92-1643 which makes the changes described above.

Meeting Date: June 25, 1992
Agenda Item No. 4.5

RESOLUTION NO. 92-1634

BEFORE THE CONTRACT REVIEW BOARD
OF THE METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING)	RESOLUTION NO. 92-1634
AN EXEMPTION TO METRO CODE)	
CHAPTER 2.04.041(C),)	Introduced by Rena Cusma,
COMPETITIVE BIDDING PROCEDURES,)	Executive Officer
AND AUTHORIZING A SOLE SOURCE)	
CONTRACT WITH EASTMAN KODAK)	
COMPANY TO PROVIDE MAINTENANCE)	
AND REPAIR SERVICE ON THE KODAK)	
300 DUPLICATOR)	
)	

WHEREAS, Eastman Kodak Company is the sole purveyor of Kodak replacement parts for the Kodak 300 duplicator; and

WHEREAS, There are no non-Kodak replacement parts for the Kodak 300 duplicator; and

WHEREAS, Service response time is critical to the high volume production in the Print Shop; and

WHEREAS, The Kodak 300 duplicator is still under warranty to Eastman Kodak Company; and

WHEREAS, It is unlikely that such exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contract; now, therefore,

BE IT RESOLVED,

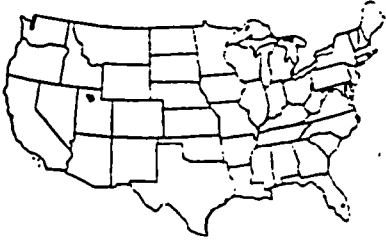
The Contract Review Board hereby exempts the attached contract (Exhibit A attached hereto) with Eastman Kodak Company from the competitive bidding procedures pursuant to Metro Code Chapter 2.04.041(c) because the Contract Review Boards finds Eastman Kodak Company to be the sole providers for maintenance and repair services for the Kodak 300 duplicator.

ADOPTED by the Contract Review Board of the Metropolitan Service District this _____ day of _____, 1992.

Jim Gardner, Presiding Officer

*Equipment Reprographic Services,
Sale, and Supplies
(State and Local Government)*

*July 1, 1991
Schedule SLG #18291-92*



Copy Products Price Schedule



COPY PRODUCTS

**KODAK EKTAPRINT 300 Duplicator
Equipment Sales**

	<u>CAT No.</u>	<u>Selling Price</u>	<u>Conversion-To-Sale Price</u>
KODAK EKTAPRINT 300F Duplicator ¹	125 0927	\$97,020	N/A
KODAK EKTAPRINT 300 Finisher Accessory ¹	178 1343	5,880	N/A
KODAK EKTAPRINT 300 Finisher/Binder ²	144 8927	11,768	N/A
KODAK EKTAPRINT Continuous Forms Feeder ¹	123 5985	5,000	\$3,750

**KODAK EKTAPRINT 300 Duplicator
Equipment Maintenance Agreements**

Standard EMA:

	<u>Price Plan Code:</u>	<u>Three Year [36 EA]</u>	<u>Annual [12EA]</u>
KODAK EKTAPRINT 300F Duplicator.....		\$400	\$380
KODAK EKTAPRINT 300AF Duplicator.....		523	495
KODAK EKTAPRINT 300AFB Duplicator.....		559	528
Image Charge.....		.0059	.0056

High-Volume EMA:

	<u>Price Plan Code:</u>	<u>Three Year [36 EH]</u>	<u>Annual [12EH]</u>
KODAK EKTAPRINT 300F Duplicator.....		\$698	\$665
KODAK EKTAPRINT 300AF Duplicator.....		821	780
KODAK EKTAPRINT 300AFB Duplicator.....		857	813
Image Charge.....		.0048	.0046

Availability Run Length EMA:

	<u>Price Plan Code:</u>	<u>Three Year [36 EB]</u>	<u>Annual [12EB]</u>
KODAK EKTAPRINT 300F Duplicator.....		\$855	\$815
KODAK EKTAPRINT 300AF Duplicator.....		910	865
KODAK EKTAPRINT 300AFB Duplicator.....		940	895
All Meter B Images (Meter B counts 1st 10 images of each original).....		.0087	.0083
All Meter A Images.....		.0016	.0015

Non-Model Accessories/EMA:

	<u>Price Plan Code:</u>	<u>Three Year [36EA/EH]</u>	<u>Annual [12EA/EH]</u>
KODAK EKTAPRINT Continuous Forms Feeder ¹		31	27

Accessories/RSA:

(Installed on Purchased Equipment Under Warranty/EMA)

	<u>Price Plan Code:</u>	<u>Monthly Minimum Annual Term [12CA]</u>
KODAK EKTAPRINT 300 Finisher.....		\$200
KODAK EKTAPRINT 300 Finisher/Binder.....		415
KODAK EKTAPRINT Continuous Forms Feeder.....		135

	<u>Installation** Charges</u>	<u>Removal** Charges</u>	<u>Standard Relocation*** Charges</u>	<u>Internal Relocation Charges*</u>
KODAK EKTAPRINT 300F Duplicator.....	\$535	\$620	\$450	\$100
KODAK EKTAPRINT 300 Finisher.....	155	170	130	
KODAK EKTAPRINT 300 Finisher/Binder.....	155	170	130	
KODAK EKTAPRINT Continuous Forms Feeder.....	230	230	200	

N/A — Not Applicable

*Per equipment configuration (see Item 6 of EMA Terms)

**Any additional handling (special rigging, forklift trucks, etc.) which may be required for installation or removal is not included and will be at the customer's expense.

***The customer is responsible for all moving costs associated with the relocation of equipment. The Relocation Charge is applicable whenever a service representative participates in any standard relocation, including re-installation.

¹At Kodak's discretion, New Equipment, Newly Manufactured Equipment, or Remanufactured Equipment (as defined in Item 7 of General Purchase Terms)

²Remanufactured Equipment (as defined in Item 7 of General Purchase Terms).

General Terms and Conditions

1. **Geographic Coverage:** The contract coverage area is defined as the contiguous United States and the Island of Oahu in Hawaii. The contractor reserves the right to return orders for areas which are remote or not readily or adequately serviced by the contractor.
2. **Point of Production:** All items in this price list are of domestic origin except as stated below.

Copier Mainframe Model	Country Manufactured
Kodak ColorEdge 1525/1550 Copiers	Japan
Kodak Ektaprint 90	Japan
Kodak Ektaprint 85	Japan
Kodak IM 40	Japan
Accessories	
40/85 Sorter	Japan
40 Feeder	Japan
Stapler	Germany
3. **Discount:** All prices herein are net (discount deducted).
4. **Quantity Prices:** See individual items.
5. **Terms:** Net 30 days.
6. **Delivery:** Within 30 to 145 days.
7. **FOB Point:** Prices shown are FOB Destination within the contiguous United States and the island of Oahu in Hawaii.
8. All remittances should be sent to address indicated on the invoice.

The prices, terms and conditions of this price list are firm for all eligible users under the following Fiscal Years:

Schedule SLG #18291-92

<i>Fiscal Year Effective Date</i>	<i>Catalog Effective Date</i>	<i>Catalog Expiration Date</i>
July 1, 1991	July 1, 1991	June 30, 1992
August 1, 1991	August 1, 1991	July 31, 1992
September 1, 1991	September 1, 1991	August 31, 1992
October 1, 1991	October 1, 1991	September 30, 1992
November 1, 1991	November 1, 1991	October 31, 1992
December 1, 1990	December 1, 1991	November 30, 1992
January 1, 1992	January 1, 1992	December 31, 1992
February 1, 1992	February 1, 1992	January 31, 1993
March 1, 1992	March 1, 1992	February 28, 1993
April 1, 1992	April 1, 1992	March 31, 1993
May 1, 1992	May 1, 1992	April 30, 1993
June 1, 1992	June 1, 1992	May 31, 1993

Eligibility

NOTE: Eastman Kodak Company is the sole and final authority for determining the eligibility of an organization or individual to use this Catalog.

1. State and Local Governments, OR
2. Nonprofit firms providing written confirmation that 50% or more of their funding is from SLG sources, OR
3. Nonprofit firms providing written confirmation that the use of the Kodak equipment is for a project funded 50% or more by an SLG source, OR
4. Foreign Government embassies and Consulates (SIC Code 940). These entities must sign a Statewide Purchase Discount form to qualify for the State and Local Government equipment purchase discounts.
5.
 - a. Private full-time, nonprofit schools, colleges, and universities (hereinafter schools) may use this Catalog. An organization is defined as a private full-time school if it is a nonprofit, tax-exempt institution, the primary purpose of which is to provide instruction through a full-time faculty to an enrolled body of students, and is licensed by an appropriate state authority to confer degrees or diplomas which are recognized as qualifying the student to pursue a course of higher education.
 - b. Nonprofit hospitals may use this Catalog. An organization is defined as a nonprofit hospital if it is a nonprofit, tax-exempt institution and is listed as a hospital in the most current edition of the American Hospital Association Guide to the Health Care Field.
6. Prior to accepting any order, customers qualifying under paragraphs 4a or b may be required to provide Kodak with proof of its federal tax exemption status. The following methods of proof are valid.
 - a. If the customer is listed in IRS publication "Cumulative List of Organizations" as described in Section 170 (C) of the Internal Revenue Code of 1954.
 - b. If the customer provides Kodak a copy of its Federal Tax Exemption letter as listed under Section 501 (C) (3) of the IRS code.
 - c. If the customer provides Kodak with a letter signed by an officer of the institution so stating that they are a federally tax-exempt organization.
7. Partial list (examples) of customers INELIGIBLE to use this Catalog:
 - a. Any "for-profit" organizations
 - b. Youth Associations and part-time schools
 - c. Trade Associations, labor unions, political parties, or parent teacher's associations.
 - d. Social clubs, churches or charitable foundations
 - e. Doctor's offices, health clinics, and medical laboratories
 - f. Blue Cross and Blue Shield Corporations.

These examples are by way of illustration and are not all-inclusive.

General Equipment Maintenance Agreement (EMA) Terms

COPY PRODUCTS

At its discretion, Kodak will make Equipment Maintenance Agreements (EMA's) available for Kodak and IBM Copier equipment purchased from Kodak and from IBM. Under terms of this EMA, Kodak agrees to provide the following services for copiers located within its established marketing areas:

On-site repair service (parts and labor), when required.

Preventive maintenance as part of on-site repair service.

Training for key operators and ongoing support of the copier.

At its discretion, Kodak will make Equipment Maintenance Agreements (EMA's) available for Kodak and IBM Series III Copier equipment not purchased from Kodak or from IBM. Under the terms of this EMA, Kodak agrees to provide the following services for copiers located within its established marketing areas:

On-site repair service (parts and labor), when required.

Preventive maintenance as part of on-site repair service.

Availability of a Customer Support Representative to provide training and copier support at the following rates:

Training/Support at a Kodak Facility	
— Minimum charge (includes two hours)	\$240
— Charge per hour for additional training	85
Training/Support at a customer location	
— Minimum charge (includes two hours)	\$300
— Charge per hour for additional training	110

Training/Support Services will be invoiced for a minimum of two hours. Additional hours of service will be billed as whole hours and are not subject to proration.

- 1. Availability** — EMA's are initially available for seven years from warranty expiration date (five years for KODAK COLOREGE 1525/1550 Copiers, KODAK EKTAPRINT 90/90E/85 Copiers, and IBM Model 50 Copiers) for units purchased from Kodak or IBM as new installations (e.g. not units converted to sale from Reprographic Services Agreements). For units which were converted to sale from Reprographic Services Agreements, the initial EMA availability period is five years from the conversion to sale date or seven years minus the time on Reprographic Services Agreement, whichever is greater (three years from the conversion to sale date or five years minus the time on Reprographic Services Agreement, whichever is greater for KODAK EKTAPRINT 85/90/90E Copiers, and IBM Model 50 Copiers.)

Equipment Maintenance Agreements will be automatically renewed during the initial period of availability for a period of one year at the prices, terms, and conditions, in effect on the first day of the new fiscal year. The initial availability period applies only to machines that were purchased directly from Kodak or from IBM. Additionally, at Kodak's sole discretion, the initial availability period may be terminated prior to the above-stated periods due to a lapse in Kodak equipment maintenance coverage from a Kodak Equipment Maintenance Agreement.

After the expiration or termination of the initial availability period, EMA extensions may be offered; however, if deemed necessary by Kodak, an annual inspection of the equipment at the then-current inspection fee and/or remanufacturing of the equipment at customer expense may be required. After inspection and/or remanufacturing, if required, EMA coverage may be continued.

- 2. Items Covered by an Equipment Maintenance Agreement (EMA)** — During the working hours of the EMA, a Kodak Field Engineer (FE) will perform the following services at no additional charge to the customer:

A. Perform any machine adjustment and/or replacement of parts necessary to repair equipment.

B. Perform any necessary periodic maintenance that is required.

During the hours of the EMA, there is no charge for travel. Parts removed from equipment (and replaced at no charge) become the property of Kodak.

- 3. Items not covered by an EMA** — The following services and circumstances are not covered by an EMA and if available will be charged at Kodak's Per-Call Equipment Service Rates (other premium rates may apply):

A. Maintenance and parts requirements caused by misuse, neglect, use for purposes other than for which specifically designed, installation or attachment of non-Kodak or IBM authorized equipment modifications, use of supplies (including toner and developer) that are not recommended, service performed by other than Kodak personnel, natural disasters and other damage not caused through normal equipment use, wear, and tear.

B. Time spent in locating equipment not at the specified location, or waiting for equipment availability will be charged at Kodak's Per-Call Equipment Service Rates and Terms.

C. Installations, Relocations, and Removals of customer equipment, attachments or removals of modifications to equipment and any electrical work required which is external to the machine.

D. Model conversions, including upgrades and downgrades between models and machine types, or installation or removal of a Kodak feature.

E. Installation and support of any software drivers, analog input devices, or their inter-connection being utilized with the KODAK COLOREGE 1500 Series digital processors.

- 4. On-Site Service Availability/Response Time** — It is Kodak's practice to give priority service to EMA (and RSA) customers. Kodak's objective, during normal working hours, is to respond to requests for repair service from its EMA and RSA customers within three hours. On-site service, when required, will be provided Monday through Friday during Kodak's normal working hours excluding locally celebrated holidays.

Normal working hours are as follows:

All Models except EKTAPRINT 250/300 Duplicators: 8:00 a.m. to 5:00 p.m.
EKTAPRINT 250/300 Duplicators only: 8:00 a.m. to 10:00 p.m.

On-site equipment service is available for EMA customers outside normal working hours at the current overtime rates.

Additional Terms and Conditions (which may include, but are not limited to, additional charges and longer response time goals) may apply to Equipment Maintenance Agreements which are offered to customers physically located beyond Kodak's normal service areas. Any additional terms that are required due to the location of these customers will be provided by the servicing district.

- 5. Customer Responsibilities** — The customer agrees to:

A. Purchase, stock, and replace all items identified in the current price list as supply items (Note: Kodak developer used in EKTAPRINT Copiers, KODAK 1570/1575 Copier-Duplicators and 2110/2120 Duplicators, furnished by the customer, will be replaced at no charge if less than 80,000 images have been made since last developer change with the exception of the COLOREGE Copier-Duplicator which will be replaced if less than 20,000 images and the KODAK 1525/1550 which will be replaced if less than 10,000 images have been made since the last developer change).

General Equipment Maintenance Agreement (EMA) Terms (continued)

- B. Provide the Field Engineer with access to a telephone. If the customer subscribes to Product Initiated Remote Diagnostics (PIRD) or Remote Diagnostics (RD) it will be the customer's responsibility to supply and maintain a dedicated phone line.
- C. Provide suitable storage space for a minimum stock of Kodak owned parts and supplies.
- D. Promptly mail to Kodak the meter reading card indicating the meter readings taken on the last working day of each month. If the meter card is not received, Kodak will determine the monthly usage based upon service meter readings. If service meter readings are not available, Kodak will estimate the monthly usage based on prior usage. (Meter readings will not be necessary for the KODAK 1570/1575 Copier-Duplicators or if an electronic meter device (EMD) has been installed on an EKTAPRINT Copier and/or Copier-Duplicator.
- E. Designate a key operator for training in the use of equipment and inform Kodak immediately of any operator changes.
- F. Provide adequate working space for the FE.
- G. The customer agrees not to interfere with the proper operation of the machine's meter.
- H. The customer is responsible for removing, controlling and replacing or reloading funds contained in a device attached to the machine. Kodak will service machines containing funds only when the cash container cannot be opened prior to repair by Kodak, in which case the customer will remove the funds as soon as the container is or can be opened.

6 Relocation of Equipment Covered by Warranty or Equipment Maintenance Agreement — Customer must obtain Kodak's permission prior to movement or relocation of installed equipment. Kodak should be notified fifteen days prior to equipment relocation. At its discretion, Kodak may bill a premium charge for relocations requested by customers with less than fifteen days notice.

Relocation of equipment includes the movement of equipment to a different location at the same address (internal relocation) and movement of equipment to a new address (standard relocation).

The customer is responsible for charges related to any preparation of the equipment for the move, transportation, and/or the set-up of the equipment at the new location.

Internal Relocation — billed to a customer when equipment is moved to a different location at the same address, no pack-up kit is required and the CES Field Engineer's total involvement is 1.5 hours or less.

Standard Relocation — will apply in all other equipment relocations involving a CES Field Engineer.

In addition, the customer is responsible for the movement of the equipment and associated costs and accepts responsibility for any personal injury or damage caused to or loss of the equipment or property resulting from the move. Transportation-related charges are billed separately. (Refer to Section IV, Miscellaneous Charges, in the Copy Products Price Schedule.)

7. Replacement — If Kodak, in its sole judgment, cannot maintain the equipment to Kodak's specifications, Kodak will replace the equipment with another unit of the same or in the case of unavailable models due to product discontinuance, a similarly featured model. The following points apply:

- A. Kodak's decision to replace an accessory will not obligate Kodak to replace the mainframe.
- B. Replacement of a unit will not extend the period of EMA availability.

C. Replacement applies only during the initial period of EMA availability.

D. Replacement applies only to equipment purchased initially and directly from Kodak or IBM.

8 Accessories — Generally, all items of equipment that are mechanically or electronically interconnected must be inspected, tested, and adjusted as one operating unit to diagnose and correct malfunctions effectively. Therefore, if any item of equipment is covered by an EMA, all other interconnected equipment must also be covered by RSA, warranty, or an EMA. To provide for uninterrupted service, equipment and accessories which are interconnected to equipment currently covered by an EMA will be automatically placed under an EMA at warranty expiration, if an EMA is available.

9 Termination — EMA's may be cancelled by either the customer or Kodak upon 30 days written notice. Customer termination of an EMA prior to the expiration of the contract period will be subject to the monthly minimum charge through the last day of the termination month and the following early termination charges based on the number of full months remaining to contract expiration.

Full Months Remaining to Contract Expiration	Multiple Times Monthly Minimum
24—or more	10
18—23	9
12—17	8
7—11	7
0—6	Balance of contract

There will be a charge according to Per-Call Equipment Service Rates and Terms for any parts and service labor provided on or after the expiration date of the EMA.

Customers who cancel their EMA contract, then decide to reinstate within 30 days, will have the Pre-Installation Inspection Fee waived. The effective date of the EMA reinstatement would be retroactive to the expiration date of the old EMA, and the new agreement must be annual or three year in length.

"Termination of the EMA without penalty is permitted if written notification is received 30 days in advance. This cancellation notification must be signed by the official responsible for the installation and by a fiscal or financial official. The written notification must certify that funds will not be appropriated for continued installation, and that the Government will not replace the cancelled equipment for the same organizational entity in the succeeding fiscal year."

10 Consumables — Copy quality, reliability and uptime are functions of optimum relationship between equipment design and toner/developer formulation. Use of Kodak consumables assures maximum equipment performance and copy quality.

11 Continuation of EMA Coverage or Availability of Per-Call Service on Used KODAK or IBM Copier Equipment Acquired from other than Eastman Kodak Company — Equipment which was covered by an EMA or was serviced on a per-call basis at a previous Kodak customer's site and has been purchased from a vendor other than Eastman Kodak Company requires a pre-installation inspection. When requested to make such an inspection, Kodak will advise the potential customer if the location in which the equipment is to be placed is within present Kodak service capability. If service capability exists and the site where the equipment is to be installed meets Kodak's published site specifications, Kodak will inspect the copier to determine if it meets Kodak's standards. The price of the inspection includes replacement of the image loop (supply item) if deemed necessary by the Field Engineer (this inspection does not include parts replacement). This inspection will be billed to the customer at the applicable inspection rate. If the copier is found to meet Kodak's standards, an EMA or service on

General Equipment Maintenance Agreement (EMA) Terms (continued)

a per-call basis will be offered at current prices. If work is required to return the copier to proper operating standards, parts and labor required to make EMA coverage or per-call service feasible will be billed to the customer at the current per-call hourly labor rates and applicable parts prices. Kodak will provide a rough estimate of costs, with the understanding that the customer will be charged for labor and parts required even though the total price may exceed the estimate. These charges would be in addition to the pre-installation inspection charge. At Kodak's discretion, EMA renewal may be contingent upon actual field performance utilizing non-Kodak toner and developer.

Note that renewals of EMA's for equipment purchased from other than Kodak or from IBM may require an annual renewal inspection, since an initial EMA availability period applies only to pieces of equipment purchased directly from Kodak or IBM.

At Kodak's discretion EMA renewal may be contingent upon actual field performance utilizing non-Kodak toner and developer.

12. **Conversion from per-call service to EMA** — Equipment currently serviced by Eastman Kodak Company on a per-call basis may require inspection to determine the amount of parts and labor required to make EMA coverage feasible. This inspection will be billed to the customer and calculated using the current rates and terms.

After completion of the inspection, Kodak will make an initial determination if it is feasible to add, at the customer's location, the necessary mandatory modifications, as well as other components required to bring the product up to current operating specifications. If Kodak determines that necessary on-site changes and modifications are feasible, Kodak will provide a rough estimate of costs, with the understanding that the total price may exceed the estimate. The customer would be billed on a time and materials basis (current per-call hourly service rates and applicable parts prices) which would be in addition to the reinstallation inspection charge.

If Kodak determines it is not feasible to attempt to make the necessary changes to the product due to the extent and involved nature of the repair, remanufacturing of the machine at current rates would be required.

After necessary repairs or remanufacturing, an EMA would be made available. Note that EMA renewals for such equipment may require an annual inspection since the EMA availability period may have been terminated when the equipment had not continuously been serviced on a Kodak Equipment Maintenance Agreement.

13. **Acceptance of Orders, Billing and Terms of Payment** — All orders are subject to acceptance by Kodak at one of its District or Regional Marketing Centers and are subject to intervening announcements of product discontinuance, price changes, and revision to these terms and conditions. In addition, Credit Department approval must be obtained before shipment and delivery to the customer. For orders requesting performance on other than an immediate basis, prices will be held firm only for two calendar months from the date the order is accepted by Kodak. The monthly minimum amount will be billed monthly in arrears. Payment terms are net 30 days. Usage charges for images made will be billed post monthly. Credits will be given for images made during equipment servicing or for poor images resulting from machine malfunction during the customer's operation. The number of images for which the customer and Kodak agree a credit is due reduces the total usage to be billed for the calendar month in which these images were recorded. A monthly minimum amount is prorated for the first calendar month based on the number of installed days using a 30-day month. The prorated monthly minimum includes one full month's image allowance. Images charges for images made will be billed at their corresponding per image rate.
14. **Other Terms** — In the situation where a Kodak copier is being leased from a company other than Kodak, the EMA will be issued to the individual or firm using the equipment, not to the leasing company. The Customer

represents that the customer is either the owner of each machine under this Agreement or is authorized to use each machine under a lease from a company other than Kodak.

Maintenance service or services for additional charge do not assure that the operation of the machines will be uninterrupted or error-free.

15. **Assignment** — Without the prior written consent of Kodak, the customer shall not assign its rights under this agreement.
16. **Length of Program** — For Kodak and IBM installations, the EMA shall expire at the end of the 12th calendar month (36th calendar month for three year EMA's) following the installation date, conversion-to-sale date, conversion from per-call date or expiration of the previous EMA period. The EMA charges will not be increased during the agreement period.
17. **Automatic Renewal of EMA Agreements** — Unless the customer notifies Kodak *one month* before the end of the EMA period, the EMA agreement will be renewed automatically for the succeeding EMA period at the prices, terms, and conditions in effect on the first day of the month two calendar months before the renewal date. Kodak will provide advance notice of the renewal date. Refer to Section 19 for additional Terms on Kodak 1570/1575 Copier-Duplicators.
18. **Equipment Maintenance Agreement Plan Changes** — The customer may choose to change to another EMA plan of equal or longer duration than the remainder of the existing contract. Such conversions may not be made retroactive and may only be effective on the first day of the calendar month. The prices applicable to the new plan will be the prices in effect on the conversion order-received date. The customer must notify Kodak by the 15th of the month in order for the change to be effective by the first of the next month. Changes received after the 15th of the month will be effective on the first day of the month two months after receipt of the plan change. A plan change which results in an EMA plan of shorter duration than the remainder of the previous plan length (e.g., three-year to annual) will be considered as an EMA termination and will be subject to early termination charges as defined in Section 9 of these General Equipment Maintenance Agreement Terms. Refer to Section 19 for additional Terms on KODAK 1570/1575 Copier-Duplicators.
19. **KODAK 1570/1575 Copier-Duplicator EMA Prices** — For new installations the estimated average monthly image volume will be agreed upon by the customer and Kodak and used to determine the appropriate EMA price. The price for subsequent plan changes, automatic renewals, and units converted from RSA to sale will be determined by Kodak two calendar months in advance of the new contract effective date based on the actual average monthly image volume of the previous contract, provided the contract was in effect a minimum of four months.
20. **Prices** — Generally, the following rules will be utilized, but they are subject to modification by the terms as specified in subsequent price change announcements.
- A. **Price Increases** — The new higher prices will apply to all orders received on or after the increase effective date except as noted below.
- Installed Units — The monthly Equipment Maintenance Agreement prices will not be increased during the annual or three-year agreement period.
- B. **Written Bids and Proposals** — Prices contained in written bids and proposals will be quoted as follows:
- 1) Products for which no price increase has been announced — prices may be quoted as firm for orders received within 30 days from the date of quotation.

General Equipment Maintenance Agreement (EMA) Terms (continued)

- 2) Products for which a price increase has been announced — both old and new prices, as well as the effective date of the new price should be quoted. Orders received on or after the effective date of the price increase will be billed at the new price.
- C. **Alaska Surcharge** — All Kodak equipment installed in Alaska will receive a 10% surcharge and all IBM equipment installed in Alaska will receive a 25% surcharge on EMA prices listed in the schedule.
21. **Taxes** — Please note that sales, use or other taxes measured by sales or receipts are not included in the prices listed but, where applicable, will be added to the invoice if a valid certificate is not furnished.
22. **Default** — If the customer fails to pay any invoice for equipment, chargeable service or supplies, or if the customer fails to perform any of its other obligations under the agreement, or if the customer ceases doing business as a going concern, or if a case in Bankruptcy or any proceeding under another insolvency law is commenced by or against the customer as debtor, or if the customer attempts to remove or sell or transfer or encumber the equipment, Kodak, at its option, and without prior written notice may terminate the agreement, and may immediately repossess all items of Kodak owned equipment and Kodak owned supplies. On termination for customer's default, the customer shall permit Kodak's representative to enter its premises to remove the equipment and shall pay all outstanding invoices, and all accrued payments, the removal charge and the termination charge and any reasonable attorneys fees and court costs incurred by Kodak to enforce the provisions of this default clause.
23. **Casualty Loss or Damage** — Except for damage or loss caused by the sole negligence or other fault of Kodak, Kodak is not responsible for loss or damage to copier equipment owned by other than Kodak. This includes, but is not limited to, the perils of fire, theft, sprinkler leakage, electrical power surges, natural disasters, and vandalism.
24. **Image Credits** — For Kodak and IBM units on an EMA; image credits will be given for images made during installation, customer training, or equipment servicing. The number of images for which the customer and Kodak agree a credit is due reduces the total number of images to be billed for the calendar month in which these image credits were recorded. For all EMA plans including Availability Run Length Pricing, image credits will be applied to the A meter. Image credits will not be available for the KODAK 1570/1575 Copier-Duplicators.
25. **Limitations** — THE SERVICES OUTLINED IN THESE TERMS ARE KODAK'S ONLY OBLIGATIONS UNDER THE EMA. KODAK WILL NOT BE RESPONSIBLE FOR ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES RESULTING FROM THE USE OR SERVICE OF THE SOFTWARE OR EQUIPMENT, EVEN IF LOSS OR DAMAGE IS CAUSED BY THE NEGLIGENCE OR OTHER FAULT OF KODAK. Such damages, for which Kodak will not be responsible, include but are not limited to, loss of revenue or profit, downtime costs, loss of use of equipment, cost of any substitute equipment, facilities, or services, or claims of your customers for such damages. This limitation of liability will not apply to claims for injury to persons or damage to property caused by the sole negligence or fault of Kodak or by persons under its direction or control.
26. **Breach** — If the customer fails to pay in a timely manner for the Equipment for which Maintenance Services are being provided, Kodak can withhold Maintenance Services from the Equipment, even if an Equipment Maintenance Agreement is in effect.
27. **The terms and conditions outlined above may not be applicable if equipment is not purchased directly from Kodak.**
28. **Controlling Terms** — The terms and conditions of this price schedule shall govern despite additional or inconsistent terms or conditions included in customers' purchase orders or other documents.
29. **Changes to Equipment Maintenance Agreement Terms and Conditions** — These terms may change without prior notice.

General Reprographic Services Terms

1. **Taxes** — Sales, use or other taxes measured by sales or receipts are not included in the prices shown but will be added to Kodak's invoices if applicable.
2. **Shipment and Transportation** — Installation and Removal Charge rates include transportation to and from the customer's premises. Kodak reserves the right to select the carrier and point of shipment. If the customer requests expedited or a special method of transportation, the entire cost of such transportation will be charged to the customer.
3. **Terms of Payment and Acceptance of Orders** — All orders are subject to acceptance by the Kodak District Sales Manager at one of its District or Regional Marketing Centers and are subject to intervening announcements of product discontinuance, price changes (except as noted below) and revisions to these terms and conditions. In addition to acceptance of the order at the District or Regional Marketing Center, Credit Department approval must be obtained before shipment and delivery to the customer. All bids, quotations and proposals must have the approval of, and be signed by, the District Sales Manager or their designees prior to being submitted to the customer. For orders requesting performance in another Fiscal Year or on other than an immediate basis, prices will be held firm only for two calendar months from the date the order is accepted by Kodak. Invoices for reprographic services, chargeable service and supplies are payable net 30 days.
4. **Installation Charge** — A charge will apply for normal transportation for a starter kit, any necessary installation kits, routine set up and initial testing of equipment by Kodak during Kodak's normal working hours after the installation site has been prepared by the customer to meet Kodak site specifications. Any additional handling (special rigging, forklift trucks, etc.) which may be required for installation is not included and will be at customer expense. Refer to the Copy Products Price Schedule, Section IV, Miscellaneous Charges.
5. **Prices** — All prices are firm throughout the Fiscal Year covered by this catalog.

Alaska Surcharge — All Kodak equipment installed in Alaska will receive a 10% surcharge on RSA prices listed in this schedule.

6. **Billing** — Billing commences effective the day following installation.
 - A. **For the first calendar month or portion thereof** — A monthly minimum amount is prorated for the first calendar month based on the number of days installed using a 30-day month. The prorated monthly minimum will include one full month's image allowance (when applicable). Usage above the monthly image allowance will be charged at the applicable rate.
 - B. **For other calendar months** —
 - 1) The monthly minimum amount includes charges for all images produced within the first usage range (when applicable).
 - 2) Image charges for copies made will be billed at their corresponding per image rate.

The monthly minimum amount will be billed monthly in arrears for state and local government customers and monthly in advance for qualifying educational/institutional customers.

Image charges will be billed post-monthly, e.g., March image charges will appear on May invoice.

7. **Introductory Pricing Option For KODAK EKTAPRINT Products** — Introductory prices shall apply to new placements for the first three calendar months after the billing commencement date. During the introductory three-month period the customer may convert to any current plan before the 15th day of the third calendar month. If the customer has not selected a plan by the 15th day of the third calendar month, the introductory reprographic services agreement will be renewed automatically under the current annual reprographic services copy plan, except for Models 90/90E/100/150, which will be renewed automatically under the current Multiple-Year III Copy plan. For Models 90/90E/100/150, plan changes to Annual and Two-Year Reprographics Services Agreement are NOT permitted. In either event, prices will be those in effect on the date the original order was accepted by Kodak. Minimum reprographic services period is three months. Customer may terminate an Introductory Plan by giving written notice to Kodak no later than the 15th day of the third full calendar month of the introductory period.

IBM Introductory Copy Plan — The Introductory Copy Plan allows the customer to evaluate IBM Model 50's for the partial month of installation, if any, plus two full calendar months. Minimum reprographic services period is two months for the IBM 50. The Introductory Copy Plan allows the customer to evaluate IBM Models 70 and 85 for the partial month of installation, plus three full calendar months. Minimum reprographics services period is three months for the IBM 70 and 85. A monthly availability charge will apply to partial and full months of installation. There will be no additional charge for copies.

Upon expiration of the Introductory Copy Plan the customer has the option to:

- 1) purchase the unit; or
- 2) remove the unit.

The customer must notify Kodak in writing by the 15th day of the last calendar month of the option they have selected.

The purchase of units will be effective the 1st day of the month following the Introductory Copy Plan expiration date. The purchase price will be the price in effect on the date the original order was accepted by Kodak less the conversion to purchase usage allowance for full calendar months. Any partial month will not be applied toward reducing the purchase price when the unit converts to sale.

8. **Monthly Plan Reprographic Services Period** — For initial installations, the minimum period for the monthly plan is three months from billing commencement date. For plan changes from any three year, two year, or annual contract to a monthly plan, the minimum period for the monthly plan is 30 days from the effective date of the plan change. In all cases the unit may be converted from the monthly plan to a plan of equal or longer duration than the remainder of the minimum period.
9. **Annual Reprographic Services Period** — The annual reprographic services agreement period expires the last day of the fiscal year in which the contract became effective.
10. **Two-Year Reprographic Services Period** — The two-year reprographic services agreement period of commitment will be from the date of installation or price plan conversion through the present and next succeeding fiscal year. Refer to Section 25 for additional Terms on KODAK 1570/1575 Copier-Duplicators.
11. **Three-Year Reprographic Services Period** — The three-year reprographic services agreement period of commitment will be from the date of installation or price plan conversion through the present and two succeeding fiscal years. Kodak may increase prices on copier-duplicators and duplicators effective the beginning of the second year of the agreement with written notice to the customer.

General Reprographic Services Terms (continued)

Increases may not exceed five percent of the prices charged during the prior 12 months. Kodak may only increase prices if the increase in the National Consumer Price Index exceeds 8 percent during the previous calendar year. (The prices of the KODAK EKTAPRINT 90/90E/85 and IM 40 copiers may be increased regardless of changes in the Consumer Price Index.) Refer to Section 25 for additional Terms on KODAK 1570/1575 Copier-Duplicators.

12. Automatic Renewal of Annual, Two-Year and Three-Year Reprographic Services Agreements — Unless the customer notifies Kodak *one month* before the end of the reprographic services period, a reprographic services agreement under an Annual, Two-Year or Three-Year contract will be renewed automatically for the succeeding reprographic services period on an equivalent plan at the prices, terms and conditions in effect on the first day of the new fiscal year. Kodak will provide advance notice of the renewal date. Refer to Section 25 for additional Terms on KODAK 1570/1575 Copier-Duplicators.

13. Reprographic Services Termination — In the event of early termination, Kodak may choose not to remove customer's equipment until customer has issued a purchase order or check for any applicable early termination charges and removal charges. Termination charges will be billed and are due contemporaneously with equipment removal.

Any Reprographics Services Agreement may be terminated by either party by giving one month's prior written notice. Customer's notice should be sent to the District Marketing Center. Customer termination prior to the expiration of the contract will be subject to the monthly minimum charges through the last day of the month of removal and the following early termination charges based upon the number of full months remaining to expiration of the contract:

Full Months Remaining to Contract Expiration	Multiple Times Monthly Minimum
24—or more	10
18—23	9
12—17	8
7—11	7
0—6	Balance of contract

When the terminated unit is being replaced by a new Kodak/IBM model, the monthly minimum amount for the removed unit will be prorated for the last calendar month based on the number of days installed using a 30 day month.

Exceptions to Reprographic Services Agreement Termination Charges

- A. If the customer purchases the installed machine.
- B. Termination of the Reprographic Services Agreement without penalty is permitted if written notification is received 30 days in advance. This cancellation notification must be signed by the official responsible for the installation and by a fiscal or financial official. The written notification must certify that funds will not be appropriated for continued installation, and that the Government will not replace the cancelled equipment for the same organizational entity in the succeeding fiscal year. This will only apply to multiple year contracts at the end of the fiscal year.

14. Changes of Reprographic Services, Accessories — When any reprographic services model designation is changed to a new configuration due to a change in accessories (e.g., KODAK EKTAPRINT 300AF Duplicator to a KODAK EKTAPRINT 300AFB Duplicator) prior to the expiration date of an Annual, Two-Year, or Three-Year agreement, there are two options:

- A. Write a new annual, two-year, or three-year agreement at the then-current prices for the new configuration with the minimum term at

least equal to the remaining term of the existing agreement.

- B. Continue the existing annual, two-year, or three-year agreement substituting the applicable pricing for the new reprographic services configuration from the price schedule in effect at the inception of the agreement.

15. Changes of Reprographic Services, Mainframes — When any reprographic services model designation series is changed to a different configuration due to a change in mainframes series (e.g., KODAK EKTAPRINT 90 Copier series to KODAK EKTAPRINT 235 Copier-Duplicator series) prior to the expiration date of the annual, two-year, or three-year agreement, the customer must write a new annual, two-year, or three-year agreement at the then-current prices for the new configuration with the minimum term of such new agreement at least equal to the remaining term of the existing agreement.

When any class of equipment (e.g., copier, copier-duplicator, or duplicator) is replaced by another class of equipment with a lower monthly minimum prior to the expiration of the contract, the customer will be assessed a downgrade charge.

For All Reprographics Service Agreements

Full Months Remaining to Contract Expiration	Multiple Times Monthly Minimum
19—or more	6
5-18	5
0-4	No. of full months remaining

NOTE: Model changes from KODAK EKTAPRINT 100 and 150 Series Equipment to KODAK EKTAPRINT 90 Series Equipment *will be allowed* on a one-for-two basis without downgrade charges (e.g., one (1) KODAK EKTAPRINT 100 or 150 Series Equipment model changed to two (2) KODAK EKTAPRINT 90 Series Equipment) within a single location billing under the same "ship-to" customer number and department/address.

Model changes from KODAK EKTAPRINT 200, 220, 225, 235, 250, 300, and COLOREDGE and KODAK 1570/1575/2110/2120 Copier-Duplicator, Duplicator Series Equipment to KODAK EKTAPRINT 90 Series Equipment will be assessed a downgrade charge based on the difference between the monthly minimum of the KODAK EKTAPRINT 200, 220, 225, 235, 250, 300, or KODAK 1570, 1575, 2110, 2120 COLOREDGE Copier-Duplicator, Duplicator Series or KODAK 1570, 1575, 2110, 2120 Equipment and the *combined* monthly minimums of the two (2) EKTAPRINT 90 Series Units. Charges are based upon the number of full months remaining from the date of the physical model change to contract expiration date according to the previously outlined schedule.

Model changes from KODAK EKTAPRINT 200, 220, 225, 235, 250, 300, and COLOREDGE and KODAK 1570/1575/2110/2120 Copier-Duplicator, Duplicator Series Equipment to KODAK EKTAPRINT 90 Series Equipment *will be allowed* on a one-for-three basis without downgrade charges (e.g., one (1) EKTAPRINT 200 Copier-Duplicator series equipment model changed to three (3) EKTAPRINT 90 Series Equipment) within a single location billing under the "ship-to" customer number and department/address.

General Reprographic Services Terms (continued)

Model changes from KODAK EKTAPRINT 250/300/2110/2120 Equipment to KODAK EKTAPRINT 100/150/220/235 KODAK 1570/1575 or COLOREDGE Copier-Duplicator Series Equipment *will be allowed* on a one-for-two basis without downgrade charges (e.g., one (1) EKTAPRINT 300 Duplicator series equipment model changed to two (2) EKTAPRINT 220 series equipment) with a single location billing under the same "ship-to" customer number and department/address.

16. Changes of HVP, HVII, HVIII Reprographic Services —

Conversion to Purchase/Relocation — When one unit of an HVIII plan is converted to sale or relocated, the remaining units will automatically be placed on an equal length HVII plan. The price schedule and expiration date of the original HVIII contract will be transferred to the new contract. When one unit of an HVP, HVII, or two units of an HVIII are converted to sale or relocated (outside the taxing jurisdiction with an HVII/III or outside the "ship-to" location with an HVP plan), the remaining unit will automatically be placed on an equal length standard copy plan. The price schedule and expiration date of the original HVP, HVII, HVIII contract will be transferred to the new contract.

Changes of Reprographic Services Mainframes — When a unit(s) of an HVP, HVII/HVIII plan is changed to a new mainframe model designation (e.g., 100 to 220 series), prior to the expiration date of the agreement period, the customer must write a new agreement of equal or longer length than the remainder of the existing contract at the then current prices. The customer will be assessed a downgrade charge if the class of equipment is replaced by another class of equipment with a lower monthly minimum.

Termination of Unit(s) of an HVP, HVII/HVIII

Should the customer wish to terminate a unit(s) of an HVP, HVII, or HVIII prior to fulfillment of the contract, one-month advance notice is required and termination charges would apply to the unit(s) removed. When one unit of an HVIII plan is terminated, the remaining units will automatically be placed in an equal length HVII plan. The price schedule and expiration date of the original HVIII Contract will be transferred to the new contract. When one unit of an HVP, HVII, or two units of an HVIII are terminated, the remaining unit will automatically be placed on an equal length standard copy plan. The price schedule and expiration date of the original HVP, HVII, HVIII contract will be transferred to the new contract.

Addition of Copier/Copier-Duplicators to Existing Plans — Any customer on an annual, two-year or three-year contract may add one or two units to form an HVP, HVII or HVIII Plan. The units added may be net new business, model change installations, or plan changes of installed equipment.

- For net new units — the applicable price schedule and contract expiration must be the same as the original installation.
- For model change installations — units must be placed on a plan of equal or greater length than the unit which was replaced.

The new model is eligible to link with an existing unit(s) to form an HVP, HVII, HVIII plan and maintain the price schedule and expiration date of the existing plan, if the expiration date is equal to or greater than the expiration date required for the model change unit.

- For plan changes of installed equipment — the applicable price schedule and contract expiration will be determined by the unit with the latest contract expiration.

17. Servicing of Reprographic Services Equipment — Kodak warrants the equipment contained in this catalog to be maintained in proper functioning order during the terms of the equipment Reprographic Services Agreement. KODAK MAKES NO OTHER WARRANTIES, EXPRESS, IMPLIED, OR OF MERCHANTABILITY, FOR THIS EQUIPMENT. If this equipment does not

function properly during the contract term, it will be repaired without charge according to the terms set forth below. NORMAL MAINTENANCE SERVICES AND REPAIR WITHOUT CHARGE ARE KODAK'S ONLY OBLIGATIONS UNDER THIS WARRANTY. KODAK WILL NOT BE RESPONSIBLE FOR ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES RESULTING FROM THE RENTAL, USE, OR IMPROPER FUNCTIONING OF THIS EQUIPMENT EVEN IF LOSS OR DAMAGE IS CAUSED BY THE NEGLIGENCE OR OTHER FAULT OF KODAK. Such damages, for which Kodak will not be responsible, include, but are not limited to, loss of revenue or profit, downtime costs, loss of use of the equipment, cost of any substitute equipment, facilities or services or claims of your customers for such damages. This limitation of liability will not apply to claims for injury to persons or damage to property caused by the sole negligence or fault of Kodak or by persons under its direction or control.

A. Repair Service — During Kodak's normal working hours, a Kodak Customer Equipment Services (CES) Representative will, at the customer's request, provide equipment repair service on the customer's premises. In addition, Kodak agrees to perform routine periodic equipment maintenance as deemed necessary by Kodak.

Normal working hours are as follows:

All Models except EKTAPRINT 250/300 Duplicators:

8:00 a.m. to 5:00 p.m.

EKTAPRINT 250/300 Duplicators only:

8:00 a.m. to 10:00 p.m.

On-site equipment service is available for RSA customers outside normal working hours at the current overtime rates and terms.

Kodak Developer furnished by the customer will be installed by Kodak at no charge for labor. In the event the Field Engineer (FE) must change Kodak manufactured developer prematurely, the bottle of developer that was disposed will be replaced at no charge. Replacement bottle is secured from CES Emergency stock or Distribution stock.

- B. Parts Replacement** — Parts and image loops will be replaced at no charge if deemed necessary by the CES Representative. Parts removed from equipment (and replaced at no charge) remain the property of Kodak.
- C. Availability of Equipment for Servicing** — The customer agrees to make equipment immediately available for the equipment service scheduled or requested. If equipment is not available, there will be a charge for the call at the applicable U.S. Per-Call Equipment Service Rates and Terms.
- D. Other Terms** — There will be a charge if the usage meter or its sealed connection is repaired, replaced or removed by anyone other than a Kodak-authorized service representative.

The customer will be charged according to applicable Per-Call Equipment Service Rates and Terms if the need for equipment service or parts is caused by: failure to follow Kodak's care, cleaning, maintenance, and operating instructions; misuse; abuse; or circumstances beyond Kodak's control; or relocation of the equipment by other than Kodak.

General Reprographic Services Terms (continued)

There will also be a charge at the applicable U.S. Per-Call Equipment Service Rates and Terms if Kodak provides service or parts to correct problems that have resulted from misuse, abuse, unauthorized maintenance, modification or relocation of the equipment, use of any supply item which does not meet current characteristics which Kodak may have published for such supply items, customer negligence, or to correct problems that have resulted from materials used or operations performed that are contrary to Kodak's instructions. Equipment service does not include service or parts for any attachments, accessories or alterations not marketed by Kodak nor to correct problems resulting from their use.

Alterations, additions, or improvements may not be made by the customer without the prior written consent of Kodak. All additions and improvements shall belong to, and become the property of Kodak upon the expiration or termination of the contract.

18. **Conversion to Purchase/Usage Allowance** — Reprographic services customers will receive a usage allowance credit toward the purchase of continuously installed equipment.

KODAK EKTAPRINT 85/100/150/200/225/250 and COLOREdge Copier-Duplicator — Units continuously installed 12 or more months which are converted to sale will receive the Conversion-to-Sale Price listed in the schedule. No other usage allowance will apply, however, SPD discounts may be used where applicable.

KODAK 1570/1575 Copier-Duplicator Series — the usage allowance credit will accumulate at a rate of one percent of the purchase price in effect on the date of conversion for each month of installation. The maximum usage allowance credit is 24% of the then current purchase price.

KODAK EKTAPRINT 90/220/235/300 Series — The usage allowance credit will accumulate at a rate of two percent of the purchase price in effect on the date of conversion for each month of installation. The maximum usage allowance credit is 40 percent of the then-current purchase price.

KODAK 2110/2120 Duplicator — The usage allowance credit will accumulate at a rate of one percent of the purchase price in effect on the date of conversion for each month of installation. The maximum usage allowance credit is 30 percent of the then-current purchase price.

IBM Model 50 Copier — Units which are converted-to-sale at the expiration of the Introductory Copy Plan will receive the Conversion-from-Intro price listed in the schedule. No other usage allowance will apply.

Model Accessories — The usage allowance credit for Model Accessories will be consistent with the mainframe on which the accessory is installed.

Non-Model Accessories — The usage allowance credit for Non-Model Accessories (i.e.: KODAK EKTAPRINT Continuous Forms Feeder or Accent Color Accessories) will accumulate at a rate of two percent of the purchase price in effect on the date of conversion for each month of installation. The maximum usage allowance credit for Non-Model Accessories will be consistent with the mainframe on which the accessory is installed. Non-Model Accessories installed on units which have a Conversion-to-Sale Price after 12 or more months of installation will receive the Conversion-to-Sale Price listed in the schedule. No other usage allowance will apply.

Conversion to Purchase transactions must be made effective on the first day of the calendar month and may not be made retroactively. When determining the number of full months of RSA installation for a conversion-to-sale price or usage allowance calculations, any partial month of installation of 16 days or more will count as a full month of installation.

19. **Conversion to Purchase/Mainframe Change** — Reprographic Services customers will receive no usage allowance credit toward the use of continuously installed equipment when the mainframe is changed to a different mainframe series for the purpose of conversion-to-sale.

20. **Relocation of Reprographic Services Equipment** — Customer must obtain Kodak's permission prior to movement or relocation of installed equipment. Kodak should be notified fifteen days prior to equipment relocation. At its discretion, Kodak may bill a premium charge for relocations requested by customers with less than fifteen days notice.

Relocation of Equipment includes the movement of equipment to a different location at the same address (internal relocation) and movement of equipment to a new address (standard relocation).

The customer is responsible for charges related to any preparation of the equipment for the move, transportation, and/or the set-up of the equipment at the new location.

Internal Relocation — billed to a customer when equipment is moved to a different location at the same address, no pack-up kit is required and the CES Field Engineer's total involvement is 1.5 hours or less.

Standard Relocation — will apply in all other equipment relocations involving a CES Field Engineer.

In addition, the customer is responsible for the movement of the equipment and associated costs and accepts responsibility for any personal injury or damage caused to or loss of the equipment or property resulting from the move. Transportation-related charges are billed separately. (Refer to Section IV, Miscellaneous Charge)

21. **Removal Charge** — A removal charge will apply upon expiration or termination of reprographic services agreement and removal of the equipment. The removal charge will be the charge in effect at the date of termination. Any additional handling (special rigging, forklift trucks, etc.) which may be required for removal is not included and will be at customer expense. Refer to the Copy Products Price Schedule, Section IV, Miscellaneous Charges.
22. **Mainframe and Accessory Charge** — There will be a charge, as indicated in the then-current price list, for customer-requested changes in mainframe and accessories. The charge to model change within a series (e.g., KODAK EKTAPRINT 225S Copier-Duplicator to KODAK EKTAPRINT 225AF Copier-Duplicator) includes removal and installation charges for all accessories involved. The charge to model change between a series (e.g., KODAK EKTAPRINT 90 Copier to KODAK EKTAPRINT 220 Copier-Duplicator) only includes installation charges for the model being placed. No removal charges will apply for the model being removed.
23. **Reprographic Services Plan Changes** — The customer may choose to change to another reprographic services plan of equal or longer duration than the remainder of the existing contract. Such conversions may not be made retroactive and may only be effective on the first day of the calendar month. The prices applicable to the new plan will be the prices in effect on the conversion order-received date. The customer must notify Kodak by the 15th of the month in order for the change to be effective by the first of the next month. Changes received after the 15th of the month will be effective on the first day of the month two months after receipt of the plan change. A plan change which results in a reprographic services plan of shorter duration than the remainder of the previous plan length (e.g., two-year to annual, three-year to two-year) will be considered as reprographic services termination and will be subject to early termination charges as defined in section 13 of these General Reprographic Services Terms. Refer to section 25 for additional terms on KODAK 1570/1575 Copier-Duplicators.

General Reprographic Services Terms (continued)

- 24. Fixed Rate Contract Terms — Fixed Rate Contract Pricing** is only available for the three-year renewal of KODAK EKTAPRINT 100/150 model series units currently on a Fixed Rate Contract plan. The Fixed Rate Contract may be terminated by either party upon one month's prior written notice. The termination charge shall be two times the monthly minimum or the balance of the contract, whichever is less. When a customer replaces one KODAK EKTAPRINT Copier-Duplicator with another KODAK EKTAPRINT Copier-Duplicator of a different model series prior to the expiration date of the contract period, the customer must write a new agreement of equal or greater duration than the remainder of the existing contract. The new agreement will be at the current SLG schedule rates. Fixed Rate Contract prices will not be applicable to the new model.
- 25. KODAK 1570/1575 Copier-Duplicator RSA Prices —** For new installations the estimated average monthly image volume will be agreed upon by the customer and Kodak and used to determine the appropriate RSA price. The price for subsequent plan changes and automatic renewals will be determined by Kodak two calendar months in advance of the new contract effective date based on the actual average monthly image volume of the previous contract, provided the contract was in effect a minimum of four months.
- With written notice to the customer Kodak may adjust prices effective the beginning of the second fiscal year on multiple-year II and III agreements provided the contract was in effect a minimum of four months and the third fiscal year on multiple-year III agreements if it is determined that the actual average monthly image volume does not correspond to the prices being invoiced.
- 26. Toner-Included Option —** An optional toner-included plan is available for Mid-Volume Copier equipment. A per-copy charge is billed for all images made per month in addition to reprographic services or EMA charges. If exercised, all Mid-Volume Copier units at one "ship-to" location must utilize the plan.
- 27. Image Credits —** For all KODAK equipment (except the 1570/1575 Series), credits will be given for images made during installation, customer training, equipment servicing, or unacceptable images resulting from machine malfunction during the customer's operation. The number of images for which the customer and Kodak agree a credit is due reduces the total number of images to be billed for the calendar month in which these image credits were recorded. For job-size pricing, image credits are applied equally to both the A and B meters. For Reprographic Services Agreement run length pricing, image credits are divided equally between the A and B meters. For Availability Run Length Pricing (Plan Code "AR"), image credits are applied to the A meter.
- 28. Customer Responsibilities —** The customer agrees to:
- Prepare the installation site in accordance with Kodak's instructions;
 - With customer's approval, permit Kodak's field engineer to enter its premises at all reasonable times to service the equipment;
 - Provide suitable space for Kodak's field engineer to service the equipment;
 - Provide suitable space for storage of a minimum stock of image loops and preventive maintenance packs;
 - Designate a key operator for training in the use of the equipment and, in the event of personnel turnover, notify Kodak immediately for training of a new key operator;
 - Provide the Field Engineer with access to a telephone. If the customer subscribes to Product Initiated Remote Diagnostics (PIRD) or Remote Diagnostics (RD), it will be the customer's responsibility to supply and maintain a dedicated phone line.
- Promptly mail to Kodak the monthly meter reading card in meter readings taken on the last working day for each month. If a meter card is not received, Kodak will determine the meter reading based upon the previous three months service meter readings if service meter readings are not available, Kodak will estimate monthly usage based on prior usage;
 - Promptly pay invoices for equipment, chargeable service and supplies as they become due;
 - Care for the equipment as specified in the operator instruction manual and as instructed by Kodak representatives;
 - Upon expiration or termination of reprographic services, return the equipment to Kodak in good condition, normal wear excluded; and
 - Be responsible for physical damage to the equipment caused by the customer's negligence or willful act.
- 29. Default —** If the customer fails to pay any invoice for a chargeable service or supplies, or if the customer fails to perform other obligations under the agreement, or if the customer ceases business as a going concern, or if a case in Bankruptcy or any other insolvency law is commenced by or against the customer as debtor, or if the customer attempts to remove or sell or encumber the equipment, Kodak, at its option and without prior notice may terminate the agreement, and may immediately repossess items of equipment and Kodak owned supplies. On termination due to customer's default, the customer shall permit Kodak's representatives to enter its premises to remove the equipment and shall pay all invoices, and all accrued payments, the removal charge, termination charge and any reasonable attorneys fees and costs incurred by Kodak to enforce the provisions of the default clause.
- 30. Estimation of Usage —** Eastman Kodak Company reserves the right to estimate usage when the meter card is not received from the customer. An adjustment to billing will be done unless the difference between actual and estimated usage is greater than 20 percent.
- Non-Model Accessories —** Non-model accessories are billed in advance of a monthly minimum in advance. For any partial month of the initial or final month of the contract, non-model accessories are billed at a prorated monthly minimum based on the number of months installed using a 30-day month.
 - AccentColor Accessories —** AccentColor Stations may be placed on the same type of contract (e.g., RSA, purchase order) consistent with the unit mainframe on which they are installed.
- 32. Changes —** Kodak reserves the right to discontinue any of its services and to revoke or change any prices or terms of sale, except when otherwise indicated in these Terms and Conditions.
- 33. Assignment —** Without the prior written consent of Kodak, the customer shall not assign its rights under this agreement.
- 34. Controlling Terms —** The terms and conditions of this price schedule govern despite additional or inconsistent terms or conditions on the customer's purchase orders or other documents.
- 35. Attorneys' Fees/Costs —** In any action by a party to enforce these terms hereunder, the non-prevailing party shall pay the prevailing party's attorneys' fees and expenses (including reasonable attorneys' fees).
- 36. Risk of Loss or Damage —** Except for damage or loss caused by the negligence or other fault of the customer, Kodak is responsible for the loss of, or damage to machines owned by Kodak.

General Supplies Terms — Supplies

1. **Eligibility** — The customer and its domestic subsidiaries (any domestic corporation in which the customer owns at least 51 percent of the voting stock) are entitled to purchase supplies under one agreement. It is the responsibility of the customer to inform Kodak via written notice of any domestic subsidiaries that can purchase under the single agreement. Eligibility of the subsidiary to receive the customer price will begin on receipt of the written notice. Shipments will be made only to the customer or its subsidiary's designated business address(es). If customer's ownership of the voting stock of a designated domestic subsidiary falls below 51 percent, customer will notify Kodak of its change of ownership in writing and Kodak, at its option, may remove the subsidiary from the list of customer's eligible and designated subsidiaries.
2. **Agreement Level Qualification** — A customer may qualify for an agreement level (1-4) if the minimum supply amount (determined by Kodak) that the customer would purchase during an annual period is 26 or more supply units. The agreement level annual supply amount will be based on the customer's entire current installed machine population (or all machines shown under their common owner number), actual prior 12 month average image volume (or estimated image volume if machine has been installed less than 4 months), and published supply yields (if applicable). Those customers that are not authorized by Kodak to purchase under an agreement, will be offered non agreement level prices. Customer stipulates that all supplies purchased hereunder are for the Customer's internal use and not for resale. Kodak reserves the right to refuse future orders or to limit quantities to those necessary for customer's internal use if Kodak reasonably believes that customer is reselling any supplies purchased hereunder.
3. **Shipment Quantity Selection for Price Discounts** —
 - A. Kodak authorizes agreement and non-agreement customers to receive shipment quantity price discounts for the total number of supply units placed on a single order to a single shipping location. (example: A customer orders 8 cartridges of KODAK EKTAPRINT K toner, 2 bottles of KODAK EKTAPRINT K developer, and 12 boxes of KODAK 101 Plain Transparencies; i.e. 22 supply units. The customer would receive the 6-23 shipment size price on all of these products.)
 - B. Pallet pricing is available on selected items on supply agreements levels 2-4 for pallet quantities of the same product only. Combination of multiple products to form pallet quantities is not permitted to receive pallet price discounts.

If a customer orders supply units in excess of a pallet quantity of the same product, the excess would be billed at the applicable shipment size price. The excess can be combined with other products to receive higher shipment size price discounts (example: A customer orders 200 cartridges of KODAK EKTAPRINT K toner and 16 bottles of KODAK EKTAPRINT K developer. The customer would receive the 24-47 shipment size price for the 8 additional bottles of K toner (200 - 192 per pallet = 8 in excess) and the 24-47 shipment size price for the 16 bottles of K developer.)
 - C. To determine the correct price level for IBM supplies on agreements, multiply the estimated annual supply unit commitment times a factor of 4 and choose the corresponding supply level. (example: 4 cartridges of IBM High Density Toner x 4 = 16 units, and is a 6-23 unit price within an agreement level.)
 - D. For combined IBM/EKTAPRINT supply agreements, determine IBM annual supply units as in above example and add the EKTAPRINT supply units. (example: IBM: 4 x 4 (as above), plus EKTAPRINT: 8 cartridges of KODAK EKTAPRINT K toner and 2 bottles of KODAK EKTAPRINT K developer, is 16 + 8 + 2 = 26, and is a 24-47 unit price within an agreement level.)
 - E. For non-agreement orders of IBM supplies, multiply the total shipment quantity x 4 to determine the correct level pricing.
 - F. For non-agreement orders of IBM and EKTAPRINT supplies, multiply the IBM total shipment quantity x 4 (as in example above) and add EKTAPRINT total shipment quantity to determine the correct level pricing.
 - G. If an agreement customer orders other than the required minimum/multiple shipping quantity for any product, the price will be based on the applicable non-agreement level shipment size price.
4. **Acceptance of Supply Agreements/Orders** — All new supply agreements/orders and renewals of existing supply agreements will be effective the date of receipt and acceptance by the Kodak Copy Products Information Center in Rochester, NY and are subject to intervening announcements of product discontinuance and price changes. Customer credits will not be issued for delays due to mailing and handling. Acceptance includes Credit Department approval.
5. **Taxes** — Sales, use, or other taxes measured by sales or receipts are not included in the prices shown but will be billed if applicable.
6. **Shipment and Transportation** — Orders will be shipped F.O.B. point of shipment, transportation paid to destination. Kodak reserves the right to select the carrier and point of shipment. If the customer requests expedited or a special method of transportation, the entire costs of such transportation will be charged to the customer.
7. **Expedited Orders** — All agreement and non-agreement customers requesting an expedited order will receive an expedited order quantity at that shipment size level price. The expedited order is a separate order from the original order placed. The original order quantity will be adjusted by the expedited order and will be priced at the remaining shipment size quantity.

Example: Original order is for 48 units of supplies. Customer requests 4 cartridges of KODAK EKTAPRINT K Toner to be expedited. The pricing would be:
 1. 4 cartridges of K Toner at the 1-5 shipment size price.
 2. 44 other supply items at the 24-47 shipment size price.
8. **Billing and Terms of Payment** — Supplies will be billed as of the date of shipment. Subject to Kodak Credit Department approval, terms of net 30 days from date of invoice will apply.
9. **Returns** — Supplies are sold without return privileges unless Kodak gives prior authorization for return. Customer requests for returns must be for supplies purchased within the last twelve months from Kodak and if a discontinued product, the product must be returned within nine months of date of discontinuance. Kodak may authorize return of supply products, at the lowest published price, for exchange within 90 days of equipment removal for trade to other Kodak equipment unless the supply products are obsolete or discontinued.

All returned supply products must be in complete unopened cartons and in good resalable condition. The customer is responsible for return arrangements and freight charges. A Kodak restocking charge of \$100.00 will apply for all returns and will be deducted from the total return credit. Freight and restocking charges do not apply to supply products damaged in shipment, supply products that fail under warranty or supply products being returned for exchange as a result of machine trade or upgrade to other Kodak equipment.

- 10 Prices** — This section applies to non-agreement orders. Generally, the following rules will be utilized; but they are subject to modification by the terms as specified in subsequent price change announcements.
- A Price Increase** — The new higher prices will apply to all orders received on or after the increase effective date.
- B Written Bids and Proposals** — Prices contained in written bids and proposals will be quoted as follows:
- 1) Products for which no price increase has been announced — Prices may be quoted as firm for orders received within 30 days from the date of the quotation.
 - 2) Products for which price increase has been announced — Both old and new prices, as well as the effective date of the new price, should be quoted. Orders received on or after the effective date of the price increase will be billed at the new price.
- 11 Assignment** — The customer shall not assign its rights under a supplies agreement.
- 12 Limitation of Liability/Remedy** — Supplies furnished will be replaced if defective in manufacture, labelling, or packaging or if damaged or lost by Kodak. Except for such replacement, the sale, use, or other handling of these supplies for any purpose is without warranty or liability even though defect, damage, or loss is caused by Kodak's negligence or other fault.
- 13 Supply Agreement Terms** — The term of a supplies agreement will be 12 months in length. Prices will remain firm for the agreement quantity and any additional quantity which is shipped by Kodak and accepted by the customer within the 12 month term of the contract. If the customer has successfully attained 90% of the minimum agreement supply amount thirty days prior to the agreement expiration date, a supplies agreement will automatically be renewed for a successive twelve month period. The renewal agreement will be at the prices, terms and conditions prevailing at the time of renewal. A blanket purchase order may be written for the supply agreement prices. Prices are those in effect the day the blanket purchase order is accepted by Kodak and will remain firm through a twelve month period for the supply agreement quantity and any additional quantity of supply agreement items, delivery of which must be taken within the twelve month period in which the agreement became effective.
- If a blanket purchase order is required by the customer, it must be written for the level 1-5 shipment size supply prices. However, shipment against the blanket purchase order will be billed at the prices applicable to the shipment size in which shipment quantity falls.
- 14 Agreement Cancellation** — In consideration of the advantageous terms offered, supplies agreements are noncancelable. The prices shown assume that the agreement supply quantity ordered will be shipped by Kodak and accepted by the customer in a period not to exceed 12 months from the date the agreement is accepted by Kodak.
- The contract will be deemed complete when the agreement supply quantity has been shipped by Kodak and accepted by the customer in a period not to exceed 12 months from the date the agreement is accepted by Kodak.
- 15 Agreement Default** — If the customer fails to accept the minimum agreement supply amount within their respective level, in the 12 month agreement period, Kodak Copy Products Information Center may deny renewal of the agreement at this level for subsequent renewal periods, or the customer will be granted a revised level for the next consecutive agreement period. The new agreement will be established at the customer's qualifying agreement level for the 12 month period. If customer acceptance of a supplies agreement (new or renewal) is not received by the Kodak Copy Products Information Center 30 days after issuance by Kodak, the customer will receive non-agreement level prices.
- 16 Agreement Plan Change** — The customer may plan change its agreement under the following conditions:
- A The customer has a current agreement and is adding additional machines and copy volume that would warrant a new level, and
 - B The new agreement is equal to or longer than the remaining time on the current agreement and the new agreement level is greater than the current level, and
 - C The customer is current as related to time (e.g., if an agreement has been in effect for four months, the customer must have accepted not less than one-third of this agreement level.)
- Agreement Plan Changes will be at the prices and terms and conditions in effect at time of the change.
- 17 Scheduled Shipments** — Supplies may be shipped at regular intervals upon customer request. All scheduled shipments must be shipped within and not to exceed the customer's supplies agreement period. Non-agreement customers may receive scheduled shipments at the prices effective at the time of shipment.

STAFF REPORT

CONSIDERATION OF RESOLUTION 92-1634 FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO METRO CODE CHAPTER 2.04.041(c), COMPETITIVE BIDDING PROCEDURES, AND AUTHORIZING A SOLE-SOURCE CONTRACT WITH EASTMAN KODAK COMPANY TO PROVIDE MAINTENANCE AND REPAIR SERVICE ON THE KODAK 300 DUPLICATOR.

Date: June 6, 1992

Presented by Pam Juett

FACTUAL BACKGROUND AND ANALYSIS

Metro is in the fourth year of a five-year lease purchase of a Kodak 300 duplicator at the Metro Center location. Eastman Kodak is the current contractor providing maintenance and repair until July 1, 1992, when the present contract #901564 expires. A new contract is needed to continue coverage of maintenance and repair of this machine. Under the provisions of ORS 279.015 (2)(a)(b), a sole source exemption is requested in the awarding of the new contract to Eastman Kodak Company. The exemption is sought on the basis that it is unlikely that this exemption will encourage favoritism or substantially diminish competition, and that Eastman Kodak Company is the only provider of the service and would be the only available bidder for the reasons stated below.

1. The Kodak 300 duplicator involves use of patented technology in the sole control of Eastman Kodak.
2. Eastman Kodak is the sole purveyor of sales and replacement parts for the Kodak 300 duplicator. They do not sell replacement parts on the open market, therefore no Kodak parts are available from non-Kodak suppliers.
3. There is no market availability of non-Kodak replacement parts from independent suppliers for the Kodak 300.
4. It is critical to the high volume production in the Print Shop to provide the minimal service response time that Eastman Kodak can provide with its available stock of replacement parts.
5. No service providers other than Eastman Kodak have been located in the Portland area through a search of the business directory and the MBE/WBE directory. Contacts at City of Portland duplicating service and independent duplicating services indicate that they do not have any service other than Eastman Kodak for their Kodak machines, and that they do not know of independent providers of service.

6. The Kodak 300 duplicator is still under warranty with Eastman Kodak for replacement should it become inoperable and non-repairable. Use of service and parts other than Eastman Kodak would void this warranty.

Budget Impact

\$40,750 is budgeted for this contract. Actual amount spent will be dependent on the number of copies made on the Kodak 300 during the 1992-93 fiscal year.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 92-1634 exempting Eastman Kodak from competitive bidding on the Kodak 300 duplicator.

ipj

10207T

Meeting Date: June 25, 1992
Agenda Item No. 5.1

ORDINANCE NO. 92-466

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF REPEALING)
METRO CODE SECTIONS 2.04.100-)
.180, AND FOR THE PURPOSE OF)
ENACTING NEW PROVISIONS ESTAB-)
LISHING AND GOVERNING METRO'S)
CONTRACTING PROCEDURES FOR)
MINORITY, WOMEN, AND DISAD-)
VANTAGED BUSINESS ENTERPRISES)

ORDINANCE NO. 92-466

Introduced by
Councilor Tanya Collier

WHEREAS, Metro Code 2.04.100-.180 previously governed the Metropolitan Service District's contracting program for disadvantaged businesses; and

WHEREAS, the Metro Council finds that a revision of the Metropolitan Service District's contracting program is desirable; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. The current Metro Code Sections 2.04.100-.180 are repealed.

Section 2. New Metro Code Sections 2.04.100, 2.04.200, and 2.04.300, are adopted, as follows:

"2.04.100 Minority Business Enterprise Program (MBE Program) For Locally-Funded Contracts, Findings, Purpose and Authority:

(a) The Metro Council supports the aspirations of minorities to enter the mainstream of social, political and economic life.

(b) The Metro Council finds:

- (1) The opportunity for full participation in our free enterprise system by minorities is essential;
- (2) Greater economic opportunity for minorities is essential;
- (3) Review of Metro programs to remedy historical patterns of exclusion of and discrimination against racial or ethnic groups is needed;
- (4) Public policies and programs to eliminate the effects of long-term, open and pervasive exclusion of and discrimination against minorities from the

business sector, including increased opportunities to integrate minorities into the full economic life of the community should be reviewed; and

- (5) In cooperation with the private sector, the affected populations, interested groups and appropriate governmental entities, a program of review should be established to recommend remedies for the unfortunate effects of social, political and economic inequity that still exist.

(c) It is the purpose of the MBE Program to establish and implement a program to encourage the utilization by Metro of minority-owned businesses, to the greatest extent permitted by law, by creating for such businesses the maximum possible opportunity to compete for and participate in locally-funded Metro contracting activities. The MBE Program does not apply to federally funded contracts, which are governed by Metro Code 2.04.300 et seq.

(d) Metro Code Sections 2.04.100 to 2.04.190 shall be known and may be cited as the "Metro Minority Business Enterprise Program," hereinafter referred to as the "MBE Program."

2.04.105 Policy Statement:

(a) Through this MBE Program, Metro:

- (1) Expresses its strong commitment to provide maximum opportunity to MBEs in contracting; and
- (2) Informs all employees, governmental agencies and the general public of its intent to implement this policy statement.

(b) It is the policy of Metro to provide equal opportunity to all persons to access and participate in the locally-funded projects, programs and services of Metro. Metro and Metro contractors shall not discriminate against any person or firm on the basis of race, color, national origin, sex, sexual orientation, age, religion, physical handicap, political affiliation or marital status.

(c) The policies, practices and procedures established by the MBE Program shall apply to all Metro departments, commissions and project areas except as expressly provided herein.

(d) The objectives of the MBE Program shall be:

- (1) To assure that provisions of the MBE Program are adhered to by all Metro departments, contractors, and employees; and

- (2) To initiate and maintain efforts to increase, to the greatest extent permitted by law, program participation by minority businesses.

2.04.110 Definitions: For purposes of Metro Code Sections 2.04.100 to 2.04.190, the following definitions shall apply:

(a) "Capable" means a Minority Business Enterprise registered with the Executive Department who upon request from the bidder can supply two favorable references of prior work of the type being subcontracted for.

(b) "Competitive" means the subcontract bid submitted by the Minority Business Enterprise was within 10 percent of either the budgeted amount, subbid estimate, or the lowest bid received by the bidder. The bidder shall make one of these figures available upon request. This term relates to price only and must not be interpreted to mean that a bid deemed competitive is therefore entitled to the subcontract award.

(c) "Construction Contract" means a contract for construction of buildings or other facilities, and includes reconstruction, remodeling and all activities which are appropriately associated with a construction project.

(d) "Contract" means a mutually binding legal relationship or any modification thereof obligating the seller to furnish supplies or services, including construction, and the buyer to pay for them. For purposes of the MBE Program a lease or a purchase order of \$500.00 or more is a contract.

(e) "Contractor" means the one who participates, through a contract or subcontract, in the MBE Program and includes lessees.

(f) "Documentation" means written materials purporting to establish the satisfaction of a good faith effort requirement that are capable of verification. These may include, but are not limited to, copies of business logs, correspondence or newspaper ads.

(g) "Economically Feasible Unit" means a unit of work identified in a project suitable for subcontracting in the normal course of business. These would be units that a contractor would ordinarily identify as suitable for performance by a subcontractor. The intent here is to have identified units that would be attractive to a serious and qualified subcontractor and not be shunned by that subcontractor because the unit of work is too small to be profitable.

(h) "Executive Department" means the State of Oregon's Executive Department.

(i) "Interested" means a Minority Business Enterprise that has expressed to the bidder an interest in learning more about the project identified in the initial solicitation by the bidder.

(j) "Joint Venture" is defined as an association of two or more businesses to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills and knowledge. In a joint venture between a MBE and non-MBE, the MBE must be responsible for a clearly defined portion of the work to be performed and must share in the ownership, control, management responsibilities, risks and profits of the joint venture. A joint venture of a MBE and a non-MBE must receive Metro approval prior to contract award.

(k) "Justification" means a maintaining or showing of a sufficient reason why an action was taken and that the action was not taken for an impermissible reason. Permissible reasons include, but are not limited to, not meeting bid invitation specifications or not being the low bid. An impermissible reason would be one that is arbitrary or capricious or based on race, sex, national origin, marital status or religion.

(l) "Labor and Materials Contract" is a contract including a combination of service and provision of materials other than construction contracts. Examples may include plumbing repair, computer maintenance or electrical repair, etc.

(m) "Lessee" means a business or person that leases, or is negotiating to lease, property from Metro or an actual or potential Metro contractor on Metro's or the contractor's facility for the purpose of operating a transportation-related activity, or for the provision of goods or services to the facility or to the public at the facility.

(n) "Minority Business Enterprise or MBE" means a small business concern which is certified as such by the Executive Department and:

- (1) Which is at least 51 percent owned by one or more minority individuals, or, in the case of any publicly-owned business, at least 51 percent of the stock of which is owned by one or more minority individuals; and
- (2) Whose management and daily business operations are controlled by one or more of the minority individuals who own it.

(o) "Minority Individual" has the meaning established by ORS 200.005(7).

(p) "Negotiate" means to engage in good faith discussions with the potential subcontractors about their proposals/bids, and the work for which a bid is sought, including sharing with them any cost estimates from the request for proposal or invitation to bid documents, if available.

(q) "Personal Services Contract" means a contract for services of a personal or professional nature.

(r) "Procurement Contract" means a contract for the purchase or sale of supplies, materials, equipment, furnishings or other goods not associated with a construction or other contract.

(s) "Reasonable Number" means at least three (3) firms of those MBEs certified as such by the Executive Department, or a greater number of such firms, if so specified in any particular contract by the Liaison Officer. Consideration should be given to the specialty of subcontracting or materials supply desired as well as the location of the project and whether or not the subcontractor is willing to perform work out of their geographic area.

(t) "Rebuttable Presumption" means a presumption which may be rebutted, or disproved, by evidence.

(u) "Small Business Concern" means a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

2.04.115 Notice to Contractors and Subcontractors: Contractors of Metro accepting locally-funded contracts under the MBE Program shall be advised that failure to carry out the applicable provisions of the MBE Program shall constitute a breach of contract and, after notification by Metro, may result in termination or such other remedy as Metro deems appropriate.

2.04.120 Liaison Officer:

(a) The Executive Officer shall, by executive order, designate a MBE Liaison Officer and, if necessary, other staff adequate to administer the MBE Program. The Liaison Officer shall report directly to the Executive Officer on matters pertaining to the MBE Program.

(b) The Liaison Officer shall be responsible for developing, managing and implementing the MBE Program, and for disseminating information on available business opportunities so that MBEs are provided an equitable opportunity to bid on Metro contracts. In addition to the responsibilities of the Liaison Officer, all department heads and program managers shall have responsibility to assure implementation of the MBE Program.

(c) The Liaison Officer shall begin immediately to design a technical assistance and outreach program which shall be established by September 1, 1992. This program shall include at least the following elements:

- (1) A regularly-scheduled contractor orientation program to promote compliance with and understanding of the provisions of the MBE Program and Metro.
- (2) Feasible options for bonding, insurance, and banking assistance for MBEs.
- (3) A program designed to assist Metro departments in enhancing opportunities for MBEs.
- (4) A fully-developed and maintained resource list to include all available resources for MBEs.

(d) The Liaison Officer shall have the responsibility for monitoring implementation of the requirements of the MBE Program and shall have the power to request from Metro departments, bidders/proposers, and/or contractors any relevant records, information and documents.

(e) The Liaison Officer shall be responsible for gathering all information concerning compliance with this chapter and shall have access to all pertinent Metro records.

2.04.125 Directory: A directory of MBEs certified by the Executive Department shall be maintained by the Liaison Officer to facilitate identifying such businesses with capabilities relevant to general contracting requirements and particular solicitations. The directory shall be available to contract bidders and proposers in their efforts to meet the MBE Program requirements.

2.04.130 Minority-Owned Banks: Metro will seek to identify minority-owned banks and banks utilizing equal opportunity banking practices, including community reinvestment, and, to the greatest extent permitted by law, use their services. In addition, Metro will encourage prime contractors, subcontractors and consultants to utilize such services by sending them brochures and service information on such banks.

2.04.135 Affirmative Action and Equal Opportunity Procedures:
Metro shall use affirmative action techniques to facilitate MBE participation in contracting activities. These techniques include:

- (a) Making affirmative efforts to solicit proposals from MBEs.
- (b) Examining alternatives for arranging contracts by size and type of work so as to enhance the possibility of participation by MBEs.
- (c) Arranging solicitations, time for the presentation of bids, quantities specifications, and delivery schedules so as to facilitate the participation of MBEs.
- (d) Referring MBEs in need of management assistance to established agencies that provide direct management assistance to such businesses.
- (e) Carrying out specific information and communications programs on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual, and in conformance with any requirements of the Americans with Disabilities Act, where appropriate.
- (f) Distribution of copies of the MBE Program to organizations and individuals concerned with MBE programs.
- (g) Periodic reviews with department heads to ensure that they are aware of the MBE Program goals and desired activities on their parts to facilitate the purposes of the MBE Program. Additionally, departmental efforts toward and success in meeting the purposes of the MBE Program shall be factors considered during annual performance evaluations of the department heads.
- (h) Monitoring and ensuring that MBE planning centers and likely MBE contractors are receiving requests for bids, proposals and quotes.
- (i) Distribution of lists to potential MBE contractors of the types of goods and services which Metro regularly purchases.
- (j) Advising potential MBE vendors that Metro does not certify MBE's, and directing them to the Executive Department.
- (k) Specifying purchases by generic title rather than specific brand name whenever feasible.
- (l) Establishing an interdepartmental contract management committee which will meet regularly to monitor and discuss, among other issues, potential MBE participation in contracts. In an

effort to become more knowledgeable regarding MBE resources, the committee shall also invite potential MBE contractors to attend selected meetings.

(m) Requiring that at least one MBE vendor or contractor be contacted for all contract awards which are not exempt from Metro's contract selection procedures and which are 1) for more than \$500 but not more than \$15,001 in the case of non-personal services contracts; and 2) for more than \$2,500 but not more than \$10,001 for personal services contracts. The Liaison Officer may waive this requirement if he/she determines that there are no MBEs on the certification list capable of providing the service or item. For contracts over the dollar amounts indicated in this section, all known MBEs in the business of providing the service or item(s) required shall be mailed bid or proposal information.

(n) Requiring that all prospective bidders attend scheduled prebid conferences on all construction contracts with an estimated value of over \$100,000.

(o) The Executive Officer or his/her designee, may establish and implement additional affirmative action techniques which are consistent with the MBE Program and designed to facilitate participation of MBEs in Metro contracting activities.

2.04.140 Certification of Minority Business Eligibility:

(a) To participate in the MBE Program, contractors, subcontractors and joint ventures must have been certified by the Executive Department as described in subsection (b) of this section.

(b) Metro will not perform certification or recertification of businesses or consider challenges to socially and economically disadvantaged status. Rather Metro will rely upon the Executive Department's list in determining whether a prospective contractor or subcontractor is certified as a MBE. A prospective contractor or subcontractor must be certified as a MBE by the Executive Department or appear on its certification list prior to the pertinent bid opening or proposal submission date to be considered by Metro to be an eligible MBE. Metro will adhere to any applicable Recertification Rulings.

(c) Prospective contractors or subcontractors which have been denied certification by one of the above agencies may appeal such denial to the certifying agency pursuant to applicable law. However, such appeal shall not cause a delay in any contract award by Metro.

2.04.145 Annual Minority Business Goals:

(a) The Metro Council shall, by resolution each June, establish annual MBE goals for the ensuing fiscal year. Such annual goals shall be established separately for construction contracts, labor and materials contracts, personal services contracts, and procurement contracts regardless of type.

(b) Annual goals will be established taking into consideration the following factors:

- (1) Projection of the number and types of contracts to be awarded by Metro;
- (2) Projection of the number, expertise and types of MBEs likely to be available to compete for the contracts;
- (3) Past results of Metro's efforts under the MBE Program; and
- (4) Existing goals of other Portland metropolitan area contracting agencies, and their experience in meeting these goals.

(c) Metro will publish notice regarding proposed contract goals not later than ten (10) days prior to adoption of the goals.

2.04.150 Good Faith Efforts at Maximizing MBE Opportunities:

(a) Good faith efforts at maximizing MBE opportunities shall be required for construction contracts over \$50,000.

(b) At the discretion of the Liaison Officer, good faith efforts at maximizing MBE opportunities may be required for any other contract. This requirement shall be made in writing prior to the solicitation of bids for such contract.

(c) Where good faith efforts are required, the Liaison Officer shall direct the inclusion of a clause in any RFP or bid documents which requires that the prime contractor, prior to entering into any subcontracts, make good faith efforts at maximizing MBE opportunities, as that term is defined in Section 2.04.160.

2.04.155 Contract Award Criteria:

(a) To be eligible for award of contracts subject to good faith efforts requirements, prime contractors must prove that they have made good faith efforts at maximizing MBE opportunities prior to the time bids are opened or proposal are due.

Bidders/Proposers are required to utilize the most current list of MBEs certified by the Executive Department, in all of the bidders'/proposers' good faith efforts solicitations. The address where certified lists may be obtained shall be included in all applicable bid/proposal documents.

(b) All invitations to bid or request for proposals on contracts for which good faith efforts requirements have been established shall require all bidders/proposers to submit with their bids and proposals a statement indicating that they have made good faith efforts as defined in Section 2.04.160. To document good faith efforts, all bidders and proposers shall complete and endorse a Minority Business Program Compliance form and include said form with bid or proposal documents. The form shall be provided by Metro with bid/proposal solicitations.

(c) Agreements between a bidder/proposer and a MBE in which the MBE promises not to provide subcontracting quotations to other bidders/proposers are prohibited.

(d) Apparent low bidders/proposers shall, by the close of the next working day following bid opening (or proposal submission date when no public opening is had), submit to Metro detailed MBE Utilization Forms listing names of MBEs who will be utilized and the nature and dollar amount of their participation. This form will be binding upon the bidder/proposer. Within five working days of bid opening or proposal submission date, such bidders/proposers shall submit to Metro signed Letters of Agreement between the bidder/proposer and MBE subcontractors and suppliers to be utilized in performance of the contract. A sample Letter of Agreement will be provided by Metro. The MBE Utilization Forms shall be provided by Metro with bid/proposal documents.

(e) An apparent low bidder/proposer who states in its bid/proposal that good faith efforts at maximizing MBE opportunities were performed shall submit written evidence of such good faith efforts within two working days of bid opening or proposal submission in accordance with Section 2.04.160. Metro reserves the right to determine the sufficiency of such efforts.

(f) Except as provided in paragraph (g) of this section, apparent low bidders or apparent successful proposers who state in their bids/proposals that they will show good faith efforts at maximizing MBE opportunities, but who fail to comply with paragraph (d) or (e) of this section, shall have their bids or proposals rejected and shall forfeit any required bid security or bid bond. In that event the next lowest bidder or, for personal services contracts, the firm which scores second highest shall, within two days of notice of such ineligibility of the low bidder, submit evidence of good faith efforts as provided above. This process shall be repeated until a bidder or proposer is

determined to meet the provisions of this section or until Metro determines that the remaining bids are not acceptable because of amount of bid or otherwise.

(g) The Liaison Officer, at his or her discretion, may waive minor irregularities in a bidder's or proposer's compliance with the requirements of this section provided, however, that the bid or proposal substantially complies with public bidding requirements as required by applicable law.

2.04.160 Definition and Determination of Good Faith Efforts:

(a) Good Faith Efforts by Metro: Metro, through its Liaison Officer, shall make good faith efforts to maximize MBE opportunities on locally-funded contracts to which good faith efforts requirements apply, including the following:

- (1) Identifying and selecting specific economically feasible units of the project to be performed by MBEs to increase the likelihood of participation by such enterprises;
- (2) Advertising in, at a minimum, one newspaper of general circulation, one minority-oriented publication, and one trade-oriented publication. The advertisement must announce subcontracting or material supply opportunities on the project at least ten (10) days before bids or proposals are due;
- (3) Providing written notice soliciting subbids/proposals to not less than a reasonable number of MBEs for each subcontracting or material supply work item selected pursuant to (1) above not less than ten (10) days before bids/proposals are due.

If there are less than three certified MBEs listed for that work or supply specialty then the solicitation must be mailed to at least the number of MBEs listed for that specialty. The solicitation shall include a description of the work for which subcontract bids/proposals are requested and complete information on bid/proposal deadlines along with details regarding where project specifications may be reviewed.

- (4) Using the services of minority community organizations, including at least two minority contractor groups, local, state and federal minority business assistance offices or other organizations identified by the Executive Department that provide assistance in the recruitment and placement of

MBEs; where applicable, advising and assisting MBEs in obtaining lines of credit or insurance required by Metro or the bidder/proposer; and, otherwise, making efforts to encourage participation by MBEs.

The Liaison Officer shall maintain adequate documentation of all of Metro's good faith efforts.

(b) Good Faith Efforts by Bidders/Proposers: Bidders or proposers on locally-funded contracts to which good faith efforts requirements apply shall demonstrate that they have made good faith efforts at maximizing MBE opportunities. Performing and documenting all of the following actions constitutes a rebuttable presumption that the bidder has made good faith efforts as required by Metro's MBE Program:

- (1) Attendance at any pre-solicitation or prebid meetings that were scheduled by Metro to inform MBEs of contracting and subcontracting or material supply opportunities available on the project;

Documentation required: Signature of representative of bidder or proposer on prebid meeting attendance sheet.

- (2) Making, not later than five days before bids/proposals are due, follow-up phone calls to all MBEs who attended any pre-solicitation or prebid meetings that were scheduled by Metro, to determine if they would be submitting bids and/or to encourage them to do so.

Minimum documentation required: Log showing a) dates and times of follow-up calls along with names of individuals contacted and individuals placing the calls; and b) results attained from each MBE to whom a solicitation letter was sent (e.g., bid submitted, declined, no response). In instances where MBE bids were rejected, the dollar amount of the bid rejected from the MBE must be indicated along with the reason for rejection and the dollar amount of the bid which was accepted for that subcontract or material supply item.

- (3) Providing those MBEs expressing an interest with information about the plans, specifications and the requirements for the identified subcontracting or material supply work. This may be satisfied by a referral to a plan center.

- (4) Negotiating with interested, capable and competitive MBEs submitting bids and not rejecting any bids without justification. Bid shopping is prohibited.
- (5) If Metro or the bidder/proposer requires bonding, lines of credit or insurance, notifying the MBE of this requirement and referring them to a potential source where this requirement may be met.

(c) The good faith efforts documented by the bidder/proposer must be certified to be reasonably expected to produce participation in this project by capable and competitive MBEs.

(d) Bid invitations will contain a MBE Program compliance form for recording and documenting the completion of the above-listed actions. Completion of the form and documentation of the above-listed actions, 1 through 5, is mandatory. Failure to complete and submit the form and/or any required documentation will result in the bid being rejected as nonresponsive. The Liaison Officer shall determine, if necessary, whether good faith efforts have been met pursuant to the criteria of the MBE Program by verifying the documentation of the lowest responsible bidder.

(e) A bidder/proposer who contracts with Metro shall not discriminate against MBEs in the awarding of subcontracts. A contractor's good faith efforts at maximizing MBE opportunities must be reasonably expected by the contractor to produce participation by MBEs. Contractor shall certify as part of the bid documents accompanying the bid on a public contract that the contractor has not discriminated against MBEs in obtaining any required subcontracts and that the contractor reasonably expected the above-documented good faith efforts to result in participation by MBEs. Example of certifying statement: By signing this document bidder hereby certifies that bidder has not discriminated against MBEs in obtaining any subcontracts for this project, and that the documented good faith efforts of bidder/proposer at maximizing MBE opportunities were reasonably expected to result in participation of MBEs in this project in compliance with Metro's MBE Program.

(f) Notwithstanding any other provision of this section, bidders and proposers on locally-funded contracts to which good faith efforts apply need not accept the bid of a MBE on any particular subcontract or material supply item if the bidder/proposer demonstrates that none of the MBEs submitting bids were the lowest responsible, responsive and qualified bidders/proposers on that particular subcontract item and that the subcontract item was awarded to the lowest responsible, responsive bidder/proposer.

(g) Metro reserves the right to require additional written documentation of good faith efforts and bidders and proposers shall comply with all such requirements by Metro. It shall be a rebuttable presumption that a bidder or proposer has made good faith efforts if the bidder has performed and submits written documentation of all of the above actions. It shall be a rebuttable presumption that the bidder has not made a good faith effort if the bidder has not performed or has not submitted documentation of all of the above actions.

2.04.165 Replacement of MBE Subcontractors: Prime contractors shall not replace a MBE subcontractor with another subcontractor, either before contract award or during contract performance, without prior notice to Metro. Prime contractors who replace a MBE subcontractor shall make good faith efforts as described in the preceding section in selecting a replacement.

2.04.170 Monitoring, Records and Reports:

(a) Metro, through the Liaison Officer, shall develop and maintain a recordkeeping system to identify and assess MBE contract awards, and prime contractors' progress in demonstrating good faith efforts. Specifically, the following records will be maintained:

- (1) The name of the contractor.
- (2) Awards to MBEs by number, percentage and dollar amount.
- (3) A description of the types of contracts awarded to MBEs.
- (4) The extent to which good faith efforts were demonstrated and reasons therefor.
- (5) The extent to which annual contract goals were met or not and the reasons therefor.
- (6) Any other information the Liaison Officer deems necessary.

(b) All MBE records will be separately maintained.

(c) The Liaison Officer shall prepare reports, at least semiannually, detailing performance of the MBE Program. The reports shall be forwarded to the Metro Council no later than January 1 and June 30 of each year, and shall include at least the following:

- (1) The number of contracts awarded;
- (2) Categories of contracts awarded;
- (3) Dollar value of contracts awarded;
- (4) Percentage of the dollar value of all contracts awarded to MBE firms in the reporting period;
- (5) Statistics, and narrative where appropriate, demonstrating the utilization of MBEs by department and contract category;
- (6) Statistics, and narrative, where appropriate, demonstrating the extent to which annual contract goals have been met or not met;
- (7) Statistics, and narrative where appropriate, demonstrating the number and type of waivers granted;
- (8) Explanations of any investigative actions taken by any administrative agency touching on the implementation, monitoring and enforcement of the MBE Program.
- (9) Descriptions of any problems in the implementation reported by the department, including proposed solutions; and
- (10) Recommendations, as appropriate, regarding amendments to this MBE Program, including recommendations on changes needed to meet annual contract goals, if those goals have not been met.

2.04.180 Compliance:

(a) Metro shall reserve the right, at all times during the period of any contract, to monitor compliance with the terms of this chapter and the contract and with any representation made by a contractor prior to contract award pertaining to good faith efforts on MBE participation in the contract.

(b) The Liaison Officer may require, at any stage of contract completion, additional documented proof from the contractor of good faith efforts.

2.04.190 Severability and Intent:

(a) The provisions of the MBE Program shall be effective in all cases unless otherwise provided for by state or federal law. The provisions of the MBE Program are separate and severable. The invalidity of any clause, sentence, paragraph, subdivision,

section, or portion of the MBE Program or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of the MBE Program, or the validity of its application to other persons or circumstances.

(b) The MBE Program is intended, and should be construed, as establishing and requiring the maximum efforts at assuring MBE participation in Metro contracting activities that is consistent with the United States and Oregon Constitutions and applicable federal and state law."

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"2.04.200 Women Business Enterprise Program (WBE Program) For Locally-Funded Contracts, Findings, Purpose and Authority:

(a) The Metro Council supports the aspirations of women to enter the mainstream of social, political and economic life.

(b) The Metro Council finds:

- (1) The opportunity for full participation in our free enterprise system by women is essential;
- (2) Greater economic opportunity for women is essential;
- (3) Review of Metro programs to remedy historical patterns of exclusion of and discrimination against women is needed;
- (4) Public policies and programs to eliminate the effects of long-term, open and pervasive exclusion of and discrimination against women from the business sector, including increased opportunities to integrate women into the full economic life of the community should be reviewed; and
- (5) In cooperation with the private sector, the affected populations, interested groups and appropriate governmental entities, a program of review should be established to recommend remedies for the unfortunate effects of social, political and economic inequity that still exist.

(c) It is the purpose of the WBE Program to establish and implement a program to encourage the utilization by Metro of women-owned businesses, to the greatest extent permitted by law, by creating for such businesses the maximum possible opportunity to compete for and participate in locally-funded Metro contracting activities. The WBE Program does not apply to federally funded contracts, which are governed by Metro Code 2.04.300 et seq.

(d) Metro Code Sections 2.04.200 to 2.04.290 shall be known and may be cited as the "Metro Women Business Enterprise Program," hereinafter referred to as the "WBE Program."

2.04.205 Policy Statement:

(a) Through this WBE Program, Metro:

- (1) Expresses its strong commitment to provide maximum opportunity to WBEs in contracting; and

- (2) Informs all employees, governmental agencies and the general public of its intent to implement this policy statement.

(b) It is the policy of Metro to provide equal opportunity to all persons to access and participate in the locally-funded projects, programs and services of Metro. Metro and Metro contractors shall not discriminate against any person or firm on the basis of race, color, national origin, sex, sexual orientation, age, religion, physical handicap, political affiliation or marital status.

(c) The policies, practices and procedures established by the WBE Program shall apply to all Metro departments, commissions and project areas except as expressly provided herein.

(d) The objectives of the WBE Program shall be:

- (1) To assure that provisions of the WBE Program are adhered to by all Metro departments, contractors, and employees; and
- (2) To initiate and maintain efforts to increase, to the greatest extent permitted by law, program participation by women businesses.

2.04.210 Definitions: For purposes of Metro Code Sections 2.04.200 to 2.04.290, the following definitions shall apply:

(a) "Capable" means a Women Business Enterprise registered with the Executive Department who upon request from the bidder can supply two favorable references of prior work of the type being subcontracted for.

(b) "Competitive" means the subcontract bid submitted by the Women Business Enterprise was within 10 percent of either the budgeted amount, subbid estimate, or the lowest bid received by the bidder. The bidder shall make one of these figures available upon request. This term relates to price only and must not be interpreted to mean that a bid deemed competitive is therefore entitled to the subcontract award.

(c) "Construction Contract" means a contract for construction of buildings or other facilities, and includes reconstruction, remodeling and all activities which are appropriately associated with a construction project.

(d) "Contract" means a mutually binding legal relationship or any modification thereof obligating the seller to furnish supplies or services, including construction, and the buyer to pay for them. For purposes of the WBE Program a lease or a purchase order of \$500.00 or more is a contract.

(e) "Contractor" means the one who participates, through a contract or subcontract, in the WBE Program and includes lessees.

(f) "Documentation" means written materials purporting to establish the satisfaction of a good faith effort requirement that are capable of verification. These may include, but are not limited to, copies of business logs, correspondence or newspaper ads.

(g) "Economically Feasible Unit" means a unit of work identified in a project suitable for subcontracting in the normal course of business. These would be units that a contractor would ordinarily identify as suitable for performance by a subcontractor. The intent here is to have identified units that would be attractive to a serious and qualified subcontractor and not be shunned by that subcontractor because the unit of work is too small to be profitable.

(h) "Executive Department" means the State of Oregon's Executive Department.

(i) "Interested" means a Women Business Enterprise that has expressed to the bidder an interest in learning more about the project identified in the initial solicitation by the bidder.

(j) "Joint Venture" is defined as an association of two or more businesses to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills and knowledge. In a joint venture between a WBE and non-WBE, the WBE must be responsible for a clearly defined portion of the work to be performed and must share in the ownership, control, management responsibilities, risks and profits of the joint venture. A joint venture of a WBE and a non-WBE must receive Metro approval prior to contract award.

(k) "Justification" means a maintaining or showing of a sufficient reason why an action was taken and that the action was not taken for an impermissible reason. Permissible reasons include, but are not limited to, not meeting bid invitation specifications or not being the low bid. An impermissible reason would be one that is arbitrary or capricious or based on race, sex, national origin, marital status or religion.

(l) "Labor and Materials Contract" is a contract including a combination of service and provision of materials other than construction contracts. Examples may include plumbing repair, computer maintenance or electrical repair, etc.

(m) "Lessee" means a business or person that leases, or is negotiating to lease, property from Metro or an actual or potential Metro contractor on Metro's or the contractor's facility for the purpose of operating a transportation-related activity, or

for the provision of goods or services to the facility or to the public at the facility.

(n) "Women Business Enterprise or WBE" means a small business concern which is certified as such by the Executive Department and:

- (1) Which is at least 51 percent owned by one or more women, or, in the case of any publicly-owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (2) Whose management and daily business operations are controlled by one or more of the women who own it.

(o) "Woman" or "Women" has the meaning established by ORS 200.005(7).

(p) "Negotiate" means to engage in good faith discussions with the potential subcontractors about their proposals/bids, and the work for which a bid is sought, including sharing with them any cost estimates from the request for proposal or invitation to bid documents, if available.

(q) "Personal Services Contract" means a contract for services of a personal or professional nature.

(r) "Procurement Contract" means a contract for the purchase or sale of supplies, materials, equipment, furnishings or other goods not associated with a construction or other contract.

(s) "Reasonable Number" means at least three (3) firms of those WBEs certified as such by the Executive Department, or a greater number of such firms, if so specified in any particular contract by the Liaison Officer. Consideration should be given to the specialty of subcontracting or materials supply desired as well as the location of the project and whether or not the subcontractor is willing to perform work out of their geographic area.

(t) "Rebuttable Presumption" means a presumption which may be rebutted, or disproved, by evidence.

(u) "Small Business Concern" means a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

2.04.215 Notice to Contractors and Subcontractors: Contractors of Metro accepting locally-funded contracts under the WBE Program shall be advised that failure to carry out the applicable provisions of the WBE Program shall constitute a breach of contract

and, after notification by Metro, may result in termination or such other remedy as Metro deems appropriate.

2.04.220 Liaison Officer:

(a) The Executive Officer shall, by executive order, designate a WBE Liaison Officer and, if necessary, other staff adequate to administer the WBE Program. The Liaison Officer shall report directly to the Executive Officer on matters pertaining to the WBE Program.

(b) The Liaison Officer shall be responsible for developing, managing and implementing the WBE Program, and for disseminating information on available business opportunities so that WBEs are provided an equitable opportunity to bid on Metro contracts. In addition to the responsibilities of the Liaison Officer, all department heads and program managers shall have responsibility to assure implementation of the WBE Program.

(c) The Liaison Officer shall begin immediately to design a technical assistance and outreach program which shall be established by September 1, 1992. This program shall include at least the following elements:

- (1) A regularly-scheduled contractor orientation program to promote compliance with and understanding of the provisions of the WBE Program and Metro.
- (2) Feasible options for bonding, insurance, and banking assistance for WBEs;
- (3) A program designed to assist Metro departments in enhancing opportunities for WBEs;
- (4) A fully-developed and maintained resource list to include all available resources for WBEs.

(d) The Liaison Officer shall have the responsibility for monitoring implementation of the requirements of the WBE Program and shall have the power to request from Metro departments, bidders/proposers, and/or contractors any relevant records, information and documents.

(e) The Liaison Officer shall be responsible for gathering all information concerning compliance with this chapter and shall have access to all pertinent Metro records.

2.04.225 Directory: A directory of WBEs certified by the Executive Department shall be maintained by the Liaison Officer to facilitate identifying such businesses with capabilities relevant to general contracting requirements and particular solicitations. The directory shall be available to contract bidders and proposers in their efforts to meet the WBE Program requirements.

2.04.230 Women-Owned Banks: Metro will seek to identify women-owned banks and banks utilizing equal opportunity banking practices, including community reinvestment, and, to the greatest extent permitted by law, use their services. In addition, Metro will encourage prime contractors, subcontractors and consultants to utilize such services by sending them brochures and service information on such banks.

2.04.235 Affirmative Action and Equal Opportunity Procedures: Metro shall use affirmative action techniques to facilitate WBE participation in contracting activities. These techniques include:

(a) Making affirmative efforts to solicit proposals from WBEs.

(b) Examining alternatives for arranging contracts by size and type of work so as to enhance the possibility of participation by WBEs.

(c) Arranging solicitations, time for the presentation of bids, quantities specifications, and delivery schedules so as to facilitate the participation of WBEs.

(d) Referring WBEs in need of management assistance to established agencies that provide direct management assistance to such businesses.

(e) Carrying out specific information and communications programs on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual, and in conformance with any requirements of the Americans with Disabilities Act, where appropriate.

(f) Distribution of copies of the WBE Program to organizations and individuals concerned with WBE programs.

(g) Periodic reviews with department heads to ensure that they are aware of the WBE Program goals and desired activities on their parts to facilitate the purposes of the WBE Program. Additionally, departmental efforts toward and success in meeting the purposes of the WBE Program shall be factors considered during annual performance evaluations of the department heads.

(h) Monitoring and ensuring that WBE planning centers and likely WBE contractors are receiving requests for bids, proposals and quotes.

(i) Distribution of lists to potential WBE contractors of the types of goods and services which Metro regularly purchases.

(j) Advising potential WBE vendors that Metro does not certify WBE's, and directing them to the Executive Department.

(k) Specifying purchases by generic title rather than specific brand name whenever feasible.

(l) Establishing an interdepartmental contract management committee which will meet regularly to monitor and discuss, among other issues, potential WBE participation in contracts. In an effort to become more knowledgeable regarding WBE resources, the committee shall also invite potential WBE contractors to attend selected meetings.

(m) Requiring that at least one WBE vendor or contractor be contacted for all contract awards which are not exempt from Metro's contract selection procedures and which are 1) for more than \$500 but not more than \$15,001 in the case of non-personal services contracts; and 2) for more than \$2,500 but not more than \$10,001 for personal services contracts. The Liaison Officer may waive this requirement if he/she determines that there are no WBEs on the certification list capable of providing the service or item. For contracts over the dollar amounts indicated in this section, all known WBEs in the business of providing the service or item(s) required shall be mailed bid or proposal information.

(n) Requiring that all prospective bidders attend scheduled prebid conferences on all construction contracts with an estimated value of over \$100,000.

(o) The Executive Officer or his/her designee, may establish and implement additional affirmative action techniques which are consistent with the WBE Program and designed to facilitate participation of WBEs in Metro contracting activities.

2.04.240 Certification of Women Business Eligibility:

(a) To participate in the WBE Program, contractors, subcontractors and joint ventures must have been certified by the Executive Department as described in subsection (b) of this section.

(b) Metro will not perform certification or recertification of businesses or consider challenges to socially and economically disadvantaged status. Rather Metro will rely upon the Executive Department's list in determining whether a prospective contractor

or subcontractor is certified as a WBE. A prospective contractor or subcontractor must be certified as a WBE by the Executive Department or appear on its certification list prior to the pertinent bid opening or proposal submission date to be considered by Metro to be an eligible WBE. Metro will adhere to any applicable Recertification Rulings.

(c) Prospective contractors or subcontractors which have been denied certification by one of the above agencies may appeal such denial to the certifying agency pursuant to applicable law. However, such appeal shall not cause a delay in any contract award by Metro.

2.04.245 Annual Women Business Goals:

(a) The Metro Council shall, by resolution each June, establish annual WBE goals for the ensuing fiscal year. Such annual goals shall be established separately for construction contracts, labor and materials contracts, personal services contracts, and procurement contracts regardless of type.

(b) Annual goals will be established taking into consideration the following factors:

- (1) Projection of the number and types of contracts to be awarded by Metro;
- (2) Projection of the number, expertise and types of WBEs likely to be available to compete for the contracts;
- (3) Past results of Metro's efforts under the WBE Program; and
- (4) Existing goals of other Portland metropolitan area contracting agencies, and their experience in meeting these goals.

(c) Metro will publish notice regarding proposed contract goals not later than ten (10) days prior to adoption of the goals.

2.04.250 Good Faith Efforts at Maximizing WBE Opportunities

(a) Good faith efforts at maximizing WBE opportunities shall be required for construction contracts over \$50,000.

(b) At the discretion of the Liaison Officer, good faith efforts at maximizing WBE opportunities may be required for any other contract. This requirement shall be made in writing prior to the solicitation of bids for such contract.

(c) Where good faith efforts are required, the Liaison Officer shall direct the inclusion of a clause in any RFP or bid documents which requires that the prime contractor, prior to entering into any subcontracts, make good faith efforts at maximizing WBE opportunities, as that term is defined in Section 2.04.160.

2.04.255 Contract Award Criteria:

(a) To be eligible for award of contracts subject to good faith efforts requirements, prime contractors must prove that they have made good faith efforts at maximizing WBE opportunities prior to the time bids are opened or proposal are due. Bidders/Proposers are required to utilize the most current list of WBEs certified by the Executive Department, in all of the bidders'/proposers' good faith efforts solicitations. The address where certified lists may be obtained shall be included in all applicable bid/proposal documents.

(b) All invitations to bid or request for proposals on contracts for which good faith efforts requirements have been established shall require all bidders/proposers to submit with their bids and proposals a statement indicating that they have made good faith efforts as defined in Section 2.04.160. To document good faith efforts, all bidders and proposers shall complete and endorse a Women Business Program Compliance form and include said form with bid or proposal documents. The form shall be provided by Metro with bid/proposal solicitations.

(c) Agreements between a bidder/proposer and a WBE in which the WBE promises not to provide subcontracting quotations to other bidders/proposers are prohibited.

(d) Apparent low bidders/proposers shall, by the close of the next working day following bid opening (or proposal submission date when no public opening is had), submit to Metro detailed WBE Utilization Forms listing names of WBEs who will be utilized and the nature and dollar amount of their participation. This form will be binding upon the bidder/proposer. Within five working days of bid opening or proposal submission date, such bidders/proposers shall submit to Metro signed Letters of Agreement between the bidder/proposer and WBE subcontractors and suppliers to be utilized in performance of the contract. A sample Letter of Agreement will be provided by Metro. The WBE Utilization Forms shall be provided by Metro with bid/proposal documents.

(e) An apparent low bidder/proposer who states in its bid/proposal that good faith efforts at maximizing WBE opportunities were performed shall submit written evidence of such good faith efforts within two working days of bid opening or proposal

submission in accordance with Section 2.04.160. Metro reserves the right to determine the sufficiency of such efforts.

(f) Except as provided in paragraph (g) of this section, apparent low bidders or apparent successful proposers who state in their bids/proposals that they will show good faith efforts at maximizing WBE opportunities, but who fail to comply with paragraph (d) or (e) of this section, shall have their bids or proposals rejected and shall forfeit any required bid security or bid bond. In that event the next lowest bidder or, for personal services contracts, the firm which scores second highest shall, within two days of notice of such ineligibility of the low bidder, submit evidence of good faith efforts as provided above. This process shall be repeated until a bidder or proposer is determined to meet the provisions of this section or until Metro determines that the remaining bids are not acceptable because of amount of bid or otherwise.

(g) The Liaison Officer, at his or her discretion, may waive minor irregularities in a bidder's or proposer's compliance with the requirements of this section provided, however, that the bid or proposal substantially complies with public bidding requirements as required by applicable law.

2.04.260 Definition and Determination of Good Faith Efforts:

(a) Good Faith Efforts by Metro: Metro, through its Liaison Officer, shall make good faith efforts to maximize WBE opportunities on locally-funded contracts to which good faith efforts requirements apply, including the following:

- (1) Identifying and selecting specific economically feasible units of the project to be performed by WBEs to increase the likelihood of participation by such enterprises;
- (2) Advertising in, at a minimum, one newspaper of general circulation, one minority-oriented publication, and one trade-oriented publication. The advertisement must announce subcontracting or material supply opportunities on the project at least ten (10) days before bids or proposals are due;
- (3) Providing written notice soliciting subbids/proposals to not less than a reasonable number of WBEs for each subcontracting or material supply work item selected pursuant to (1) above not less than ten (10) days before bids/proposals are due.

If there are less than three certified WBEs listed for that work or supply specialty then the

instances where WBE bids were rejected, the dollar amount of the bid rejected from the WBE must be indicated along with the reason for rejection and the dollar amount of the bid which was accepted for that subcontract or material supply item.

- (3) Providing those WBEs expressing an interest with information about the plans, specifications and the requirements for the identified subcontracting or material supply work. This may be satisfied by a referral to a plan center.
- (4) Negotiating with interested, capable and competitive WBEs submitting bids and not rejecting any bids without justification. Bid shopping is prohibited.
- (5) If Metro or the bidder/proposer requires bonding, lines of credit or insurance, notifying the WBE of this requirement and referring them to a potential source where this requirement may be met.

(c) The good faith efforts documented by the bidder/proposer must be certified to be reasonably expected to produce participation in this project by capable and competitive WBEs.

(d) Bid invitations will contain a WBE Program compliance form for recording and documenting the completion of the above-listed actions. Completion of the form and documentation of the above-listed actions, 1 through 5, is mandatory. Failure to complete and submit the form and/or any required documentation will result in the bid being rejected as nonresponsive. The Liaison Officer shall determine, if necessary, whether good faith efforts have been met pursuant to the criteria of the WBE Program by verifying the documentation of the lowest responsible bidder.

(e) A bidder/proposer who contracts with Metro shall not discriminate against WBEs in the awarding of subcontracts. A contractor's good faith efforts at maximizing WBE opportunities must be reasonably expected by the contractor to produce participation by WBEs. Contractor shall certify as part of the bid documents accompanying the bid on a public contract that the contractor has not discriminated against WBEs in obtaining any required subcontracts and that the contractor reasonably expected the above-documented good faith efforts to result in participation by WBEs. Example of certifying statement: By signing this document bidder hereby certifies that bidder has not discriminated against WBEs in obtaining any subcontracts for this project, and that the documented good faith efforts of bidder/proposer at maximizing WBE opportunities were reasonably expected to result in participation of WBEs in this project in compliance with Metro's WBE Program.

solicitation must be mailed to at least the number of WBEs listed for that specialty. The solicitation shall include a description of the work for which subcontract bids/proposals are requested and complete information on bid/proposal deadlines along with details regarding where project specifications may be reviewed.

- (4) Using the services of women community organizations, including women contractor groups, local, state and federal business assistance offices or other organizations identified by the Executive Department that provide assistance in the recruitment and placement of WBEs; where applicable, advising and assisting WBEs in obtaining lines of credit or insurance required by Metro or the bidder/proposer; and, otherwise, making efforts to encourage participation by WBEs.

The Liaison Officer shall maintain adequate documentation of all of Metro's good faith efforts.

(b) Good Faith Efforts by Bidders/Proposers: Bidders or proposers on locally-funded contracts to which good faith efforts requirements apply shall demonstrate that they have made good faith efforts at maximizing WBE opportunities. Performing and documenting all of the following actions constitutes a rebuttable presumption that the bidder has made good faith efforts as required by Metro's WBE Program:

- (1) Attendance at any pre-solicitation or prebid meetings that were scheduled by Metro to inform WBEs of contracting and subcontracting or material supply opportunities available on the project;

Documentation required: Signature of representative of bidder or proposer on prebid meeting attendance sheet.

- (2) Making, not later than five days before bids/proposals are due, follow-up phone calls to all WBEs who attended any pre-solicitation or prebid meetings that were scheduled by Metro, to determine if they would be submitting bids and/or to encourage them to do so.

Minimum documentation required: Log showing a) dates and times of follow-up calls along with names of individuals contacted and individuals placing the calls; and b) results attained from each WBE to whom a solicitation letter was sent (e.g., bid submitted, declined, no response). In

(f) Notwithstanding any other provision of this section, bidders and proposers on locally-funded contracts to which good faith efforts apply need not accept the bid of a WBE on any particular subcontract or material supply item if the bidder/proposer demonstrates that none of the WBEs submitting bids were the lowest responsible, responsive and qualified bidders/proposers on that particular subcontract item and that the subcontract item was awarded to the lowest responsible, responsive bidder/proposer.

(g) Metro reserves the right to require additional written documentation of good faith efforts and bidders and proposers shall comply with all such requirements by Metro. It shall be a rebuttable presumption that a bidder or proposer has made good faith efforts if the bidder has performed and submits written documentation of all of the above actions. It shall be a rebuttable presumption that the bidder has not made a good faith effort if the bidder has not performed or has not submitted documentation of all of the above actions.

2.04.265 Replacement of WBE Subcontractors: Prime contractors shall not replace a WBE subcontractor with another subcontractor, either before contract award or during contract performance, without prior notice to Metro. Prime contractors who replace a WBE subcontractor shall make good faith efforts as described in the preceding section in selecting a replacement.

2.04.270 Monitoring, Records and Reports:

(a) Metro, through the Liaison Officer, shall develop and maintain a recordkeeping system to identify and assess WBE contract awards, and prime contractors' progress in demonstrating good faith efforts. Specifically, the following records will be maintained:

- (1) The name of the contractor.
- (2) Awards to WBEs by number, percentage and dollar amount.
- (3) A description of the types of contracts awarded to WBEs.
- (4) The extent to which good faith efforts were demonstrated and reasons therefor.
- (5) The extent to which annual contract goals were met or not and the reasons therefor.
- (6) Any other information the Liaison Officer deems necessary.

(b) All WBE records will be separately maintained.

(c) The Liaison Officer shall prepare reports, at least semiannually, detailing performance of the WBE Program. The reports shall be forwarded to the Metro Council no later than January 31 and June 30 of each year, and shall include at least the following:

- (1) The number of contracts awarded;
- (2) Categories of contracts awarded;
- (3) Dollar value of contracts awarded;
- (4) Percentage of the dollar value of all contracts awarded to WBE firms in the reporting period;
- (5) Statistics, and narrative where appropriate, demonstrating the utilization of WBEs by department and contract category;
- (6) Statistics, and narrative, where appropriate, demonstrating the extent to which annual contract goals have been met or not met;
- (7) Statistics, and narrative where appropriate, demonstrating the number and type of waivers granted;
- (8) Explanations of any investigative actions taken by any administrative agency touching on the implementation, monitoring and enforcement of the WBE Program.
- (9) Descriptions of any problems in the implementation reported by the department, including proposed solutions; and
- (10) Recommendations, as appropriate, regarding amendments to this WBE Program, including recommendations on changes needed to meet annual contract goals, if those goals have not been met.

2.04.280 Compliance:

(a) Metro shall reserve the right, at all times during the period of any contract, to monitor compliance with the terms of this chapter and the contract and with any representation made by a contractor prior to contract award pertaining to good faith efforts on WBE participation in the contract.

(b) The Liaison Officer may require, at any stage of contract completion, additional documented proof from the contractor of good faith efforts.

2.04.290 Severability and Intent:

(a) The provisions of the WBE Program shall be effective in all cases unless otherwise provided for by state or federal law. The provisions of the WBE Program are separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of the WBE Program or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of the WBE Program, or the validity of its application to other persons or circumstances.

(b) The WBE Program is intended, and should be construed, as establishing and requiring the maximum efforts at assuring WBE participation in Metro contracting activities that is consistent with the United States and Oregon Constitutions and applicable federal and state law."

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"2.04.300 Disadvantaged Business Enterprise Program (DBE Program) For Federally-Funded Contracts, Findings, Purpose and Authority:

(a) It is the purpose of Metro Code Sections 2.04.300 to 2.04.390 to establish and implement a program to encourage the utilization by Metro of disadvantaged businesses by creating for such businesses the maximum possible opportunity to compete for and participate in federally-funded Metro contracting activities. The DBE Program does not apply to locally funded contracts, which are governed by 2.04.100, .200, and .400 et seq.

(b) Metro Code Sections 2.04.300 to 2.04.390 are adopted pursuant to 49 CFR 23 and are intended to comply with all relevant federal regulations. Federal regulation 49 CFR 23 and its amendments implement section (105)(f) of the Surface Transportation Assistance Act of 1982 relating to the participation by Minority Business Enterprises in Department of Transportation programs.

(c) Metro Code Sections 2.04.300 to 2.04.390 shall be known and may be cited as the "Metro Disadvantaged Business Enterprise Program for Federally-Funded Contracts," hereinafter referred to as the "DBE Program."

2.04.305 Policy Statement:

(a) Through the DBE Program, Metro:

- (1) Expresses its strong commitment to provide maximum opportunity to disadvantaged businesses in contracting;
- (2) Informs all employees, governmental agencies and the general public of its intent to implement this policy statement; and
- (3) Assures conformity with applicable federal regulations as they exist or may be amended.

(b) It is the policy of Metro to provide equal opportunity to all persons to access and participate in the projects, programs and services of Metro. Metro and Metro contractors will not discriminate against any person or firm on the basis of race, color, national origin, sex, sexual orientation, age, religion, physical handicap, political affiliation or marital status.

(c) The policies, practices and procedures established by the DBE Program shall apply to all Metro departments and project areas except as expressly provided in the DBE Program.

(d) The objectives of the DBE Program shall be:

- (1) To assure that provisions of the DBE Program are adhered to by all Metro departments, contractors, employees and USDOT subrecipients and contractors.
- (2) To initiate and maintain efforts to increase DBE Program participation by disadvantaged businesses.

(e) Metro accepts and agrees to the statements of 49 CFR §23.43 (a)(1) and (2), and said statements shall be included in all USDOT agreements with USDOT subrecipients and in all USDOT-assisted contracts between Metro or USDOT subrecipients and any contractor.

2.04.310 Definitions: For purposes of the DEB Program, the following definitions shall apply:

(a) "Applicant" means one who submits an application, request or plan to be approved by a USDOT official or by Metro as a condition to eligibility for Department of Transportation (USDOT) financial assistance; and "application" means such an application, request or plan.

(b) "Construction Contract" means a contract for construction of buildings or other facilities, and includes reconstruction, remodeling and all activities which are appropriately associated with a construction project.

(c) "Contract" means a mutually binding legal relationship or any modification thereof obligating the seller to furnish supplies or services, including construction, and the buyer to pay for them. For purposes of the DBE Program a lease or a purchase order of \$500.00 or more is a contract.

(d) "Contractor" means the one who participates, through a contract or subcontract, in the DBE Program and includes lessees.

(e) "Department or USDOT" means the United States Department of Transportation, including its operating elements.

(f) "Disadvantaged Business Enterprise or DBE" means a small business concern which is so certified by an authorized agency and:

- (1) Which is at least 51 percent owned by one or more socially or economically disadvantaged individuals, or, in the case of any publicly-owned business, at least 51 percent of the stock of which is owned by one or more socially or economically disadvantaged individuals; and

- (2) Whose management and daily business operations are controlled by one or more of the socially or economically disadvantaged individuals who own it.

(g) "Executive Department" means the State of Oregon's Executive Department.

(h) "Joint Venture" is defined as an association of two or more businesses to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills and knowledge. In a joint venture between a DBE and non-DBE, the DBE must be responsible for a clearly defined portion of the work to be performed and must share in the ownership, control, management responsibilities, risks and profits of the joint venture. A joint venture of a DBE and a non-DBE must receive Metro approval prior to contract award to be counted toward any DBE contract goals.

(i) "Labor and Materials Contract" is a contract including a combination of service and provision of materials other than construction contracts. Examples may include plumbing repair, computer maintenance or electrical repair, etc.

(j) "Lessee" means a business or person that leases, or is negotiating to lease, property from a recipient or the Department on the recipient's or Department's facility for the purpose of operating a transportation-related activity or for the provision of goods or services to the facility or to the public on the facility.

(k) "Oregon Department of Transportation or ODOT" means the State of Oregon's Department of Transportation.

(l) "Personal Services Contract" means a contract for services of a personal or professional nature.

(m) "Procurement Contract" means a contract for the purchase or sale of supplies, materials, equipment, furnishings or other goods not associated with a construction or other contract.

(n) "Recipient" means any entity, public or private, to whom USDOT financial assistance is extended, directly or through another recipient for any program.

(o) "Small Business Concern" means a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(p) "Socially or Economically Disadvantaged Individuals or Disadvantaged Individuals" has the meaning established by ORS 200.005(2), (9), including the rebuttable presumption established

by ORS 200.015(3), and the definitions supplied by ORS 200.005(7), (10).

(q) "USDOT-Assisted Contract" means any contract or modification of a contract between Metro and a contractor which is paid for in whole or in part with USDOT financial assistance.

(r) "USDOT Financial Assistance" means financial aid provided by USDOT or the United States Railroad Association to a recipient, but does not include a direct contract. The financial aid may be provided directly in the form of actual money, or indirectly in the form of guarantees authorized by statute as financial assistance services of Federal personnel, title or other interest in real or personal property transferred for less than fair market value, or any other arrangement through which the recipient benefits financially, including licenses for the construction or operation of a Deep Water Port.

2.04.315 Notice to Contractors, Subcontractors and Subrecipients: Contractors, subcontractors and subrecipients of Metro accepting contracts or grants under the DBE Program which are USDOT-assisted shall be advised that failure to carry out the requirements set forth in 49 CFR 23.43(a) shall constitute a breach of contract and, after notification by Metro, may result in termination of the agreement or contract by Metro or such remedy as Metro deems appropriate.

2.04.320 Liaison Officer:

(a) The Executive Officer shall by executive order, designate a Disadvantaged Business Liaison Officer and, if necessary, other staff adequate to administer the DBE Program. The Liaison Officer shall report directly to the Executive Officer on matters pertaining to the DBE Program.

(b) The Liaison Officer shall be responsible for developing, managing and implementing the DBE Program, and for disseminating information on available business opportunities so that DBEs are provided an equitable opportunity to bid on Metro contracts. In addition to the responsibilities of the Liaison Officer, all department heads and program managers shall have responsibility to assure implementation of the DBE Program.

2.04.325 Directory: A directory of DBEs and certified by ODOT or the Executive Department, as applicable shall be maintained by the Liaison Officer to facilitate identifying such businesses with capabilities relevant to general contracting requirements and particular solicitations. The directory shall be available to contract bidders and proposers in their efforts to meet DBE Program requirements.

2.04.330 DBE-Owned Banks: Metro will seek to identify DBE-owned banks within the policies adopted by the Metro Council and make the greatest feasible use of their services. In addition, Metro will encourage prime contractors, subcontractors and consultants to utilize such services by sending them brochures and service information on certified DBE banks.

2.04.335 Affirmative Action and Equal Opportunity Procedures: Metro shall use affirmative action techniques to facilitate DBE and participation in contracting activities. These techniques include:

(a) Arranging solicitations, time for the presentation of bids, quantities specifications, and delivery schedules so as to facilitate the participation of DBEs.

(b) Referring DBEs in need of management assistance to established agencies that provide direct management assistance to such businesses.

(c) Carrying out information and communications programs on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual where appropriate.

(d) Distribution of copies of the DBE Program to organizations and individuals concerned with DBE Programs.

(e) Periodic reviews with department heads to insure that they are aware of the DBE Program goals and desired activities on their parts to facilitate reaching the goals. Additionally, departmental efforts toward and success in meeting DBE goals for department contracts shall be factors considered during annual performance evaluations of the department heads.

(f) Monitor and insure that Disadvantaged planning centers and likely DBE contractors are receiving requests for bids, proposals and quotes.

(g) Study the feasibility of certain USDOT-assisted contracts and procurements being set aside for DBE participation.

(h) Distribution of lists to potential DBE contractors of the types of goods and services which Metro regularly purchases.

(i) Advising potential DBE vendors that Metro does not certify DBEs, and directing them to ODOT until December 31, 1987, and, thereafter, to the Executive Department.

(j) Specifying purchases by generic title rather than specific brand name whenever feasible.

(k) Establishing an interdepartmental contract management committee which will meet regularly to monitor and discuss, among other issues, potential DBE participation in contracts. In an effort to become more knowledgeable regarding DBE resources, the committee shall also invite potential DBE contractors to attend selected meetings.

(l) Requiring that at least one DBE vendor or contractor be contacted for all contract awards which are not exempt from Metro's contract selection procedures and which are 1) for more than \$500 but not more than \$15,001 in the case of non-personal services contracts; and 2) for more than \$2,500 but not more than \$10,001 for personal services contracts. The Liaison Officer may waive this requirement if he/she determines that there are no DBEs on the certification list capable of providing the service or item. For contracts over the dollar amounts indicated in this section, all known DBEs in the business of providing the service or item(s) required shall be mailed bid or proposal information.

(m) The Executive Officer or his/her designee, may establish and implement additional affirmative action techniques which are designed to facilitate participation of DBEs in Metro contracting activities.

2.04.340 Certification of Disadvantaged Business Eligibility:

(a) To participate in the DBE Program as a DBE, contractors, subcontractors and joint ventures must have been certified by an authorized certifying agency as described in subsection (b) of this section.

(b) Metro will not perform certification or recertification of businesses or consider challenges to socially and economically disadvantaged status. Rather Metro will rely upon the certification and recertification processes of ODOT and will utilize ODOT's certification list until December 31, 1987, and, thereafter, the Executive Department's list in determining whether a prospective contractor or subcontractor is certified as a DBE. A prospective contractor or subcontractor must be certified as a DBE by one of the above agencies, as applicable, and appear on the respective certification list of said agency, prior to the pertinent bid opening or proposal submission date to be considered by Metro to be an eligible DBE and be counted toward meeting goals. Metro will adhere to the Recertification Rulings resulting from 105(f) or state law, as applicable.

(c) Prospective contractors or subcontractors which have been denied certification by one of the above agencies may appeal such denial to the certifying agency pursuant to applicable law. However, such appeal shall not cause a delay in any contract award by Metro. Decertification procedures for USDOT-assisted contractor or potential contractors will comply with the

requirements of Appendix A "Section by Section Analysis" of the July 21, 1983, Federal Register, Vol. 45, No. 130, p. 45287, and will be administered by the agency which granted certification.

(d) Challenges to certification or to any presumption of social or economic disadvantage with regard to the USDOT-assisted portion of the DBE Program, as provided for in 49 CFR 23.69, shall conform to and be processed under the procedures prescribed by each agency indicated in paragraph (b) of this section. That challenge procedure provides that:

- (1) Any third party may challenge the socially and economically disadvantaged status of any individual (except an individual who has a current 8(a) certification from the Small Business Administration) presumed to be socially and economically disadvantaged if that individual is an owner of a firm certified by or seeking certification from the certifying agency as a disadvantaged business. The challenge shall be made in writing to the recipient.
- (2) With its letter, the challenging party shall include all information available to it relevant to a determination of whether the challenged party is in fact socially and economically disadvantaged.
- (3) The recipient shall determine, on the basis of the information provided by the challenging party, whether there is reason to believe that the challenged party is in fact not socially and economically disadvantaged.
 - (i) if the recipient determines that there is not reason to believe that the challenged party is not socially and economically disadvantaged, the recipient shall so inform the challenging party in writing. This terminates the proceeding.
 - (ii) if the recipient determines that there is reason to believe that the challenged party is not socially and economically disadvantaged, the recipient shall begin a proceeding as provided in paragraphs (b), (4), (5) and (6) of this paragraph.
- (4) The recipient shall notify the challenged party in writing that his or her status as a socially and economically disadvantaged individual has been challenged. The notice shall identify the challenging party and summarize the grounds for the

challenge. The notice shall also require the challenged party to provide to the recipient, within a reasonable time, information sufficient to permit the recipient to evaluate his or her status as a socially and economically disadvantaged individual.

- (5) The recipient shall evaluate the information available to it and make a proposed determination of the social and economic disadvantage of the challenged party. The recipient shall notify both parties of this proposed determination in writing, setting forth the reasons for its proposal. The recipient shall provide an opportunity to the parties for an informal hearing, at which they can respond to this proposed determination in writing and in person.
- (6) Following the informal hearing, the recipient shall make a final determination. The recipient shall inform the parties in writing of the final determination, setting forth the reasons for its decision.
- (7) In making the determinations called for in paragraphs (b)(3)(5) and (6) of this paragraph, the recipient shall use the standards set forth in Appendix C of this subpart.
- (8) During the pendency of a challenge under this section, the presumption that the challenged party is a socially and economically disadvantaged individual shall remain in effect." 49 CFR 23.69.

2.04.345 Annual Disadvantaged Business Goals:

(a) The Metro Council shall, by resolution each June, establish annual DBE goals for the ensuing fiscal year. Such annual goals shall be established separately for construction contracts, labor and materials contracts, personal services contracts, procurement contracts, and USDOT-assisted contracts regardless of type.

(b) Annual goals will be established taking into consideration the following factors:

- (1) Projection of the number and types of contracts to be awarded by Metro;
- (2) Projection of the number, expertise and types of DBEs likely to be available to compete for the contracts;

(3) Past results of Metro's efforts under the DBE Program; and

(4) Existing goals of other local USDOT recipients and their experience in meeting these goals.

(c) Annual goals for USDOT-assisted contracts must be approved by the United States Department of Transportation. 49 CFR §23.45(g)(3).

(d) Metro will publish notice that the USDOT-assisted contract goals are available for inspection when they are submitted to USDOT or other federal agencies. They will be made available for 30 days following publication of notice. Public comment will be accepted for 45 days following publication of the notice.

2.04.350 Contract Goals:

(a) The annual goals established for construction contracts shall apply as individual contract goals for construction contracts over \$50,000.

(b) The Liaison Officer may set a contract goal for any contract other than construction contracts over \$25,000. The setting of such contract goal shall be made in writing prior to the solicitation of bids for such contract. Contract goals for contracts other than construction contracts over \$50,000 shall be set at the discretion of the Liaison Officer and shall not be tied, necessarily, to the annual goal for such contract type.

(c) Even though no DBE goals are established at the time that bid/proposal documents are drafted, the Liaison Officer may direct the inclusion of a clause in any RFP or bid documents for any contract described in this section which requires that the prime contractor, prior to entering into any subcontracts, make good faith efforts, as that term is defined in Section 2.04.160, to achieve DBE participation in the same goal amount as the current annual goal for that contract type.

(d) Contract goals may be complied with pursuant to Section 2.04.360 or 2.04.375. The extent to which DBE participation will be counted toward contract goals is governed by the latter section.

2.04.355 Contract Award Criteria:

(a) To be eligible for award of contracts containing a DBE goal, prime contractors must either meet or exceed the specific goal for DBE participation, or prove that they have made good faith efforts to meet the goal prior to the time bids are opened or proposal are due. Bidders/Proposers are required to utilize

the most current list of DBEs certified by the Executive Department, in all of the bidders'/proposers' good faith efforts solicitations. The address where certified lists may be obtained shall be included in all applicable bid/proposal documents.

(b) All invitations to bid or request for proposals on contracts for which goals have been established shall require all bidders/proposers to submit with their bids and proposals a statement indicating that they will comply with the contract goal or that they have made good faith efforts as defined in Section 2.04.360 to do so. To document the intent to meet the goals, all bidders and proposers shall complete and endorse a Disadvantaged Business Program Compliance form and include said form with bid or proposal documents. The form shall be provided by Metro with bid/proposal solicitations.

(c) Agreements between a bidder/proposer and a DBE in which the DBE promises not to provide subcontracting quotations to other bidders/proposers are prohibited.

(d) Apparent low bidders/proposers shall, by the close of the next working day following bid opening (or proposal submission date when no public opening is had), submit to Metro detailed DBE Utilization Forms listing names of DBEs who will be utilized and the nature and dollar amount of their participation. This form will be binding upon the bidder/proposer. Within five working days of bid opening or proposal submission date, such bidders/proposers shall submit to Metro signed Letters of Agreement between the bidder/proposer and DBE subcontractors and suppliers to be utilized in performance of the contract. A sample Letter of Agreement will be provided by Metro. The DBE Utilization Forms shall be provided by Metro with bid/proposal documents.

(e) An apparent low bidder/proposer who states in its bid/proposal that the DBE goals were not met but that good faith efforts were performed shall submit written evidence of such good faith efforts within two working days of bid opening or proposal submission in accordance with Section 2.04.160. Metro reserves the right to determine the sufficiency of such efforts.

(f) Except as provided in paragraph (g) of this section, apparent low bidders or apparent successful proposers who state in their bids/proposals that they will meet the goals or will show good faith efforts to meet the goals, but who fail to comply with paragraph (d) or (e) of this section, shall have their bids or proposals rejected and shall forfeit any required bid security or bid bond. In that event the next lowest bidder or, for personal services contracts, the firm which scores second highest shall, within two days of notice of such ineligibility of the low bidder, submit evidence of goal compliance or good faith effort as provided above. This process shall be repeated until a bidder

or proposer is determined to meet the provisions of this section or until Metro determines that the remaining bids are not acceptable because of amount of bid or otherwise.

(g) The Liaison Officer, at his or her discretion, may waive minor irregularities in a bidder's or proposer's compliance with the requirements of this section provided, however, that the bid or proposal substantially complies with public bidding requirements as required by applicable law.

2.04.360 Determination of Good Faith Efforts:

(a) Bidders or Proposers on USDOT-assisted contracts to which DBE goals apply must, to be eligible for contract award, comply with the applicable contract goal or show that good faith efforts have been made to comply with the goal. Good faith efforts should include at least the following standards established in the amendment to 49 CFR §23.45(h), Appendix A, dated Monday, April 27, 1981. A showing of good faith efforts must include written evidence of at least the following:

- (1) Attendance at any pre-solicitation or prebid meetings that were scheduled by Metro to inform disadvantaged business enterprises of contracting and subcontracting or material supply opportunities available on the project;
- (2) Advertisement in trade association, general circulation, disadvantaged and trade-oriented, if any and through a disadvantaged-owned newspaper or disadvantaged-owned trade publication concerning the sub-contracting or material supply opportunities at least 10 days before bids or proposals are due.
- (3) Written notification to a reasonable number but no less than five (5) DBE firms that their interest in the contract is solicited. Such efforts should include the segmenting of work to be subcontracted to the extent consistent with the size and capability of DBE firms in order to provide reasonable subcontracting opportunities. Each bidder should send solicitation letters inviting quotes or proposals from DBE firms, segmenting portions of the work and specifically describing, as accurately as possible, the portions of the work for which quotes or proposals are solicited from DBE firms and encouraging inquiries for further details. Letters that are general and do not describe specifically the portions of work for which quotes or proposals are desired are discouraged, as such letters generally do not bring responses. It is

expected that such letters will be sent in a timely manner so as to allow DBE sufficient opportunity to develop quotes or proposals for the work described.

- (4) Evidence of follow-up to initial solicitations of interest, including the following:
 - (A) The names, addresses, telephone numbers of all DBE contacted;
 - (B) A description of the information provided to DBE firms regarding the plans and specifications for portions of the work to be performed; and
 - (C) A statement of the reasons for non-utilization of DBE firms, if needed to meet the goal.
- (5) Negotiation in good faith with DBE firms. The bidder shall not, without justifiable reason, reject as unsatisfactory bids prepared by any DBE firms;
- (6) Where applicable, the bidder must provide advice and assistance to interested DBE firms in obtaining bonding, lines of credit or insurance required by Metro or the bidder;
- (7) Overall, the bidder's efforts to obtain DBE participation must be reasonably expected to produce a level of participation sufficient to meet Metro's goals; and
- (8) The bidder must use the services of minority community organizations, minority contractor groups, local, state and federal minority business assistance offices and other organizations identified by the Executive Department's Advocate for Minority and Women and Emerging Small Business that provide assistance in the recruitment and placement of DBEs.

2.04.365 Replacement of DBE Subcontractors: Prime contractors shall not replace a DBE subcontractor with another subcontractor, either before contract award or during contract performance, without prior Metro approval. Prime contractors who replace a DBE subcontractor shall replace such DBE subcontractor with another certified DBE subcontractor or make good faith efforts as described in the preceding section to do so.

2.04.370 Records and Reports:

(a) Metro shall develop and maintain a recordkeeping system to identify and assess DBE contract awards, prime contractors' progress in achieving goals and affirmative action efforts. Specifically, the following records will be maintained:

- (1) Awards to DBEs by number, percentage and dollar amount.
- (2) A description of the types of contracts awarded.
- (3) The extent to which goals were exceeded or not met and reasons therefor.

(b) All DBE records will be separately maintained. Required DBE information will be provided to federal agencies and administrators on request.

(c) The Liaison Officer shall prepare reports, at least semiannually, on DBE participation to include the following:

- (1) The number of contracts awarded;
- (2) Categories of contracts awarded;
- (3) Dollar value of contracts awarded;
- (4) Percentage of the dollar value of all contracts awarded to DBE firms in the reporting period; and
- (5) The extent to which goals have been met or exceeded.

2.04.375 Counting Disadvantaged Business Participation Toward Meeting Goals:

(a) DBE participation shall be counted toward meeting the goals on each contract as follows:

- (1) Subject to the limitations indicated in paragraphs (2) through (8) below, the total dollar value of a prime contract or subcontract to be performed by DBEs is counted toward the applicable goal for contract award purposes as well as annual goal compliance purposes.
- (2) The total dollar value of a contract to a disadvantaged business owned and controlled by both disadvantaged males and non-disadvantaged females is counted toward the goals for disadvantaged businesses and women, respectively, in proportion

to the percentage of ownership and control of each group in the business.

The total dollar value of a contract with a disadvantaged business owned and controlled by disadvantaged women is counted toward either the disadvantaged business goal or the goal for women, but not to both. Metro shall choose the goal to which the contract value is applied.

- (3) Metro shall count toward its goals a portion of the total dollar value of a contract with an eligible joint venture equal to the percentage of the ownership and control of the disadvantaged business partner in the joint venture.
- (4) Metro shall count toward its goals only expenditures to DBEs that perform a commercially useful function in the work of a contract. A DBE is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing and supervising the work involved. To determine whether a DBE is performing a commercially useful function, Metro shall evaluate the amount of work subcontracted, industry practices and other relevant factors.
- (5) Consistent with normal industry practices, a DBE may enter into subcontracts. If a DBE contractor subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices, the DBE shall be presumed not to be performing a commercially useful function. The DBE may present evidence to Metro to rebut this presumption. Metro's decision on the rebuttal of this presumption is subject to review by USDOT for USDOT-assisted contracts.
- (6) A DBE which provides both labor and materials may count toward its disadvantaged business goals expenditures for materials and supplies obtained from other than DBE suppliers and manufacturers, provided that the DBE contractor assumes the actual and contractual responsibility for the provision of the materials and supplies.
- (7) Metro shall count its entire expenditure to a DBE manufacturer (i.e., a supplier that produces goods

from raw materials or substantially alters them before resale).

- (8) Metro shall count toward the goals 60 percent of its expenditures to DBE suppliers that are not manufacturers, provided that the DBE supplier performs a commercially useful function in the supply process.
- (9) When USDOT funds are passed-through by Metro to other agencies, any contracts made with those funds and any DBE participation in those contracts shall only be counted toward Metro's goals. Likewise, any USDOT funds passed-through to Metro from other agencies and then used for contracting shall count only toward that agency's goals. Project managers responsible for administration of pass-through agreements shall include the following language in those agreements:
- (a) Policy. It is the policy of the Department of Transportation that disadvantaged business enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this agreement. Consequently, the DBE requirements of 49 CFR Part 23 apply to this agreement.
- (b) DBE Obligation. The recipient or its contractor agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under this agreement. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of USDOT-assisted contracts."

(b) DBE participation shall be counted toward meeting annual goals as follows:

- (1) Except as otherwise provided below, the total dollar value of any contract which is to be performed by a DBE is counted toward meeting annual goals.
- (2) The provisions of paragraphs (a)(2) through (a)(8) of this section, pertaining to contract goals, shall apply equally to annual goals.

2.04.380 Compliance and Enforcement:

(a) Metro shall reserve the right, at all times during the period of any contract, to monitor compliance with the terms of this chapter and the contract and with any representation made by a contractor prior to contract award pertaining to DBE participation in the contract.

(b) The Liaison Officer may require, at any stage of contract completion, documented proof from the contractor of actual DBE participation."

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

Jim Gardner, Presiding Officer

ATTEST:

Clerk of the Council

gl
1091

Meeting Date: June 25, 1992
Agenda Item No. 6.1

ORDINANCE NO. 92-449B



METRO

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

Memorandum

DATE: June 19, 1992

TO: Metro Council
Executive Officer
Interested Parties

FROM: Paulette Allen, Clerk of the Council *PA*

RE: AGENDA ITEM NO. 6.1; ORDINANCE NO. 92-449B

Because of their volume, exhibits and supporting documentation to Ordinance No. 92-449B will be distributed as a supplemental packet in advance to Councilors and will be available at the Council meeting June 25. Persons interested in obtaining a copy of the supplemental packet may contact the Clerk at ext. 206.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ADOPTING THE)
ANNUAL BUDGET FOR FISCAL YEAR)
1992-93, MAKING APPROPRIATIONS)
AND LEVYING AD VALOREM TAXES)

ORDINANCE NO. 92-449-B
Introduced by Rena Cusma,
Executive Officer

WHEREAS, The Multnomah County Tax Supervising and Conservation Commission held its public hearing on the annual budget of the Metropolitan Service District for the fiscal year beginning July 1, 1992, and ending June 30, 1993; and

WHEREAS, Recommendations from the Multnomah County Tax Supervising and Conservation Commission have been received by the Metropolitan Service District (attached as Exhibit A and made a part of the Ordinance) and considered; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

1. The "Fiscal Year 1992-93 Budget of the Metropolitan Service District," attached hereto as Exhibit B, and the Schedule of Appropriations, attached hereto as Exhibit C, are hereby adopted.

2. The Council of the Metropolitan Service District does hereby levy ad valorem taxes, as provided in the budget adopted by Section 1 of this Ordinance, for a total amount of ELEVEN MILLION THREE HUNDRED SEVENTY-FIVE THOUSAND EIGHT HUNDRED SIX (\$11,375,806) [~~ELEVEN MILLION FOUR HUNDRED NINETY ONE THOUSAND NINE HUNDRED SEVENTY THREE (\$11,491,973)~~] DOLLARS to be levied upon taxable

properties within the Metropolitan Service District as of 1:00 a.m., July 1, 1992.

FIVE MILLION SEVEN HUNDRED THIRTY THOUSAND THREE HUNDRED SIXTY (\$5,730,360) DOLLARS shall be for the Zoo Operating Fund, said amount authorized in a tax base, said tax base approved by the voters of the Metropolitan Service District at a general election held May 15, 1990.

FIVE MILLION SIX HUNDRED FORTY-FIVE THOUSAND FOUR HUNDRED FORTY-SIX (\$5,645,446) [~~FIVE MILLION SEVEN HUNDRED SIXTY-ONE THOUSAND SIX HUNDRED THIRTEEN (\$5,761,613)~~] DOLLARS shall be for the Convention Center Project Debt Service Fund, said levy needed to repay a portion of the proceeds of General Obligation bonds as approved by the voters of the Metropolitan Service District at a general election held November 4, 1986.

3. Pursuant to Metro code Section 7.01.020(b) pertaining to the Metro Excise Tax, the Council hereby establishes the rate of tax for the period commencing July 1, 1992, to and including June 30, 1993, to be six percent (6%).

~~[4. An annual loan not to exceed THREE MILLION FOUR HUNDRED SIXTY-ONE THOUSAND (\$3,461,000) DOLLARS is hereby authorized from the Solid Waste Revenue Fund to the Oregon Convention Center Debt Service Fund. The loan is needed to pay debt service on general obligation bonds prior to receiving property tax revenues. Simple interest shall be paid on the loan amount at the average daily rate paid by the State of Oregon Local Government Investment Pool for the duration of the loan based on a 360 day year. The loan amount~~

~~and interest due shall be returned to the Solid Waste Revenue Fund General Account by the end of the fiscal year in which it is borrowed.]~~

4. An annual loan not to exceed FIVE HUNDRED THOUSAND (\$500,000) DOLLARS is hereby authorized from the Spectator Facilities Fund to the Coliseum Operating Fund. The loan is needed to fund cash flow requirements for the Coliseum. Simple interest shall be paid on the loan amount at the average daily rate by the State of Oregon Local Government Investment Pool for the duration of the loan based on a 360-day year. The loan amount and interest due shall be returned to the Spectator Facilities Fund by the end of the fiscal year in which it is borrowed.

5. An annual loan not to exceed THREE HUNDRED NINETY THOUSAND (\$390,000) DOLLARS is hereby authorized from the Solid Waste Revenue Fund to the Planning Fund. The loan is needed to fund initial urban arterial program work. The loan will be repaid in future fiscal years from vehicle license fees or by the participating jurisdictions. Simple interest shall be paid on the loan amount at the average daily rate paid by the State of Oregon Local Government Investment Pool for the duration of the loan based on a 360-day year.

6. The Coliseum Operating Fund is hereby created for the purpose of operating the Memorial Coliseum. Sources of revenue shall be reimbursements, enterprise revenue, commissions, interest, user fees and other revenues attributable to the operations of the facility. In the event of elimination of this fund, disposition of

any funds remaining will be in accordance with the Memorandum of Understanding with the Portland Trailblazers approved by Resolution No. 91-1527 and any subsequent amendment.

7. The Metropolitan Greenspaces Fund is hereby created for the purpose of acquisition, capital improvement, management and operations of the regional greenspaces system. Initial sources of revenue will be grants and donations received through fund raising activities. In the event of elimination of this fund, any remaining fund balance will be used in support of the Metropolitan Greenspaces program and in accordance with any restrictions placed upon these funds at the time of receipt.

8. The Transportation Planning Fund title is hereby amended to be the Planning Fund. The purpose of the fund will expand to include regional growth management.

9. The Insurance Fund title is hereby amended to be the Risk Management Fund. The purpose of the fund is unchanged.

10. The Convention Center Project Management Fund is hereby eliminated.

11. The Planning and Development Fund is hereby eliminated and its remaining functions included in the Solid Waste Revenue Fund and the Planning Fund.

12. The Portland Center for the Performing Arts Capital Fund is hereby eliminated.

13. In accordance with Section 2.02.125 of the Metropolitan Service District Code, the Council of the Metropolitan Service District hereby authorizes personnel positions and expenditures in

accordance with the Annual Budget adopted by Section 1 of this Ordinance, and hereby appropriates funds for the fiscal year beginning July 1, 1992, from the funds and for the purposes listed in the Schedule of Appropriations, Exhibit C.

14. Pursuant to Metro Code 2.04.032(D) the Council approves the list of new contracts for FY 1992-93 and their designations as shown in Exhibit D attached hereto.

[14-] 15. The Executive Officer shall make the following filings as provided by ORS 294.555 and ORS 310.060:

a. Multnomah County Assessor

- 1) An original and one copy of the Notice of Levy marked Exhibit [~~D~~] E attached hereto and made a part of this Ordinance.
- 2) Two copies of the budget document adopted by Section 2 of this Ordinance.
- 3) A copy of the Notice of Publication required by ORS 294.421.
- 4) Two copies of this Ordinance.

b. Clackamas and Washington County Assessor and Clerk

- 1) A copy of the Notice of Levy marked Exhibit [~~D~~] E.
- 2) A copy of the budget document adopted by Section 2 of this Ordinance.
- 3) A copy of this Ordinance.
- 4) A copy of the Notice of Publication required by ORS 294.421.

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

Jim Gardner, Presiding Officer

Attest:

Clerk of the Council
mgs\FIN\OR92-449.AMB

Meeting Date: June 25, 1992
Agenda Item No. 6.2

ORDINANCE NO. 92-456



METRO

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

Memorandum

DATE: June 19, 1992

TO: Metro Council
Executive Officer
Interested Parties

FROM: Paulette Allen, Clerk of the Council *PA*

RE: AGENDA ITEM NO. 6.2; ORDINANCE NO. 92-456

Because of its volume, Exhibit A to Ordinance No. 92-456, "Chapter 2 (Hazardous and Medical Waste) Regional Solid Waste Management Plan - Household Hazardous Waste Management System" will be distributed as a supplemental packet to the agenda in advance to Councilors and will be available at the Council meeting June 25. Persons interested in obtaining a copy of the supplemental copy may contact the Clerk at ext. 206.

SOLID WASTE COMMITTEE 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: June 17, 1992

Presented by: Councilor Wyers

Committee Recommendation: At the June 16 meeting, the Committee voted 4-0 to recommend Council adoption of Resolution No. 92-456. Voting in favor: Councilors Buchanan, Hansen, Van Bergen and Wyers. Councilor Mc Farland was excused.

Committee Issues/Discussion: The purpose of this ordinance is to adopt a household hazardous waste (HHW) management plan for the region. Mark Buscher, Solid Waste Planning, began the staff report with a slide presentation outlining the operation of the household hazardous waste facility at the Metro South Station.

Larry Eisele, Washington County, who chaired the subcommittee that developed the proposed HHW management plan, noted that development of the plan spanned a two year period. The subcommittee included representatives of industry, the scientific community and local governments. Eisele explained that household hazardous waste is a relatively new field of solid waste management which can present significant problems.

Eisele noted that in developing the proposed plan, the subcommittee reviewed programs in other jurisdictions. There is not a high level of uniformity among such programs, particularly in areas such as funding, accounting, and overall cost management. Eisele believes that the proposed management plan takes the best of other management plans and will provide a state-of-the-art management system. The plan should be considered a flexible, working document capable of being amended to reflect the rapidly changing field of household hazardous waste management.

Buscher summarized the content of the plan. He began by discussing the two appendices. Appendix A is a program analysis that examined management, waste reduction and funding options for the plan. Appendix B is a cost analysis of collection system options. This analysis concluded that a system of two permanent stations (at Metro Central and Metro South) and a mobile capacity for Washington and East Multnomah Counties would be the most cost-effective. Initially this mobile capacity would focus on bulkier items such as paints and fertilizers.

Buscher explained that initially there would be four main implementation activities under the plan. These include: 1) seeking financial assistance from the DEQ (from fees collected by DEQ to develop a statewide HHW collection system) to implement a

mobile collection capacity by January 1, 1993; 2) monitoring consumer behavior related to HHW management, collection and disposal; 3) development of educational and promotional programs, and 4) examination of various funding options such as a wastewater surcharge or user fees. Buscher noted that the local government role in implementing the plan would include: 1) developing and disseminating HHW educational and promotional materials, 2) assisting in obtaining sites for mobile HHW facilities and 3) monitoring permanent and mobile operations.

Councilor Hansen asked about the number of persons using the new collection facility at Metro South. Sam Chandler, Facilities Manager, responded that the weekly average has remained relatively constant at about 225 users. But he noted that the quantity of material per customer has declined. The average cost per customer has declined from about \$100 to \$75.

Councilor Van Bergen asked if the receipt of funding from the DEQ would obligate Metro to take HHW from other parts of the state at our mobile facilities. Buscher explained that DEQ would initially be asked to fund collection events similar to those sponsored by Metro in the past. These funds would be generated from within the region and therefore not require the acceptance of material from outside of the region. It is not anticipated that any equipment will be purchased for this purpose, although at some point the leasing of equipment might be considered if justified.

Van Bergen asked for a clarification that there will be no permanent facility in Washington County. Buscher indicated that that is correct. He noted that a mobile capacity is being provided in Washington and Eastern Multnomah Counties because such facilities will be 15-20% cheaper to operate.

Councilor Wyers expressed some concern that the educational and promotional programs associated with the plan include a strong focus on HHW reduction as well as management and disposal. Buscher indicated that these elements would be given equal weight.

Wyers asked about the development of a legislative agenda related to HHW. Buscher indicated that such an agenda would be developed as issues emerged using the normal process for developing Metro's legislative agenda.

Wyers asked why the regulation of conditionally exempt generators and medical wastes are not being addressed in this plan. Buscher noted that issues associated with the management of these types of waste are very different than HHW. During the coming fiscal year, work will begin on developing a management plan for these types of wastes.



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: June 9, 1992

**Re: 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.**

Ordinance No. 92-456 is scheduled for committee consideration at the June 16 meeting.

Background

This ordinance would amend the Regional Solid Waste Management Plan (RSWMP) to adopt a household hazardous waste (HHW) management and collection plan for the region. The ordinance also would amend Plan Policy 2.2 to reflect current state and federal regulation of hazardous wastes.

The HHW management plan was initially developed by a 16-member subcommittee of the Solid Waste Technical Committee which included representatives of state and local governments and the private sector. The plan has been approved by the Technical Committee and the Solid Waste Policy Advisory Committee.

The plan addresses the following areas: 1) expansion of the existing HHW collection system to cover the entire region, 2) development of HHW promotion and education and waste reduction programs, 3) exploring alternative funding sources for HHW management and collection, 4) examining the need to develop a legislative agenda related to HHW, and 5) monitoring of the management program.

Policy 2.2 in the RSWMP currently provides that "Metro shall not knowingly accept for solid waste disposal or processing any hazardous waste materials at solid waste facilities." The ordinance would replace this language with the following: "Metro shall manage hazardous waste in accordance with the EPA's management hierarchy of "reduce, reuse, recycle, treat, incinerate and finally land disposal.." This language recognizes both federal and state mandates to develop more comprehensive management programs for hazardous wastes.

Issues and Questions

In considering this ordinance, the committee may wish to address the following issues and questions:

1) The ordinance addresses only the management of HHW. It was envisioned that Chapter 2 of the RSWMP also would ultimately address other types of hazardous waste, specifically conditionally exempt generators (CEG) and medical wastes. Does the department have a timeline for the development of management plans to address these types of waste?

2) The plan addresses the need for education and promotion programs to encourage proper disposal of HHW and identifies some of the potential elements of such programs. Has the department developed a timeline and process for the development of these programs? Will these programs be reviewed/approved by the Council prior to implementation?

3) The plan indicates that Metro will attempt to develop a mobile HHW collection capacity to serve Washington County and east Multnomah County by the end of 1992. It appears that Metro will seek funding assistance from the DEQ in developing this capacity. What is the status of the development of this mobile collection system. What types of funding may be available from DEQ (eg. equipment purchase, operational funding, staffing, etc.)? What are the nature of Metro's financial responsibilities related to the mobile collection system (eg. will Metro be responsible for operating or staffing this mobile equipment)?

4) The plan provides for the development of a monitoring program for the HHW management system. What is the timing for the implementation of a monitoring program? Will the monitoring be done by existing Metro staff, by new staff, or by contract? What is the estimated cost of the monitoring program?

5) Could staff please describe how it intends to obtain the necessary local land use permits to operate mobile facilities throughout the region? Approximately how many mobile facility sites will be identified?

6) The plan notes that considerable research concerning regulatory options (eg. product regulation/bans) and funding options (eg. user fees) will occur prior to the 1993 Legislative Session to aid in the development of an HHW-related legislative agenda. What type of a process will be used to complete research (eg. a research committee, existing staff, a contractor)? What will the role of the Council be in the development of this legislative agenda?

7) The plan notes that one of the options for reducing HHW in the mixed waste stream would be a curbside disposal ban. Does Metro have the statutory authority to implement such a ban or would such authority be needed from the Legislative Assembly?

8) Has the staff developed a timeline for the establishment of an HHW waste exchange system as identified in the proposed management plan?

9) Is it the intent of the plan that the 1% For Recycling program could/should place an emphasis on HHW recycling projects during one of its annual funding cycles?

10) The plan notes that the dissemination of HHW promotional, educational and reduction materials in a local jurisdiction will be the responsibility of that jurisdiction, subject to funding availability. In light of Ballot Measure 5, what assurances are there that such funding will be available?

11) The plan notes that the DEQ is developing a statewide HHW management funding plan? What is the status of this plan? Is it likely that Metro's plan will need to be adjusted when the DEQ plan is completed?

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING) ORDINANCE NO. 92-456
THE REGIONAL SOLID WASTE)
MANAGEMENT PLAN TO INCORPORATE)
THE HOUSEHOLD HAZARDOUS WASTE) Introduced by:
MANAGEMENT PLAN AND TO UPDATE) Rena Cusma
PLAN POLICY 2.2) 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 _____, 1992.

Jim Gardner, Presiding Officer

ATTEST:

Clerk of the Council

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.

Meeting Date: June 25, 1992
Agenda Item No. 6.3

ORDINANCE NO. 92-464



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503.221-1646

Memorandum

DATE: June 19, 1992

TO: Metro Council
Executive Officer
Interested Persons

FROM: Paulette Allen, Clerk of the Council *PA*

RE: AGENDA ITEM NO. 6.3; ORDINANCE NO. 92-464

The Finance Committee report for Ordinance No. 92-464 will be distributed in advance to Councilors and available at the Council meeting June 25.



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503.221-1646

Memorandum

Date: June 18, 1992
To: Jennifer Sims, Director of Finance
From: Donald E. Carlson, ^{DE} Council Administrator
Re: Ordinance No. 92-464

This ordinance amending the Metro Code regarding the Districts Excise Tax is before the Finance Committee this evening. While it appears the proposed amendments to the Code are technical in nature I have several questions about the impact of the amendments. They are as follows:

1. What is the financial impact of the proposed amendments? Will they increase or reduce the amount of revenue collected annually by the District?
2. Will any person or class of persons benefit from the adoption of this ordinance? If so, what is the nature of the benefit.
3. Will any person or persons owing the District past taxes be excused from paying all or part of those taxes as a result of this ordinance?

Please be prepared to respond to these questions at the Finance Committee meeting. If you have any questions, please let me know.

cc: Finance Committee
Dick Engstrom
Dan Cooper

ord 92- 464.mem



METRO

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

Memorandum

To: Donald E. Carlson
From: Jennifer Sims
Date: June 18, 1992
Subject: Ordinance No. 92-464 Replies to Council Questions
In response to your questions about Ordinance No. 92-464

1. *What is the financial impact of the proposed amendments: Will they increase or reduce the amount of revenue collected annually by the District?*

The intent of the amendment is to collect the same amount of revenue that had been originally intended in the Excise Tax chapter of the Code. The modifications will make it administratively more practical to reconcile the taxes due with the reports of the tonnage received at the solid waste facilities. This will be accomplished by handling all accounting on an accrual basis rather than allowing a cash basis for taxes and an accrual basis for solid waste receipt. Allowing a mix of reporting has meant that each month's excise tax report could relate to pieces of several month's solid waste receipts reports. It will no longer be necessary to obtain documentation verifying the time of receipt of payment by each credit account of any operator of a solid waste facility as would be required to audit an operator electing to use the cash method of accounting.

2. *Will any person or class of persons benefit from the adoption of this ordinance? If so, what is the nature of the benefit.*

The benefit will be to the members of the District through lower administrative costs at Metro. In addition, some taxes will be due more promptly upon the acceptance of solid waste, rather than being deferred on accounts overdue to the solid waste facility operators. No person, or subclass of persons lesser than the whole District will benefit except in ease of understanding the Code.

3. *Will any person or persons owing the District past taxes be excused from paying all or part of those taxes as a result of this ordinance?*

No person owing the District past taxes will be excused from paying all or part of those taxes as a result of this ordinance. There is one excise tax appeal currently in negotiation with a solid waste facility, but will not be effected by these changes.

cc: Bob Ricks
Don Cox

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING) Ordinance No. 92-464
METRO CODE CHAPTER 7.01 TO)
MODIFY THE REPORTING OF EXCISE) Introduced by Rena Cusma
TAX AND THE APPLICATION OF THE) Executive Officer
RECEIPTS)

WHEREAS, The Council adopted Ordinance No. 90-333A,
establishing an Excise Tax for the Metropolitan Service District;
and

WHEREAS, Metro has gained nearly two years of experience in
administration of the Ordinance; and

WHEREAS, Metro has identified areas for improvement in the
reduction of paperwork, administrative and reconciliation costs;
and

WHEREAS, Metro has recognized the need to clarify its intent
in regard to the application of the tax; and

WHEREAS, It is desired to make reporting by an operator of a
Solid Waste Facility consistent with the User Fee reporting
requirements; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS;

1. Metro Code Section 7.01 is amended to read as follows:

CHAPTER 7.01

EXCISE TAXES

SECTIONS:

7.01.010	Definitions
7.01.020	Tax Imposed
7.01.025	Collection of Tax by District
7.01.030	Collection of Tax by Operator; Rules for Collection
7.01.040	Operator's Duties
7.01.050	Exemptions
7.01.060	Registration of Operator; Form and Contents; Execution; Certification of Authority.
7.01.070	Due Date; Returns and Payments
7.01.080	Penalties and Interest
7.01.090	Deficiency Determination; Fraud, Evasion, Operator Delay
7.01.100	Hearings, Contested Cases

7.01.110	Security for Collection of Tax
7.01.120	Refunds
7.01.130	Administration
7.01.150	Violations

7.01.010 Definitions: Except where the context otherwise requires, the definitions given in this Section govern the construction of this Chapter:

(a) "Accrual basis accounting" means ~~[as this term relates to revenue recognition the operator records the revenue from a user on his/her records when the revenue is earned, whether or not it is paid.]~~ revenues are recorded in the accounting period in which they are earned and become measurable whether received or not.

(b) "Cash basis accounting" means ~~[the operator records the revenue from a user on his/her records]~~ revenues are recorded when cash is received.

(c) "District facility" means any facility, equipment, system, function, service or improvement owned, operated, franchised or provided by the District. District facility includes but is not limited to all services provided for compensation by employees, officers or agents of Metro, the Metro Washington Park Zoo, Metropolitan Exposition-Recreation Facilities including but not limited to the Oregon Convention Center, the Metro South Station, the St. Johns Landfill, the Metro East Station, ~~[the Riedel Oregon Compost Company, Inc. Solid Waste Compost Facility]~~ MSW Compost Facility, any other solid waste transfer, processing, disposal or recycling center owned, operated or financed by or for the District, all solid waste facilities subject to the issuance of a franchise pursuant to Metro Code Chapter 5.01, and any other facility, equipment, system, function, service or improvement owned, operated, franchised or provided by the District.

~~(d) "Installment payments" means the payment of any amount that is less than the full payment owed either by any user to the District or to an operator or by an operator to the District.~~

~~[(d)g] "Metro ERC Facility" means any facility operated or managed by the Metropolitan Exposition-Recreation Commission.~~

~~[(e)h] "Operator" means a person other than the District who receives compensation from any source arising out of the use of a District facility. Where the operator performs his/her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this Chapter and shall have the same duties and liabilities as his/her principal. Compliance with the~~

provisions of this Chapter by either the principal or managing agent shall be considered to be compliance by both.

(~~[f]~~g) "Person" means any individual, firm, partnership, joint venture, association, governmental body, joint stock company, corporation, estate, trust, syndicate, or any other group or combination acting as a unit.

(~~[g]~~h) "Payment" means the consideration charged, whether or not received by the District or an operator, for the use of a District facility, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.

(~~[h]~~i) "Tax" means the tax imposed in the amount established in subsection 7.01.020(b), and includes both ~~[either]~~ the tax payable by ~~[the]~~ a user ~~[or]~~ and the aggregate amount of taxes due from an operator during the period for which he/she is required to report ~~[his/her collections]~~ and pay the tax.

(~~[i]~~j) "User" means any person who pays compensation for the use of a District facility or receives a product or service from a District facility subject to the payment of compensation.

(Ordinance No. 90-333A, Sec. 2)

7.01.020 Tax Imposed:

(a) For the privilege of use of the facilities, equipment, systems, functions, services, or improvements owned, operated, franchised, or provided by the District, each user shall pay a tax in the amount established in subsection 7.01.020(b) but not to exceed six percent (6%) of the payment charged by the operator or the District for such use. The tax constitutes a debt owed by the user to the District which is extinguished only by payment of the tax directly to the District or by the operator to the District. The user shall pay the tax to the District or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. ~~[If payment is paid in installments to]~~ If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.

(b) The Council may for any annual period commencing July 1 of any year and ending on June 30 of the following year establish a tax rate lower than the rate of tax provided for in subsection 7.01.020(a) by so providing in the annual budget ordinance adopted by the District. If the Council so establishes a lower rate of tax, the Executive Officer shall immediately notify all

operators of the new tax rate. Upon the end of the fiscal year the rate of tax shall revert to the maximum rate established in subsection 7.01.020(a) unless further action to establish a lower rate is adopted by the Council as provided for herein.

(Ordinance No. 90-333A, Sec. 2)

7.01.025 Collection of Tax by District:

(a) The District shall allocate from all payments made directly to the District by any user the amount of the tax provided for in Section 7.01.020.

(b) Unless stated separately on any request for payment or charge imposed or established by the District the excise tax shall be presumed to be included in the amount imposed or established by the District so that the excise tax shall be computed in such amount that the total charged shall equal the amount of compensation owed to the District plus the excise tax at the rate established herein. To the extent necessary to give effect to this provision all rates and charges established by the District and in effect on the effective date of this Chapter shall be deemed decreased by such percentage amount so that after such date the amount of the rate or charge together with the amount of the excise tax provided for in Section 7.01.020 shall be equal to the previously established rate or charge. Thereafter rates and charges shall be subject to amendment as provided by law.

(c) In the case of installment payments paid by the user to the District a proportionate share of the tax shall be deemed paid by the user with each installment.

(Ordinance No. 90-333A, Sec. 2)

7.01.030 Collection of Tax by Operator; Rules for Collection:

(a) Every operator unless specifically exempted under the terms of this Chapter, shall collect a tax from users. ~~[The tax collected or accrued by the operator constitutes a debt owing by the operator to the District.]~~ as provided for in Section 7.01.020.

(b) ~~[In all cases of credit or deferred payments, the payment of tax to the operator may be deferred until the payment is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectibles.]~~ The operator shall report the tax to the District consistent with the operators basis of accounting, cash or accrual, except in the case of an operator of a solid waste facility. Solid Waste Facility operators shall

report accrued revenue and excise tax calculated based upon loads or tons deposited at the site at the time of receipt of waste.

(c) For the purpose of reporting the tax owed to the District and notwithstanding the provisions of Section 7.01.040, the tax shall be presumed to be included in the amount imposed by the operator so that the excise tax shall be computed in such amount that the total charged shall equal the amount of compensation owed to the operator plus the excise tax owed to the District at the rate established herein.

(d) The District shall provide the operator with a blank return and instructions that shall be used by the operator to report the excise tax owing to the District. The amount of excise tax due shall be paid when the return is filed as provided for in Section 7.01.070.

(e) Adjustments may be made for uncollectibles when they are recognized by the operator as uncollectible, and can be sufficiently documented to show a good faith collection effort.

(f) Installment payments of tax paid by the operator to the District shall be applied to the oldest tax, and interest and penalties that have been merged with the tax as set forth in Section 7.01.080.

((e)g) The Executive Officer shall enforce provisions of this Chapter and shall have the power to adopt rules and regulations not inconsistent with this Chapter as may be necessary to aid in the enforcement. Prior to the adoption of rules and regulations, the Executive Officer shall give public notice of intent to adopt rules and regulations, provide copies of the proposed rules and regulations to interested parties, and conduct a public hearing on the proposed rules and regulations. Public notice shall be given when rules and regulations have been finally adopted. Copies of current rules and regulations shall be made available to the public upon request. It is a violation of this Code to violate rules and regulations duly adopted by the Executive Officer.

(Ordinance No. 90-333A, Sec. 2)

7.01.040 Operator's Duties:

(a) Each operator shall collect the tax imposed by this Chapter at the same time as payment is collected from every user. The amount of tax shall be separately stated upon the operator's records, and any receipt or invoice rendered by the operator.

(b) Each operator shall file a return in accordance with the terms provided for in Section 7.01.070.

(Ordinance No. 90-333A, Sec. 2)

7.01.050 Exemptions:

(a) The following persons, users and operators are exempt from the requirements of this Chapter:

- (1) Persons, users and operators whom the District is prohibited from imposing an excise tax upon under the Constitution or Laws of the United States or the Constitution or Laws of the State of Oregon.
- (2) Persons who are users and operators of the Memorial Coliseum, Portland Civic Stadium or the Portland Center for the Performing Arts.
- (3) Persons whose payments to the District or to an operator constitute a donation, gift or bequest for the receipt of which neither the District nor any operator is under any contractual obligation related thereto.
- (4) Any persons making payment to the District for a business license pursuant to ORS 701.015.
- (5) Any person which is a state, a state agency or a municipal corporation to the extent of any payment made directly to the District for any purpose other than solid waste disposal, use of a Metro ERC Facility, or use of the Metro Washington Park Zoo.
- (6) Users who are sublessees, subtenants, sublicensees, or other persons paying compensation for the use of Metro ERC Facilities including payments by users for concessions or catering services made to the Commission or its agents but not users who purchase admission tickets for events at Metro ERC Facilities that are available to members of the general public.
- (7) An operator of a franchised processing center that accomplishes material recovery and recycling as a primary operation.
- (8) Persons making payments to the District on behalf of the Metro Washington Park Zoo for the following purposes:
 - (A) Contributions, bequests, and grants received from charitable trusts, estates, nonprofit corporations, or individuals regardless of whether the District agrees to utilize the

payment for a specific purpose including all payments to the Zoo Parents program;

- (B) Corporate sponsorships or co-promotional efforts for events that are open to the general public, or for specific capital improvements, educational programs, publications, or research projects conducted at the Zoo;.
- (C) Payments that entitle a person to admission to a fund-raising event benefiting the Zoo that is not held on the grounds of the Zoo;
- (D) Payments that entitle a person to admission to a special fund-raising event held at the Zoo where the event is sponsored and conducted by a nonprofit organization approved by the Council and the primary purpose of which is to support the Zoo and the proceeds of the event are contributed to the Zoo;
- (E) Notwithstanding the provisions of subsection (A) through (D) above, all payments received by the District for admission to the Zoo, or which entitle individuals to receipt of food, beverages, goods, or rides on the Zoo train shall be subject to tax regardless of whether payment is received from an individual or otherwise on behalf of special groups including but not limited to employee and family member picnics, corporate or family parties, or similar events.

(b) Any person, user or operator that is exempt for the payment of an excise tax pursuant to this section shall nonetheless be liable for compliance with this Chapter and the payment of all taxes due pursuant to any activity engaged in by such person which is subject to this Chapter and not specifically exempted from the requirements hereof. Any operator whose entire compensation from others for use of a District facility is exempt from the provisions of this Chapter shall be deemed to be a user and not an operator.

(Ordinance No. 90-333A; amended by Ordinance No. 90-355, Sec. 2)

7.01.060 Registration of Operator; Form and Contents; Execution; Certification of Authority:

(a) Every person engaging or about to engage in business as an operator in the District shall register with the Executive

Officer on a form provided by the Executive Officer. Operators starting business must register within fifteen (15) calendar days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration shall set forth the name under which an operator transacts or intends to transact business, the location of his/her place of business and such other information to facilitate the collection of the tax as the Executive Officer may require. The registration shall be signed by the operator.

(b) The Executive Officer shall, within ten (10) days after registration, issue without charge a certificate of authority to each registrant to collect the tax from users, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be nonassignable and nontransferable and shall be surrendered immediately to the Executive Officer upon the cessation of business at the location named or upon the business sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed thereon so as to be seen and come to notice readily of all users.

(c) Said certificate shall, among other things, state the following:

- (1) The name of the operator;
- (2) The address of the facility;
- (3) The date upon which the certificate was issued;
- (4) "This Excise Tax Registration Certificate signifies that the person named has fulfilled the requirements of the Excise Tax Chapter of the Code of the Metropolitan Service District for the purpose of collecting and remitting the excise tax. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a facility without strictly complying with all local applicable laws. This certificate does not constitute a permit or a franchise."

(Ordinance No. 90-333A, Sec. 2)

7.01.070 Due Date; Returns and Payments:

(a) ~~[The tax imposed by this Chapter shall be paid by the user to the operator at the time that payment is made.]~~ The tax shall be collected from the operator by the District as provided for in Section 7.01.030. All amounts of such taxes [collected]

reported by any operator are due and payable to the District on the 15th day of each month for the preceding month; and are delinquent on the last day of the month in which they are due. If the last day of the month falls on a holiday or weekend, amounts are delinquent on the first business day that follows. The initial return under this Chapter may be for less than a full month preceding the due date; thereafter returns shall be made for the applicable monthly period.

(b) On or before the 15th day of the month following each month of ~~collection~~ operation of a District facility, a return for the preceding month's tax ~~collections~~ shall be filed with the Executive Officer. The return shall be filed in such form as the Executive Officer may prescribe by every operator liable for payment of tax.

(c) Returns shall show the amount of tax ~~collected or otherwise~~ due for the related period. The Executive Officer may require returns to show the total receipts upon which tax was collected or otherwise due, gross receipts of the operator for such period and an explanation in detail of any discrepancy between such amounts, and the amount of receipts exempt, if any.

(d) The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the Executive Officer, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.

(e) For good cause, the Executive Officer may extend for not to exceed one (1) month the time for making any return or payment of tax. No further extension shall be granted, except by the Executive Officer. Any operator to whom an extension is granted shall pay interest at the rate of 1.25 percent (1.25%) per month on the amount of tax due without proration for a portion of a month. If a return is not filed, and the tax and interest due is not paid by the end of the extension granted, then the interest shall be added to the tax due for computation of penalties described elsewhere in this Chapter.

(f) The Executive Officer, if deemed necessary in order to ensure payment or facilitate collection by the District of the amount of taxes in any individual case, may require returns and payment of the amount of taxes more frequently than monthly periods. (Ordinance No. 90-333A, Sec. 2)

7.01.080 Penalties and Interest:

(a) Original delinquency. Any operator who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this Chapter prior to

delinquency shall pay a penalty of ten percent (10%) of the amount of the tax due in addition to the amount of the tax.

(b) Continued delinquency. Any operator who has not been granted an extension of time for remittance of tax due, and who failed to pay any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of fifteen percent (15%) of the amount of the tax due plus the amount of the ten percent (10%) penalty first imposed.

(c) Fraud. If the Executive Officer determines that the nonpayment of any remittance due under this Chapter is due to fraud or intent to evade the provisions thereof, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in paragraphs (a) and (b) of this Section.

(d) Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this Chapter shall pay interest at the rate of 1.25 percent (1.25%) per month or fraction thereof without proration for portions of a month, on the amount of the tax due from the date on which the remittance first became delinquent until paid. Interest shall be compounded monthly.

(e) Penalties and Interest merged with tax. Every penalty imposed and such interest as accrues under the provisions of this Section shall be merged with and become a part of the tax herein required to be paid. If delinquency continues, requiring additional penalty and interest calculations, previously assessed penalty and interest are added to the tax due. This amount becomes the new base for calculating new penalty and interest amounts.

(f) Petition for waiver. Any operator who fails to remit the tax herein levied within the time herein stated shall pay the penalties herein stated, provided, however, the operator may petition the Executive Officer for waiver and refund of the penalty or any portion thereof and the Executive Officer may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

(Ordinance No. 90-333A, Sec. 2)

7.01.090 Deficiency Determination; Fraud, Evasion, Operator Delay.

(a) Deficiency determinations. If the Executive Officer determines that the results are incorrect, it may compute and determine the amount required to be paid on the basis of the facts contained in the return or returns, or upon the basis of any information within its possession or that may come into its

possession. One or more deficiency determinations may be made of the amount due for one, or more than one, period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties or deficiencies shall be applied as set forth in Section 7.01.080.

- (1) In making a determination the Executive Officer may offset overpayments, if any, which may have been previously made for a period or periods against any underpayment for a subsequent period or periods, or against penalties and interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in Section 7.01.080.
- (2) The Executive Officer shall give to the operator a written notice of its determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the operator at his/her address as it appears on the records of the Executive Officer. In case of service by mail or any notice required by this Chapter, the service is complete at the time of deposit in the United States Post Office.
- (3) Except in the case of fraud or intent to evade this Chapter or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three (3) years after the last day of the month following the close of the period for which the amount is proposed to be determined or within three (3) years after the return is filed, whichever period expires the later.
- (4) Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten (10) days after the Executive Officer has given notice thereof, provided, however, the operator may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.

(b) Fraud, refusal to collect, evasion. If any operator shall fail or refuse to collect said tax or to make within the time provided in this Chapter any report and remittance of said tax or any portion thereof required by this Chapter, or makes a fraudulent return or otherwise willfully attempts to evade this Chapter, the Executive Officer shall proceed in such manner as deemed best to obtain facts and information on which to base an estimate of the tax due. As soon as the Executive Officer has

determined the tax due that is imposed by this Chapter from any operator who has failed or refused to collect the same and to report and remit said tax, it shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this Chapter. In case such determination is made, the Executive Officer shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three (3) years after discovery by the Executive Officer of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file return. Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten (10) days after the Executive Officer has given notice thereof, provided, however, the operator may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.

(c) Operator delay. If the Executive Officer believes that the collection of any tax or any amount of tax required to be collected and paid to the District will be jeopardized by delay, or if any determination will be jeopardized by delay, the Executive Officer shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the operator shall immediately pay such determination to the Executive Officer after service of notice thereof; provided, however, the operator may petition, after payment has been made, for redemption and refund of such determination, if the petition is filed within ten (10) days from the date of service of notice by the Executive Officer.

(Ordinance No. 90-333A, Sec. 2)

7.01.100 Hearings, Contested Cases:

(a) Any person against whom a determination is made under Section 7.01.090 or any person directly interested may request a hearing on the matter in contest and request redemption and refund within the time required in Section 7.01.090. The determination becomes final at the expiration of the allowable time and no hearing may be requested thereafter. Hearings shall be conducted as provided for in Chapter 2.05 except that the deadline for requesting a hearing shall be as provided for herein.

(b) No request for a hearing and refund or appeal therefrom shall be effective for any purpose unless the operator has first complied with the payment provisions hereof.

(Ordinance No. 90-333A, Sec. 2)

7.01.110 Security for Collection of Tax: The Executive Officer, whenever deemed necessary to ensure compliance with this Chapter, may require any operator subject thereto to deposit with it such security in the form of cash, bond, or other security as the Executive Officer may determine. The amount of the security shall be fixed by the Executive Officer but shall not be greater than twice the operator's estimated average liability for the period for which he/she files returns, determined in such manner as the Executive Officer deems proper. The amount of the security may be increased or decreased by the Executive Officer subject to the limitation herein provided.

(Ordinance No. 90-333A, Sec. 2)

7.01.120 Refunds:

(a) Refunds by District to operator. Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously collected or received by the Executive Officer under this Chapter, it may be refunded, provided a verified claim in writing therefore, stating the specific reason upon which the claim is founded, is filed with the Executive Officer within three (3) years from the date of payment. The claim shall be made on forms provided by the Executive Officer. If the claim is approved by the Executive Officer, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator from whom it was collected or by whom paid and the balance may be refunded to such operator, his/her administrators, executors, or assignees.

(b) Refunds by District to users. Whenever the tax required by this Chapter has been collected by the District or by an operator, and deposited by the operator with the Executive Officer, and it is later determined that the tax was erroneously collected or received by the Executive Officer, it may be refunded by the Executive Officer to the user, provided a verified claim in writing therefore, stating the specific reason on which the claim is founded, is filed with the Executive Officer within three (3) years from the date of payment.

(Ordinance No. 90-333A, Sec. 2)

7.01.130 Administration:

(a) Records required from operator, et cetera: form. Every operator shall keep records of all sales and transactions. All records shall be retained by the operator for a period of three (3) years and six (6) months after they come into being.

(b) Examination of records; investigations. The Executive Officer, or any person authorized in writing by the Executive Officer, may examine during normal business hours the books,

papers and accounting records relating to any operator, after notification to the operator liable for the collection and payment of the tax, and may investigate the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.

(c) At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three (3) years after any determination becomes final, the Executive Officer may cause the General Counsel to bring an action in the courts of this state, or any other state, or of the United States in the name of the District to collect the amount delinquent together with penalties and interest.

(d) Confidential financial information. Except as otherwise required by law, it shall be unlawful for the Executive Officer, or any officer, employee, or agent, to divulge, release, or make known in any manner any financial information submitted or disclosed to the Executive Officer under the terms of this Chapter. Nothing in this subsection shall be construed to prohibit:

- (1) The disclosure to, or the examination of, financial records by District officials, employees or agents for the purpose of administering or enforcing the terms of this Chapter, or collecting taxes imposed under the terms of this Chapter; or
- (2) The disclosure to the taxpayer or his/her authorized representative of financial information, including amounts of excise taxes, penalties, or interest, after filing of a written request by the taxpayer or his/her authorized representative and approval of the request by the Executive Officer; or
- (3) The disclosure of the names and addresses of any persons to whom Excise Tax Registration Certificates have been issued; or
- (4) The disclosure of general statistics in a form which would prevent the identification of financial information regarding any particular taxpayer's return or application; or
- (5) The disclosure of financial information to the Office of General Counsel, to the extent the Executive Officer deems disclosure or access necessary for the performance of the duties of advising or representing the Executive Officer.

(Ordinance No. 90-333A, Sec. 2)

7.01.150 Violations. It is unlawful for any operator or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the Executive Officer or to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this Chapter. The Executive Officer may impose a civil penalty of up to \$500 for each violation of this Chapter. A violation includes, but is not limited to:

(a) Failure to file any required Tax payment and report, including any penalties and interest, within sixty (60) days of the due date;

(b) Filing a false or fraudulent report;

(c) Failure to register a facility with the Executive Officer as described in Section 7.01.060;

(d) Failure to maintain a separate account for the excise tax collected.

(Ordinance No. 90-333A, Sec. 2).

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

STAFF REPORT

CONSIDERATION OF ORDINANCE NO.92-464 FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 7.01 TO MODIFY THE REPORTING OF EXCISE TAX AND THE APPLICATION OF THE RECEIPTS.

Date: June 2, 1992

Presented by: Bob Ricks

FACTUAL BACKGROUND AND ANALYSIS

Metro excise taxes were established by Ordinance No. 90-333A on March 8, 1990. Taxes are imposed on revenue derived from product or service from a District facility or use of District facilities on or after July 1, 1990. We now have nearly two years of experience in administering this tax. Changes are proposed to clarify the intent in regard to the application of the tax, and to reduce administrative and reconciliation costs. Five procedures are explicitly stated, and several clarifications are made in definitions, wording and references to tie sections together.

1. There is a problem in keeping the reporting of solid waste tonnage, user fees due, and excise tax due in synchronization at solid waste facilities. This makes reconciliation of the reports difficult and time consuming. Section 7.01.030(b) eliminates multiple reporting methods and requires that an operator of a solid waste facility report accrued revenue and excise tax based upon loads or tons deposited at the site at the time of receipt of waste.
2. The operator of a solid waste facility has collected less than all charges due from a user of the facility. The operator of the facility proposed that the uncollected charges all be considered excise tax, and that the collected charges all be operator's charges. Section 7.01.030(c) makes it clear that the tax shall be presumed to be included in the amount imposed by the operator.
3. To reduce the cost of reconciliation, Section 7.01.030(d) requires that the reporting form provided by Metro be used to report the excise tax owed to the District and that the payment be made when the return is filed.
4. Any uncollectibles at solid waste facilities reduce the excise tax and user fees due to Metro. Section 7.01.030(e) specifies that the adjustment for uncollectibles can be made only when the operator recognized the uncollectible and documents a good faith collection effort.

5. The existing ordinance provides for penalties when the excise tax is not paid when due. The order of priority of application of payments to taxes due and overdue effects the amount of penalty. Section 7.01.030(f) specifies that payments received will be applied to the oldest merged tax, interest and penalty due.
6. There are several clarifications of definitions
 - a. "Accrual basis accounting" 7.01.010(a)
 - b. "Cash basis accounting" 7.01.010(b)
 - c. "District facility" 7.01.010(c)
 - d. "Installment payments" 7.01.010(d)
 - e. "Operator" 7.01.010(f)
 - f. "Payment" 7.01.010(h)
 - g. "Tax" 7.01.010(i)
7. There are some clarifications of wording or references to tie sections together. 7.01.030(a), 7.01.040(a), 7.01.040(b), 7.01.070(a), 7.01.070(b)

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 91-473, modifying the excise tax code.

Meeting Date: June 25, 1992
Agenda Item No. 6.4

ORDINANCE NO. 92-463A



METRO

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

Memorandum

DATE: June 19, 1992

TO: Metro Council
Executive Officer
Interested Parties

FROM: Paulette Allen, Clerk of the Council *P.A.*

RE: AGENDA ITEM NO. 6.4; ORDINANCE NO. 92-463A

The Finance Committee report for Ordinance No. 92-464 will be distributed in advance to Councilors and available at the Council meeting June 25.



METRO

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

Memorandum

Date: June 18, 1992
To: Finance Committee
From: Donald E. Carlson, Council Administrator
Re: Ordinance No. 92-463A

Please find attached a copy of Ordinance No. 92-463A. The original ordinance amended the FY 1991-92 Council Department Budget to cover costs for the Department's connection to the Metro Computer Network. The A-Draft includes an amendment to transfer \$106,000 from the General Fund Contingency to the Election Expense line item in the Materials and Services category to cover estimated costs for the recent May Primary Election. At that election 8 council districts were contested. The additional funds are based on estimates provided by the election officials in Clackamas, Multnomah and Washington Counties.

cc: Jennifer Sims
Dick Engstrom

H:\OR92-463A.MMO

Wilson



METRO

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

Memorandum

Ordinance No. 92-463A Committee Report
Attachment 1

DATE: June 18, 1992

TO: Jennifer Sims, Director of Finance and Management Information

FROM: *KF* Karen Feher, Budget Analyst

RE: Updated Election Costs

Updated election cost estimates by county are as follows:

	<u>Updated</u>	<u>Original</u>
Multnomah County	\$158,000	\$158,000
Washington County	32,500	8,000
Clackamas County	<u>16,000</u>	<u>16,000</u>
Total	\$206,500	\$182,000

The total election cost estimate has been revised by \$24,500. Washington County has increased their original estimate from \$8,000 to \$32,500.

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 AND)
FUNDING ADDITIONAL ELECTION COSTS)

ORDINANCE NO. 92-463A

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 and transferring \$106,000 from the General Fund Contingency to the Council Department's materials & services appropriation to fund additional election costs.

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
June 18, 1992

**EXHIBIT A
ORDINANCE NO. 92-463A**

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		106,000		206,000
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		105,360		478,188
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	106,000	9.05	905,298

**EXHIBIT A
ORDINANCE NO. 82-463A**

ACCT #	DESCRIPTION	CURRENT		REVISION		PROPOSED	
		FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
GENERAL FUND:General Expenses							
Interfund Transfers							
581513	Trans. Indirect Costs to Bldg. Fund		51,217	0		0	51,217
581610	Trans. Indirect Costs to Support Svs. Fund		463,144	0		0	463,144
581615	Trans. Indirect Costs to Insur. Fund-Gen'l		103,997	0		0	103,997
581615	Trans. Indirect Costs to Insur. Fund-Workers' Comp		16,816	0		0	16,816
582140	Trans. Resources to Transportation Fund		552,857	0		0	552,857
582142	Trans. Resources to Plan. & Dev. Fund		1,419,476	0		0	1,419,476
582513	Trans. Resources to Building Mgmt. Fund		100,000	0		0	100,000
582550	Trans. Resources to Oregon Conv. Ctr. Oper. Fund		281,663	0		0	281,663
Total Interfund Transfers			2,989,170	0		0	2,989,170
Contingency and Unappropriated Balance							
599999	Contingency		366,321		(106,000)		260,321
Total Contingency and Unapp. Balance			366,321		(106,000)		260,321
TOTAL EXPENDITURES		18.75	5,016,718	0.00	0	18.75	5,016,718

**EXHIBIT B
ORDINANCE NO. 92-463A
SCHEDULE OF APPROPRIATIONS**

	Current Appropriation	Revision	Proposed Appropriation
GENERAL FUND			
Council			
Personal Services	418,470	0	418,470
Materials & Services	372,828	105,360	478,188
Capital Outlay	8,000	640	8,640
Subtotal	799,298	106,000	905,298
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	(106,000)	260,321
Subtotal	3,355,491	(106,000)	3,249,491
Total General Fund Requirements	5,016,718	0	5,016,718

ALL OTHER APPROPRIATIONS REMAIN AS PREVIOUSLY ADOPTED



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

A. Anderson

MAY 15, 1992
REPORT 460-300

METROPOLITAN SERVICE DISTRICT
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: June 25, 1992
Agenda Item No. 7.1

RESOLUTION NO. 92-1630



METRO

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

Memorandum

DATE: June 19, 1992

TO: Metro Council
Executive Officer
Interested Parties

FROM: Paulette Allen, Clerk of the Council *PA*

RE: AGENDA ITEM NO. 7.1; RESOLUTION NO. 92-1630

Resolution No. 92-1630 is before the Council as a non-referred resolution for the purpose of expressing Council intent to amend the Urban Growth Boundary. It will be before the Council for public hearing and adoption at the June 25 meeting. Due to the volume of that document, Exhibit A will be distributed as a supplemental packet to the agenda in advance to Councilors and will be available at the meeting. Persons interested in obtaining a copy of the supplemental packet may contact the Clerk at ext. 206.

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 92-1630: FOR THE PURPOSE OF EXPRESSING COUNCIL INTENT TO AMEND METRO'S URBAN GROWTH BOUNDARY FOR CONTESTED CASE NO. 91-4:PCC ROCK CREEK

Date: June 15, 1992

Presented By: Ethan Seltzer

BACKGROUND

Contested Case No. 91-4 is a petition from Portland Community College (PCC) for a major amendment of the Urban Growth Boundary in Washington County. The property proposed for inclusion in the UGB totals approximately 160 acres and constitutes the site for the PCC Rock Creek Campus, as shown in Exhibit A to the Resolution. Washington County and area cities have taken positions in support of the amendment.

Currently, Metro considers petitions for major amendments to the UGB according to the process and criteria described in Metro Ordinance No. 85-189, as amended by Metro Ordinance No. 86-204. Unlike Metro's process and criteria for making Locational Adjustments, contained in Chapter 3.01 of the Metro Code and acknowledged by State as being consistent with the Statewide Planning Goals, the Major Amendment process has not been either codified by Metro or acknowledged by the state. Consequently, applicants for Major Amendments are required to address all applicable Statewide Planning Goals in their petition, especially Statewide Planning Goals 2 and 14.

Metro Hearings Officer Larry Epstein held hearings on this matter on March 30, 1992, and again on April 27, 1992, both times in Hillsboro. Testimony was received from both the petitioner and from concerned citizens. The Hearings Officer's Report and Recommendation, attached as Exhibit B to the Resolution, concludes that the petition complies with the applicable statewide planning goals and that the petition should be granted.

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 25th of June, 1992, Council can approve this Resolution or remand the findings to staff or the Hearings Officer for modification. If the Resolution is approved, petitioner will need to annex the property to Metro prior to Council action on an Ordinance formally granting the petition.

The annexation to the Metro district is an action of the Portland Metropolitan Area Local Government Boundary Commission. Should the Council approve this resolution, and if the petitioner accomplishes the annexation of the subject property to the Metro district within 6

months of the date of Council approval, then the Council should expect to see an ordinance finally amending the UGB in the fall of 1992.

ANALYSIS

This case raises a number of interesting issues. First, construction of PCC-Rock Creek began in 1974, before the adoption of either the Washington County Comprehensive Plan or the Urban Growth Boundary (UGB). The campus is currently comprised of some 390,000 square feet of buildings and improvements, including 1155 parking spaces. The campus currently receive full urban services, and the Hearings Officer has determined that those services have or are planned to have the capacity needed to serve the long term needs of PCC. In addition, Washington County found, during its comprehensive planning process, that the 160 acres proposed for addition to the UGB were irrevocably committed to a non-farm use. The Hearings Officer has, in light of current land use cases decided by the Oregon Court of Appeals, therefore concluded that the petitioner need not demonstrate compliance with the alternative sites "tests" in Statewide Planning Goal 2.

In order to meet what is projected to be the demand in the year 2010 for community college services in Washington County, the campus would need to include some 610,000 square feet of buildings and improvements. Replacing the current improvements at another site would cost approximately \$45 million, or some \$60 million including the cost of land, all in 1991 dollars. Under the existing rural zoning, PCC cannot expand at the Rock Creek site. If the campus is added to the UGB, then Washington County would apply an institutional zoning designation needed to develop the campus according to the masterplan.

One of the most important considerations for the Council is the extent to which the petitioner has demonstrated a need for the amendment. Any proposed amendment over 50 acres in size is considered a major amendment and therefore subject to a showing of compliance with Statewide Planning Goal 14. Goal 14, as noted by the Hearings Officer, proposes seven factors to be considered when establishing or amending a UGB.

In this case, the Hearings Officer has found that PCC is the only provider of community college services in the community, and that the continued provision of those services is and will be vital to the economy and livability of Washington County. Further, the Hearings Officer found that due to the nature of the overall program offered at PCC-Rock Creek, multiple, satellite locations were not a viable alternative to the continued growth and development of the program at the current site. Hence, the Hearings Officer found that there was a demonstrated need for additional community college capacity, and that both the nature of the program and the cost of duplicating the entire campus in a new location required that expansion occur at the current site.

Finally, the Hearings Officer determined that although a number of questions were raised about both the provision of transportation services to the site as well as the advisability of increasing the demand for those services at the site, current transportation system plans and

capacity were adequate to handle the projected traffic. A number of design issues will need to be resolved to accomplish this, but those issues will be addressed through the local zoning process in Washington County, should the UGB amendment be approved.

In addition, the Hearings Officer could find no evidence to support the contention that satellite sites, even if on the light rail line, would necessarily be more energy efficient than a single site as proposed. The reason is that satellite sites would necessitate movement among sites, at all hours of the day. Even a single, large satellite site would require either considerable movement between the site and the main campus, or the duplication of many of the central services (library, food services, student services, etc.) available already at the main campus.

For these reasons, and others included in his report, the Hearings Officer found that the petition satisfied the requirements of Goal 14 and Goal 2, as well as other applicable statewide planning goals. At hearing a number of issues were presented in opposition to the petition, most of which have been addressed by the Hearings Officer, and many of which dealt with transportation. On page 12 of the Report and Recommendation of the Hearings Officer, a number of these issues are summarized in section V(B). In particular, issue 6 in that section relates to a number of neighboring properties "sandwiched" between the campus to the north, 185th Avenue to the west, and Springville Road to the south. A number of property owners in that area raised concerns regarding the nature of the proposed development on the campus and its possible impact on their property.

Should the Council approve the petition, the development impacts would be considered through the Washington County planning process at the time that zoning designations are applied to the campus and as development permits are sought. One owner requested that if the campus is included in the UGB, that the property of he and his neighbors be included at the same time as well. However, no evidence was presented to support the need for additional land, beyond that associated with the campus and its community educational purposes, inside the UGB. Further, the improvement of road facilities on both 185th and Springville to serve the campus in the future were shown not to require and future alteration of the UGB. Hence, the Hearings Officer concluded that there was no basis for including these additional properties in the amendment request made by PCC.

As of the date of this staff report, no exceptions have been received to the Report and Recommendation of the Hearings Officer. However, staff expects that parties may file exceptions on or about the June 19th deadline for such filings. A complete report on any exceptions will be provided by staff and the Hearings Officer at the Council hearing on June 25, 1992.

EXECUTIVE OFFICER'S RECOMMENDATION

The Council should approve Resolution 92-1630, and declare its intent to amend the Metro Urban Growth Boundary for Contested Case No. 91-4: PCC.

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

**FOR THE PURPOSE OF EXPRESSING)
COUNCIL INTENT TO AMEND METRO'S) RESOLUTION NO. 92-1630
URBAN GROWTH BOUNDARY FOR CON-)
TESTED CASE NO. 91-4:PCC ROCK CREEK)**

WHEREAS, Contested Case No. 91-4 is a petition from Portland Community College to the Metropolitan Service District for a major amendment of the Urban Growth Boundary to include approximately 160 acres north of Springville Road in Washington County as shown on Exhibit A; and

WHEREAS, A hearing on this petition was held before a Metropolitan Service District Hearings Officer on March 30, 1992, and again on April 27, 1992, in Hillsboro; and

WHEREAS, The Hearings Officer has issued his Report and Recommendation, attached as Exhibit B, which finds that all applicable requirements have been met and recommends that the petition be approved; and

WHEREAS, The property is currently outside, but contiguous with, the boundary for the Metropolitan Service District; and

WHEREAS, The Metropolitan Service District Code Section 3.01.070(c)(l) provides that action to approve a petition including land outside the District shall be by resolution expressing intent to amend the Urban Growth Boundary after the property is annexed to the Metropolitan Service District; now, therefore,

BE IT RESOLVED,

That the Metropolitan Service District, based on the findings in Exhibit B, attached, and incorporated herein, expresses its intent to adopt an Ordinance amending the Urban Growth Boundary as shown in Exhibit A within 30 days of receiving notification that the

property has been annexed to the Metropolitan Service District, provided such notification is received within six (6) months of the date on which this resolution is adopted.

ADOPTED by the Council of the Metropolitan Service District this _____ day of _____, 1991.

Jim Gardner, Presiding Officer

ES/es
6/15/92

Meeting Date: June 25, 1992
Agenda Item No. 7.2

RESOLUTION NO. 92-1642

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF MAKING) RESOLUTION NO. 92-1642
COUNCIL COMMITTEE APPOINTMENTS)
FOR THE REMAINDER OF 1992) Introduced by Presiding
Officer Jim Gardner

WHEREAS, The Council of the Metropolitan Service District (Metro Council) adopted Resolution No. 92-1553 on January 9, 1992, for the purpose of reorganizing Standing Committees of the Council; and

WHEREAS, The Metro Council has adopted from time to time resolutions to organize Council Standing Committees and their membership to respond to Council needs; and

WHEREAS, Councilor Tom DeJardin, Metro District 5, resigned his position effective March 31, 1992, and the Council appointed Ed Gronke to complete Councilor DeJardin's term through January 2, 1993, after which a duly elected representative will take office per the outcome of the General election to be held on November 6, 1992; and

WHEREAS, Councilor David Knowles, Metro District 11, resigned his position effective January 10, 1992, and the Council appointed Ed Washington to complete Councilor Knowles' term through January 2, 1993, after which a duly elected representative will take office per the outcome of the General election to be held on November 6, 1992; and

WHEREAS, Per Metro Code Section 2.01.140(b), the Presiding Officer shall appoint standing committee members subject to confirmation by the Council; and

WHEREAS, Councilor Knowles' resignation created vacancies on the Regional Facilities and the Transportation & Planning Committees; and

WHEREAS, Councilor DeJardin's resignation created vacancies on the Governmental Affairs and Regional Facilities Committees; now, therefore,

BE IT RESOLVED,

1. That Councilors Gronke and Washington are appointed to fill the vacancies in the aforesaid committees as described in Exhibit A attached hereto and additional Councilor assignments for the remainder of calendar year 1992 shall be as described in Exhibit B attached hereto.

2. That Councilor Devlin is appointed vice chair of the Governmental Affairs Committee.

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

Jim Gardner, Presiding Officer

EXHIBIT A

COUNCIL STANDING COMMITTEE MEMBERSHIP
(June 25, 1992)

Finance Committee

Councilor Van Bergen, Chair
Councilor Hansen, V. Chair
Councilor Devlin
Councilor Gardner
Councilor Wyers

Solid Waste Committee

Councilor Wyers, Chair
Councilor McFarland, V. Chair
Councilor Buchanan
Councilor Hansen
Councilor Van Bergen

Governmental Affairs Committee

Councilor Collier, Chair
Councilor Devlin, V. Chair
Councilor Bauer
Councilor Gronke
Councilor Wyers

Transportation & Planning
Committee

Councilor Devlin, Chair
Councilor McLain, V. Chair
Councilor Bauer
Councilor Buchanan
Councilor Washington

Regional Facilities Committee

Councilor McLain, Chair
Councilor Collier, V. Chair
Councilor Gronke
Councilor McFarland
Councilor Washington

EXHIBIT B

<u>Bi-State Policy Advisory Committee:</u>	Councilor Bauer, Co-Chair Councilor McFarland, Alternate
<u>Composter Community Enhancement Committee:</u>	Councilor Buchanan, Chair Councilor Washington
<u>Friends of the Washington Park Zoo Board of Directors:</u>	Councilor Gronke Councilor McFarland Councilor McLain, Alternate
<u>Joint Policy Advisory Committee on Transportation:</u>	Councilor Devlin, Chair Councilor Gardner Councilor McLain Councilor Van Bergen, Alternate
<u>Metropolitan Greenspaces Policy Advisory Committee:</u>	Councilor Devlin, Chair Councilor McFarland, V. Chair Councilor Hansen
<u>North Portland Enhancement Committee:</u>	Councilor Hansen, Chair
<u>Metro Central Enhancement Committee:</u>	Councilor Hansen, Chair
<u>One Percent for Art:</u>	Councilor Gardner
<u>One Percent for Recycling Committee:</u>	Councilor Buchanan, Chair Councilor Hansen, Alternate
<u>Oregon City Metro Enhancement Committee:</u>	Councilor Gronke
<u>Oregon Regional Council Association Board of Directors:</u>	Councilor Devlin Councilor Wyers, Alternate
<u>Regional Policy Advisory Committee:</u>	Councilor Gardner, Chair Councilor McLain Councilor Devlin, Alternate
<u>Smith and Bybee Lakes Management Committee:</u>	Councilor McFarland, Chair
<u>Solid Waste Policy Advisory Committee:</u>	Councilor Wyers, Chair Councilor McFarland, V. Chair
<u>Southwest Washington (IRC) Transportation Policy Committee:</u>	Councilor Devlin

Special Districts Association of Oregon

Board of Directors:

Legislative Committee:

Councilor Bauer
Councilor Devlin

Transportation Policy Advisory
Committee:

Richard Devlin, V. Chair

Tri-Met Committee on Accessible
Transportation:

Councilor Buchanan

Meeting Date: June 25, 1992
Agenda Item No. 8.1

RESOLUTION NO. 92-1632

SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 92-1632, FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO ENTER INTO A CONTRACT WITH JENSEN DRILLING CO. FOR WORK ASSOCIATED WITH THE GROUNDWATER MONITORING WELL IMPROVEMENTS AND PIEZOMETER INSTALLATION AT ST. JOHNS LANDFILL

Date: June 17, 1992

Presented by: Councilor Wyers

Committee Recommendation: At the June 16 meeting, the Committee voted 4-0 to recommend Council adoption of Resolution No. 92-1632. Voting in favor: Councilors Buchanan, Hansen, Van Bergen and Wyers. Councilor McFarland was excused.

Committee Issues/Discussion: Jim Watkins, Solid Waste Engineering Manager, explained that the purpose of the resolution was to award the contract for groundwater monitoring well improvements and the installation of piezometers at the St. Johns Landfill. Jensen Drilling submitted the only bid for \$347,625. The estimated cost of the work was \$363,000.

Watkins responded to Council staff's questions. He noted that the addenda reducing the minimum qualifications for bidders was made available to all potential bidders four days prior to the bid deadline. Watkins indicated that about \$243,000 would be spent during the first year of the contract and the remainder would be spread over the remaining four years of the contract, largely for related maintenance and repair work.

Watkins provided a letter from the contracting office related to the question of why only one bid was received. The office checked with several potential bidders and concluded that no major defects in the bidding process were apparent. Watkins noted that Jensen Drilling was already performing other similar work at the landfill.



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: June 9, 1992

Re: Resolution No. 92-1632 For the Purpose of Authorizing the Executive Officer to Enter into a Contract with Jensen Drilling Co. for Work Associated with the Groundwater Monitoring Well Improvements and Piezometer Installation at St. Johns Landfill

Resolution No. 92-1632 is scheduled for committee consideration at the June 16 meeting.

Background

The Council approved the issuance of a Request for Bids for groundwater monitoring well improvement and piezometer installation at St. Johns Landfill at its May 14 meeting. Approximately 10 potential bidders attended a pre-bid conference, but only one bid for the work was actually received. This bid, from Jensen Drilling Co., was for \$347,625. A total of \$363,000 has been included in the FY 92-93 budget for this work.

Issues and Questions

In considering this resolution, the committee may wish to address the following issues and questions:

- 1) In the staff report related to the issuance of the RFB, it was noted that most of the proposed work would occur during FY 92-93, but that some monitoring and repair work would occur during the remaining three years of the contract. Under the proposed bid, how much is anticipated to be spent during the first year of the contract and how much is anticipated to be spent on repair and monitoring work during subsequent years of the contract?
- 2) Since some potential bidders concerns about minimum qualifications resulted in issuance of an addendum, when was the addendum issued? How many days did potential bidders have following the issuance of the addenda to prepare a bid?
- 3) The staff report notes that certain work was deleted from the proposed contract. What effect does this deletion have on the overall cost of the project?
- 4) In the opinion of staff, why was only one bid received?

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING THE) RESOLUTION NO. 92-1632
EXECUTIVE OFFICER TO ENTER INTO A)
CONTRACT WITH JENSEN DRILLING CO.)
FOR WORK ASSOCIATED WITH THE)
GROUNDWATER MONITORING WELL) Introduced by Rena Cusma,
IMPROVEMENTS AND PIEZOMETER) Executive Officer
INSTALLATION AT ST. JOHNS LANDFILL)

WHEREAS, It is in the public interest that the St. Johns Landfill closure process move forward in an expeditious manner; and

WHEREAS, groundwater monitoring well improvements and piezometer installation will advance the closure process; and

WHEREAS, On May 14, 1992 the Metro Council authorized issuance of a Request for Bids for the above listed work; and

WHEREAS, Jensen Drilling Co. has been determined to be the apparent lowest responsive, responsible bidder after an open competitive bid process; and

WHEREAS, the award is conditioned upon the receipt of a Performance Bond, Labor and Materials Payment Bond, and all other bid document submittal requirements; and

WHEREAS, This resolution, authorizing the Executive Officer to enter into a contract with Jensen Drilling Co. was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now therefore,

BE IT RESOLVED, That the Council of the Metropolitan Service District authorizes the Executive Officer to enter into a contract with Jensen Drilling Co. in the amount of \$347,625 for work associated with Water Monitoring Well Improvements and Piezometer Installation at St. Johns Landfill.

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

Jim Gardner, Presiding Officer

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 92-1632 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO ENTER INTO A CONTRACT WITH JENSEN DRILLING COMPANY FOR WORK ASSOCIATED WITH THE GROUNDWATER MONITORING WELL IMPROVEMENTS AND PIEZOMETER INSTALLATION AT ST. JOHNS LANDFILL

Date: June 16, 1992

Presented by: Jim Watkins

PROPOSED ACTION

Adopt Resolution No. 92-1632 to authorize the Executive Officer to execute a contract with Jensen Drilling Co., the apparent lowest responsive, responsible bidder for work associated with and including the groundwater monitoring well improvements and piezometer installation at St. Johns Landfill. The Contract is recommended for award conditioned upon receipt of Performance Bond, Insurance Certificates, and other bid document submittal requirements.

FACTUAL BACKGROUND AND ANALYSIS

As part of the closure of St. Johns Landfill, Metro has solicited bids to: maintain existing wells which provide reliable water quality data, to abandon existing wells which do not provide reliable water quality data, and to construct new wells as required by the Oregon Department of Environmental Quality (DEQ). The new wells consist of shallow groundwater monitoring wells (for water quality data) and nested piezometer clusters (for water level data). The water level data is to determine groundwater flow paths in the vicinity of the landfill site, such that the rate and extent of groundwater input from the landfill to the sloughs and the lakes can be determined.

Following Council approval on May 14, 1992, a Request for Bids was issued. Advertisements were published in Portland-area newspapers, including The Skanner, a minority-owned newspaper. A prebid conference was held on May 26, 1992 at the landfill. The purpose of this conference was to present highlights of the project, review Metro requirements by providing an opportunity for potential bidders to see the site, and to receive questions from interested parties. Representatives from approximately 10 businesses attended the prebid conference.

One addenda to the Request for Bids document was issued. The addendum responded to potential bidders' concerns that they could not meet the experience requirement by decreasing the requirement (from 500 lineal feet each of abandonment and construction experience to 500 lineal feet total abandonment and construction experience on a landfill). The addendum also deleted the abandonment of two wells and extension of one well, which were located in the Subarea 1 closure area, and needed to be completed early to be coordinated with the closure construction.

One bid submittal was received and opened during a public bid opening meeting on June 5, 1992. The one Bidder and their total bid price is listed below.

BIDDER:	Jensen Drilling Co.
TOTAL BID PRICE:	\$347,625

The apparent lowest responsible, responsive bidder is Jensen Drilling Co. They do not anticipate using any subcontractors.

BUDGET IMPACT

\$363,000 is budgeted from the closure account in the 1992-1993 fiscal year for repair, construction, and abandonment of the groundwater monitoring wells at St. Johns Landfill. The \$347,625 bid price is within this budget.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends Council approval of Resolution No. 92-1632.

JK:ay
STAF0616.RPT

Meeting Date: June 25, 1992
Agenda Item No. 8.2

RESOLUTION NO. 92-1633

SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 92-1633, FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO THE COMPETITIVE PROCUREMENT PROCEDURES OF METRO CODE 2.04.053 AND AUTHORIZING A CHANGE ORDER TO THE DESIGN SERVICES AGREEMENT WITH PARAMETRIX, INC.

Date: June 17, 1992

Presented by: Councilor Hansen

Committee Recommendation: At the June 16 meeting, the Committee voted 3-1 to recommend Council adoption of Resolution No. 92-1633. Voting in favor: Councilors Buchanan, Hansen, and Wyers. Voting no: Councilor Van Bergen. Councilor McFarland was excused.

Committee Issues/Discussion: Jim Watkins, Solid Waste Engineering Manager, noted that the purpose of the resolution is to compensate Parametrix for its costs related to the well monitoring contract awarded by Resolution No. 92-1633. These additional costs resulting primarily from additional work requested by the DEQ.

Councilor Van Bergen expressed concern that the DEQ was "steamrolling" Metro into performing this additional work and that he would vote no on the resolution.



METRO

2000 S.W. First Avenue
Portland, OR 97201-5396
503 221-1646

Memorandum

To: Solid Waste Committee Members

From: John Houser, Council Analyst

Date: June 9, 1992

Re: Resolution No. 92-1633 For the Purpose of Authorizing an Exemption to the Competitive Procurement Procedures of Metro Code 2.04.53 and Authorizing a Change Order to the Design Services Agreement with Parametrix, Inc.

Resolution No. 92-1633 is scheduled for committee consideration at the June 16 meeting.

Background

The purpose of the resolution is to amend the Parametrix design services contract for the St. Johns Landfill to provide an additional \$23,300 in funding. The staff report notes that this funding will compensate Parametrix for the assistance it provided related to the development of the groundwater monitoring and well abandonment contract proposed for award in Resolution No. 92-1632. Parametrix had received a total of \$12,200 in February and April for earlier work related to this contract.

Issues and Questions

- 1) The staff report notes that the scope of work related to the affected contract "was increased in order to result in a more cost-effective contract with a better economy-of-scale." It might be helpful for staff to indicate how this affected Parametrix' role in the development of the contract?
- 2) What changes did DEQ propose in the scope of work related to the contract?
- 3) Is the funding proposed in the change order to pay for services that have already been provided by Parametrix?
- 4) The staff report notes that, even if the change order is approved, the total amount paid to Parametrix during the current fiscal year will be less than the \$643,000 budgetted for the Parametrix contract. Approximately how much will be paid to Parametrix under its contract this fiscal year?

**BEFORE THE CONTRACT REVIEW BOARD OF THE
METROPOLITAN SERVICE DISTRICT**

FOR THE PURPOSE OF AUTHORIZING AN	)	RESOLUTION NO. 92-1633
EXEMPTION TO THE COMPETITIVE)	
PROCUREMENT PROCEDURES OF METRO)	
CODE 2.04.053 AND AUTHORIZING A	)	Introduced by Rena Cusma,
CHANGE ORDER TO THE DESIGN SERVICES	)	Executive Officer
AGREEMENT WITH PARAMETRIX, INC.)	

WHEREAS, It is in the public interest that the St. Johns Landfill closure process move forward in an expeditious manner; and

WHEREAS, Groundwater monitoring well improvements and piezometer installation will advance the closure process; and

WHEREAS, In February 1992, \$9,000 was authorized in Change Order No. 8 for Parametrix, Inc. to assist Metro staff with the procurement of groundwater monitoring well abandonment, construction, and repair services; and

WHEREAS, In April 1992, an additional \$3,200 of the regulatory contingency was authorized for negotiations with the Oregon Department of Environmental Quality (DEQ); and

WHEREAS, Change Order No. 9 (attached hereto as "Exhibit A") would provide for additional design and bidding assistance services; and

WHEREAS, The closure process can be expedited through the use of the existing engineering contractor to perform tasks described in Change Order No. 9; and

WHEREAS, The project requires additional design services that could not have been anticipated at the time of Contract award; and

WHEREAS, It is impractical to solicit proposals for the work described in Change Order No. 9; and

WHEREAS, Change Order No. 9 cannot be approved unless an exemption to the Competitive Procurement Process pursuant to Metro Code 2.04.054 is granted by the Metro Contract Review Board; and

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

BE IT RESOLVED,

That the Metropolitan Service District Contract Review Board exempts Change Order No. 9 to the Design Services Agreement with Parametrix, Inc. from the Competitive Procurement Procedures of Metro Code 2.04.054 and authorizes execution of Change Order No. 9.

ADOPTED by the Contract Review Board of the Metropolitan Service District this _____ day of _____, 1991.

Jim Gardner, Presiding Officer

JKay
SW191633.RPT

**CHANGE ORDER NO. 9
TO THE CONTRACT BETWEEN PARAMETRIX, INC. AND
THE METROPOLITANS SERVICE DISTRICT ENTITLED,
"DESIGN SERVICES AGREEMENT" (Contract No. 901270)**

**Provide Technical Assistance to Produce the RFB and
Provide Assistance During the Bidding Process
Associated with Groundwater Monitoring Well Improvements and Piezometer Installation
at St. Johns Landfill**

The Scope of Work entered into June, 1990, and subsequent change orders, are hereby modified to incorporate the tasks described below:

I. DESIGN

- A. Complete the preparation of the technical specifications for the Request for Bids, including:**
- (1) Well maintenance (including checking the wells);**
 - (2) Well construction;**
 - (3) Multiple piezometer construction (including discussions with DEQ, as required) in units designated by Metro;**
 - (4) Abandonment of five additional wells (including checking the wells)**
 - (5) "Schedule of Bid Prices" to include all items;**
 - (6) Special Conditions section to supplement Metro's Supplemental Conditions; and**
 - (7) Construction drawings.**
- B. Complete the following additional design-related tasks:**
- (1) Respond to review comments by various parties;**
 - (2) Provide assistance to Metro in the preparation of the Engineer's Estimate;**
 - (3) Review addendum to Jensen Drilling Co. contract, involving abandonment of groundwater monitoring wells C-3 and D-8a and extension of well H-1 in Subarea 1;**
 - (4) Develop variances to DEQ for wells B-5 and EPA-B;**
 - (5) Mikkelsen/Thrall of Cornforth shall meet with DEQ to discuss multiple piezometers;**
 - (6) Develop final design for installation of multiple piezometers;**

II. BIDDING ASSISTANCE

- A. Assist in answering questions at pre-bid conference;**
- B. Assist with addendums, if required.**
- C. Provide information to complete well information tables in the RFB.**

III. COST

A. Contractor shall receive compensation on a time and material basis for performance of all tasks.

B. The net additional amount authorized by Change Order No. 9 shall not exceed \$23,300.

All other terms and conditions of the original agreement and previous agreements shall remain in full force and effect.

PARAMETRIX, INC.

METROPOLITAN SERVICE DISTRICT

By: _____

By: _____

(Print Name and Title)

(Print Name and Title)

DATE: _____

DATE: _____

II-1. BIDDER INFORMATION

To: Metropolitan Service District

Address: 2000 S.W. First Avenue, Portland, OR 97201-5398

Contract: St. Johns Landfill - Groundwater Monitoring Well Improvements and Piezometer Installation

Bidder: *Jensen Drilling Company*

Address: *1775 Henderson Avenue Eugene, Oregon 97403*

Bidder's Contact: *Jerry Jensen*

Date: *6-5-92*

Telephone: *(503) 724-7435*

BIDDER'S DECLARATION AND UNDERSTANDING

The undersigned, hereinafter called the Bidder, declares that the only persons or parties interested in this Bid are those named herein, that this Bid is, in all respects, fair and without fraud, that it is made without collusion with any official of Metro, and that the Bid is made without any connection or collusion with any person submitting another Bid on this Contract.

The Bidder further declares that it has carefully examined the Contract Documents for the completion of the Work, has personally inspected the Site, has satisfied itself as to the Work involved, and that this Bid is made in accordance with the provisions and under the terms of the Contract Documents which are hereby made a part of this Bid.

Any printed matter on any letter or paper enclosed herewith which is not part of the Bidding Documents or which was not requested by Metro is not to be considered a part of this Bid, and the undersigned agrees that such printed matter shall be entirely disregarded and, notwithstanding such printed matter, that the Bid is a bid to do the Work and furnish the labor and materials and all other things required by the Contract Documents strictly within the time and in accordance with such Specifications. This Bid is irrevocable for sixty (60) days following the date of the opening of Bids.

The Bidder hereby acknowledges receipt and acceptance of all addenda issued up to the time of bid opening.

BID SECURITY

Bid security in the form of a certified check, cashier's check or bid bond as further described in the Instructions for Bidders and in the amount of **TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00)** is enclosed herewith and is subject to all the conditions stated in the Instructions for Bidders.

CONTRACT EXECUTION, BONDS AND INSURANCE

The Bidder agrees that if this Bid is accepted, it will, following Notice of Award and within seven (7) days after receipt of three copies of the Agreement in the form annexed hereto, sign the Agreement, and will at that time deliver to Metro the Performance Bond and the Labor and Materials Payment Bond required herein and in the form annexed hereto, along with all certificates of insurance and certified copies of insurance policies specified and required in these Contract Documents, and will, to the extent of its Bid, furnish all machinery, tools, apparatus, and other means of operation and construction and do the Work and furnish all the materials necessary to complete all Work as specified or indicated in the Contract Documents.

COMMENCEMENT OF WORK AND CONTRACT COMPLETION TIME

The time frame for the award and execution of this Contract shall be as described in the Instructions for Bidders and other Contract Documents. The Successful Bidder further agrees to commence the Work within five (5) days of issuance of the Notice to Proceed and to diligently prosecute the Work to its final completion in accordance with the Contract Documents.

SALES AND USE TAXES

The Bidder agrees that all applicable federal, state and local sales and use taxes are included in the stated bid prices for the Work.

LUMP SUM AND UNIT PRICE WORK

The Bidder further proposes to accept as full payment for the Work proposed herein the amounts computed under the provisions of the Contract Documents and based on the listed lump sum and unit price amounts. The amounts shall be shown in both words and figures. In case of a discrepancy, the amount shown in words shall govern.

PREVAILING WAGES FOR PUBLIC WORK

Bidder hereby certifies that the provisions of ORS 279.350, regarding prevailing wages, shall be complied with on this project.

NONDISCRIMINATION

The Bidder hereby certifies that it has not and will not discriminate against minorities, women, or emerging small business enterprises in obtaining any required subcontracts for goods or services.

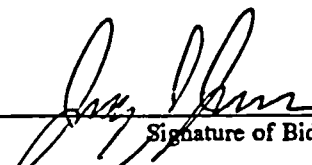
II-2. RESIDENT/NON-RESIDENT BIDDER STATUS

Oregon law requires that Metro, in determining the lowest responsive Bidder, must add a percent increase on the Bid of a non-resident Bidder equal to the percent, if any, of the preference given to that Bidder in the state in which that Bidder resides. Consequently, each Bidder must indicate whether it is a resident or non-resident Bidder. A resident Bidder is a Bidder that has paid unemployment taxes or income taxes in the state of Oregon during the twelve (12) calendar months immediately preceding submission of this Bid, has a business address in Oregon, and has stated in its Bid that the Bidder is a "resident Bidder." A "non-resident Bidder" is a Bidder who is not a resident Bidder (ORS 279.029).

The undersigned Bidder states that it is: (check one)

- 1. A resident Bidder
- 2. A non-resident Bidder

Indicate state in which Bidder resides: _____



 Signature of Bidder

Jessica Dushay

 Printed Name of Bidder

Sec / Treas

 Title

II-3. SURETY

SURETY

If the Bidder is awarded a Contract on this Bid, the surety or sureties who provide(s) the Performance Bond and Labor and Materials Payment Bond will be:

SURETY

ADDRESS

1. *Fireman's Fund Ins Co.*

San Francisco, CA

2.

II-4. REQUIRED BID INFORMATION

List the Oregon licensed and bonded monitoring well constructors below, and attach proof of bonding:

INDIVIDUAL'S NAME	LICENSE NO.
<i>Jerry J. Jeyceod</i>	<i>10238</i>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

ABANDONMENT EXPERIENCE ON LANDFILL SITES:

LOCATION	DATE	NO. OF LINEAL FEET
<i>St. John's landfill</i>	<i>1991</i>	<i>250'</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
TOTAL:		_____

CONSTRUCTION EXPERIENCE ON LANDFILL SITES:

LOCATION	DATE	NO. OF LINEAL FEET
<i>King County landfill; Cedar Hills landfill</i>	<i>1990</i>	<i>1750'</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____
TOTAL:		<i>2000'</i>

II-5. SCHEDULE OF BID PRICES

Item No.	Est.'d Quantity	Description of Item	Unit Price (Words)	Unit Price (Figure)	Total Cost
1	1 LS	1992: General mobilization - Site safety and health program	<i>Seventy Thousand</i> (per lump sum)	\$ 40000	\$ 40000
2	50 55 Each	1992: Mobilization to each well or piezometer location at the St. Johns Landfill site	<i>Five Hundred</i> (per each)	\$ 500	\$ 27500
3	2 Each	1992: Mobilization and site protection at the wetlands lake sites	<i>Fifteen Hundred</i> (per each)	\$ 1500	\$ 3000
4	19 17 Ea	1992: Well abandonment - Method A	<i>Eighteen Hundred</i> (per each)	\$ 1800	\$ 30600
5	2 Each	1992: Well abandonment - Method B	<i>Twenty Five Hundred</i> (per each)	\$ 2500	\$ 5000
6	16 Each	1992: Check well quality	<i>Two Hundred Fifty</i> (per each)	\$ 250	\$ 4000
7	11 Each	1992: Remove silt from wells	<i>Four Hundred</i> (per each)	\$ 400	\$ 4400
8	8 Each	1992: Install well inserts	<i>One Hundred</i> (per each)	\$ 100	\$ 800
9	222 LF	1992: Drill, furnish materials, and install 7 shallow new monitoring wells	<i>Seventy Five</i> (per lineal foot)	\$ 75	\$ 16650
10	915 LF	1992: Drill, furnish back fill material, and install 9 multiple piezometers	<i>Seventy Five</i> (per lineal foot)	\$ 75	\$ 68625
11a	53 Each	1992: 5' well extension (Wells H-1, H-4, H-5)	<i>Seven Hundred</i> (per each)	\$ 700	\$ 37100
11b	1 Each	1992: Grout and complete surface casing (Well H-1)	<i>Two Thousand</i> (per each)	\$ 2000	\$ 2000
12a	7 Each	1993: Mobilization (to Wells H-2, H-4, and H-5)	<i>Two Thousand</i> (per each)	\$ 2000	\$ 14000
12b	4 Each	1993: 5-foot well extension (Wells H-2, H-4)	<i>One Thousand</i> (per each)	\$ 1000	\$ 4000
12c	2 Each	1993: Remove 5-foot well extension (Well H-5)	<i>Five Hundred</i> (per each)	\$ 500	\$ 1000
12d	1 Each	1993: Grout and complete surface casing (Well H-2)	<i>Two Thousand</i> (per each)	\$ 2000	\$ 2000
13a	6 Each	1994: Mobilization (to Wells H-3, H-4, and H-5)	<i>Two Thousand</i> (per each)	\$ 2000	\$ 12000
13b	4 Each	1994: 5-foot well extension (Wells H-3, H-4)	<i>One Thousand</i> (per each)	\$ 1000	\$ 4000
13c	1 Each	1994: Remove 5-foot well extension (Well H-5)	<i>One Thousand</i> (per each)	\$ 1000	\$ 1000
13d	1 Each	1994: Grout and complete surface casing (Well H-3)	<i>Two Thousand</i> (per each)	\$ 2000	\$ 2000
14a	3 Each	1995: Mobilization (Wells H-4, H-5)	<i>Two Thousand</i> (per each)	\$ 2000	\$ 6000
14b	1 Each	1995: 5-foot well extension (Well H-4)	<i>Two Thousand</i> (per each)	\$ 2000	\$ 2000
14c	1 Each	1995: Remove 5-foot well extension (Well H-5)	<i>Seventeen Hundred</i> (per each)	\$ 1700	\$ 1700
14d	1 Each	1995: Grout and complete surface casing (Well H-4)	<i>Two Thousand</i> (per each)	\$ 2000	\$ 2000
15a	1 Each	1996: Mobilization (Well H-5)	<i>Three Thousand</i> (per each)	\$ 3000	\$ 3000
15b	1 Each	1996: Grout and complete surface casing (Well H-5)	<i>Two Thousand</i> (per each)	\$ 2000	\$ 2000
16	150 Hours	1992: "Hourly Charges" during well abandonment and well maintenance (performed only upon Metro approval)	<i>One Hundred Twenty Five</i> (per hour)	\$ 125	\$ 18750
17	1 LS	Site cleanup and restoration	<i>Ten Thousand</i> (per lump sum)	\$ 10000	\$ 10000
18	300 Hours	"Additional Work" (performed only when agreed with Metro)	<i>One Hundred Twenty Five</i> (per hour)	\$ 125	\$ 37500
TOTAL					\$ 347625

II-6. RECYCLED PRODUCTS
(Attach to Schedule of Bid Prices)

BID ITEM NO. & DESCRIPTION	SUPPLIER	QUANTITY OF RECYCLED PRODUCT	RECYCLED PRODUCT (%)	POST-CONSUMER CONTENT (%)	WASTE CONTENT (%)	AMOUNT OF RECYCLED PRODUCT (\$)
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

NOTES:

1. For definitions, refer to Appendix, Oregon Law 1991, Chapter 385, Section 59 and 61.
2. It is the Bidder's responsibility to determine if the recycled product meets the Contract specifications. Metro reserves the right to confirm information submitted by contacting the manufacturer.

II-7. SIGNATURE PAGE

The name of the Bidder submitting this Bid is Tegsed Drilling Company doing business at
1775 Henderson Avenue, Eugene, OR 97403
Street City State Zip

which is the full business address to which all communications concerned with this Bid and with the Contract shall be sent.

The names of the principal officers of the corporation submitting this Bid, or of all of the partners, if the Bidder is a partnership or joint venture, or of all persons interested in this Bid as individuals are as follows:

John J Tegsed
Jerry J Tegsed
Jeffrey J Tegsed

If Individual

IN WITNESS hereto the undersigned has set his/her hand this _____ day of _____, 19_____.

Signature of Bidder

Printed Name of Bidder

Title

II-7. SIGNATURE PAGE (cont.)

If Partnership or Joint Venture

IN WITNESS hereto the undersigned has set his/her hand this ____ day of _____, 19__.

Name of Partnership or Joint Venture

By: _____

Printed Name of Person Signing

Title: _____

If Corporation

IN WITNESS WHEREOF the undersigned corporation has caused this instrument to be executed and its seal affixed by its duly authorized officers this 5th day of June, 1992.

Tepco Drilling Company
Name of Corporation

Oregon
State of Incorporation

By: _____

Terry S. Wepner
Printed Name of Person Signing

Title: Sec/Treas.

II-8. NON-COLLUSION AFFIDAVIT

STATE OF Oregon

County of Lane

I state that I am Sec/Treas (Title) of Tapeed Drilling Company (Name of Bidder) and that I am authorized to make this Affidavit on behalf of the Bidder. I am the person authorized by the Bidder and responsible for the price(s) and the amount of this Bid.

I state that:

- (1) The price(s) and amount of this Bid have been arrived at independently and without consultation, communication or agreement with any other contractor, Bidder or potential Bidder, except as disclosed in the attached appendix.
- (2) Neither the price(s) nor the amount of this Bid, and neither the approximate price(s) nor approximate amount of this Bid, have been disclosed to any other person who is a Bidder or potential Bidder, and they will not be disclosed before bid opening.
- (3) No attempt has been made or will be made to induce any person to refrain from bidding on this contract, or to submit a Bid higher than this Bid, or to submit any intentionally high or non-competitive bid or other from of complementary Bid.
- (4) This Bid is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any person to submit a complementary or other noncompetitive Bid.
- (5) Tapeed Drilling Company (Name of Bidder), its affiliates, subsidiaries, officers, directors and employees (as applicable) are not currently under investigation by any governmental agency and have not in the last four years been convicted of or found liable for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as listed and described in the attached appendix.

I state that I and Tapeed Drilling Company (Name of Bidder) understand and acknowledge that the above representations are material and important, and will be relied on by Metro in awarding the Contract for which this Bid is submitted. Any misstatement in this Affidavit will be treated as fraudulent concealment from Metro of the true facts relating to the submission of Bids for this Contract.

[Signature]
 Signature of Affiant
Jerry J. Tapeed
 Printed Name of Affiant

Sworn to and subscribed before me this 5th day of June, 1992.

[Signature]

Notary Public for OR
 My Commission Expires: 5/5/94

11-9. BID BOND

(NOTE: BIDDERS MUST USE THIS FORM, NOT A SURETY COMPANY FORM)

KNOW ALL MEN BY THESE PRESENTS:

We the undersigned, JENSEN DRILLING COMPANY, as PRINCIPAL, and FIREMAN'S FUND INS. CO., a corporation organized and existing under and by virtue of the laws of the state of California and duly authorized to do surety business in the state of Oregon and name on the current list of approved surety companies acceptable on federal bonds and conforming with the underwriting limitations as published in the Federal Register by the audit staff of the Bureau of Accounts and the U.S. Treasury Department and is of the appropriate class for the bond amount as determined by Best's Rating System, as SURETY, hereby hold and firmly bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, unto the METROPOLITAN SERVICE DISTRICT, as OBLIGEE, in the sum of TEN THOUSAND DOLLARS (\$ 10,000.00) in lawful money of the United States of America, for the payment of which sum well and truly to be made as agreed and liquidated damages:

THE CONDITION OF THIS OBLIGATION IS SUCH THAT whereas the PRINCIPAL has submitted to the Metropolitan Service District a certain Bid for work required for the St. Johns Landfill - Groundwater Monitoring Well Improvements and Piezometer Installation, which work is specifically described in the accompanying Bid;

NOW, THEREFORE, if the Metropolitan Service District does not award a contract to the PRINCIPAL within the time specified in the Instructions to Bidders for the work described in said Bid, or in the alternate, if said Bid shall be accepted and the PRINCIPAL, within the time and in the manner described under the Contract Documents, enters into a written contract in accordance with the Bid, files the two bonds, one guaranteeing faithful performance of the work to be done and the other guaranteeing payment for labor and materials as required by law, and files the required certified copies of insurance policies and certificates of insurance, then the obligation shall be null and void; otherwise, the same shall remain in full force and effect.

The SURETY, for value received, hereby stipulates and agrees that the obligation of said SURETY and this bond shall be in no way impaired or affected by any extension of the time within which the Metropolitan Service District may accept such Bid; and said SURETY does hereby waive notice of any such extension.

If more than one surety is on this bond, each surety hereby agrees that it is jointly and severally liable for all obligations on this bond.

IN WITNESS WHEREOF, we have hereunto set our hands and seals 5th day of June, 1992.

FIREMAN'S FUND INSURANCE COMPANY

SURETY

By:

Sherril Caudill
Sherril Caudill

Title:

attorney-in-fact

JENSEN DRILLING COMPANY

PRINCIPAL

By:

[Signature]
Title:

Sec/Treas



GENERAL
POWER OF
ATTORNEY

FIREMAN'S FUND INSURANCE COMPANY

KNOW ALL MEN BY THESE PRESENTS: That FIREMAN'S FUND INSURANCE COMPANY, a Corporation duly organized and existing under the laws of the State of California, and having its principal office in the City and County of San Francisco, in said State, has made, constituted and appointed, and does by these presents make, constitute and appoint

-----SHERRIL CAUDILL-----

SPRINGFIELD, OR

its true and lawful Attorneys-in-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, seal, acknowledge and deliver any and all bonds, undertakings, recognizances or other written obligations in the nature thereof -----

and to bind the Corporation thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the corporate seal of the Corporation and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorneys-in-Fact may do in the premises.

This power of attorney is granted pursuant to Article VIII, Section 30 and 31 of By-laws of FIREMAN'S FUND INSURANCE COMPANY now in full force and effect.

"Article VIII, Appointment and Authority Assistant secretaries, and Attorney-in-Fact and Agents to accept Legal Process and Make Appearances.

Section 30. Appointment. The Chairman of the Board of Directors, the President, any Vice-President or any other person authorized by the Board of Directors, the Chairman of the Board of Directors, the President or any Vice-President, may, from time to time, appoint Resident Assistant Secretaries and Attorneys-in-Fact to represent and act for and on behalf of the Corporation and Agents to accept legal process and make appearances for and on behalf of the Corporation.

Section 31. Authority. The Authority of such Resident Assistant Secretaries, Attorneys-in-Fact, and Agents shall be as prescribed in the instrument evidencing their appointment, and any such appointment and all authority granted thereby may be revoked at any time by the Board of Directors or by any person empowered to make such appointment."

This power of attorney is signed and sealed under and by the authority of the following Resolution adopted by the Board of Directors of FIREMAN'S FUND INSURANCE COMPANY at a meeting duly called and held on the 15th day of July, 1966, and said Resolution has not been amended or repealed:

"RESOLVED, that the signature of any Vice-President, Assistant Secretary, and Resident Assistant Secretary of this Corporation, and the seal of this Corporation may be affixed or printed on any power of attorney, on any revocation of any power of attorney, or on any certificate relating thereto, by facsimile, and any power of attorney, any revocation of any power of attorney, or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Corporation."

IN WITNESS WHEREOF, FIREMAN'S FUND INSURANCE COMPANY has caused these presents to be signed by its Vice-President,

and its corporate seal to be hereunto affixed this 13th day of October, 19 81.



FIREMAN'S FUND INSURANCE COMPANY

By Richard Williams
Vice-President

STATE OF CALIFORNIA,

CITY AND COUNTY OF SAN FRANCISCO

On this 13th day of October, 19 81, before me personally came Richard Williams to me known, who, being by me duly sworn, did depose and say: that he is Vice-President of FIREMAN'S FUND INSURANCE COMPANY, the Corporation described in and which executed the above instrument; that he knows the seal of said Corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Corporation and that he signed his name thereto by like order.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year herein first above written.



Susie K. Gilbert
Notary Public

CERTIFICATE

STATE OF CALIFORNIA,

CITY AND COUNTY OF SAN FRANCISCO

I, the undersigned, Resident Assistant Secretary of FIREMAN'S FUND INSURANCE COMPANY, a CALIFORNIA Corporation, DO HEREBY CERTIFY that the foregoing and attached POWER OF ATTORNEY remains in full force and has not been revoked; and furthermore that Article VIII, Sections 30 and 31 of the By-laws of the Corporation, and the Resolution of the Board of Directors, set forth in the Power of Attorney, are now in force.

Signed and sealed at the City and County of San Francisco, Dated the 5th day of June, 19 92.



Levitt E. Austin
Resident Assistant Secretary

II-10. DISADVANTAGED BUSINESS PROGRAM COMPLIANCE FORM

(To be submitted with Bid.)

(See Appendix)

Name of Metro Project: **St. Johns Landfill - Groundwater Monitoring Well Improvements and Piezometer Installation**Name of Bidder: Johson Drilling CompanyAddress: 1775 Henderson Avenue Eugene, OR 97403Phone: 503-736-7435

In accordance with Metro's Disadvantaged Business Program, the above-named Bidder has accomplished the following:

1. Has fully met the contract goals and will subcontract ___ percent of the Bid Amount to DBEs and ___ percent to WBEs.
2. Has partially met the contract goals and will subcontract ___ percent of the Bid Amount to DBEs and ___ percent to WBEs. Bidder has made good faith efforts prior to Bid opening to meet the full goals and will submit documentation of the same to Metro within twenty-four (24) hours of Metro's request.
3. Will not subcontract any of the Bid Amount to DBEs or WBEs but has made good faith efforts prior to Bid opening to meet the contract goals and will submit documentation of such good faith efforts to Metro within twenty-four (24) hours of Metro's request.

II-11. DISADVANTAGED BUSINESS ENTERPRISE UTILIZATION FORM

1. Name of Metro Project: **The St. Johns Landfill - Groundwater Monitoring Well Improvements and Piezometer Installation**

2. Name of Bidder _____

Address _____

3. The above-named Bidder intends to subcontract ____ percent of the Bid to the following Disadvantaged Business Enterprises (DBEs):

Names, Contact Persons, Addresses and Phone Numbers of DBE Firms Bidder Anticipates Utilizing	Nature of Participation	Dollar Value of Participation
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Total DBE Participation Amount _____

Amount of Base Bid _____

DBE Percent of Base Bid _____

Authorized Signature

Title

Date

II-12. WOMEN BUSINESS ENTERPRISES UTILIZATION FORM

1. Name of Metro Project: **The St. Johns Landfill - Groundwater Monitoring Well Improvements and Piezometer Installation**

2. Name of Bidder _____

Address _____

3. The above-named Bidder intends to subcontract ____ percent of the Bid to the following Women Business Enterprises (WBEs):

Names, Contact Persons, Addresses and Phone Numbers of WBE Firms Bidder Anticipates Utilizing	Nature of Participation	Dollar Value of Participation
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Total WBE Participation Amount _____

Amount of Base Bid _____

WBE Percent of Base Bid _____

Authorized Signature

Title

Date

II-13. LIST OF PROPOSED SUBCONTRACTORS AND SUPPLIERS

If awarded the Contract, the Bidder proposes to employ the following Subcontractors who will perform work or labor or render service the Bidder, as well as the Suppliers who will furnish major components, materials, and equipment. The Bidder shall state below the name(s) and address(es) of all proposed Subcontractor(s) and Supplier(s). If no subcontract work or purchases are proposed, the Bidder shall so state.

<u>Name of Proposed Subcontractor or Supplier</u>	<u>Description of Work Items to be Subcontracted and Major Item Purchase</u>	<u>Estimated Percent of Total Bid Price</u>
---	--	---

None

II-14. PLANT AND EQUIPMENT REQUIREMENTS

The Bidder proposes to utilize the following plant and equipment on-site (including equipment of Subcontractors):

<u>Type</u>	<u>Quantity</u>
<i>Najidal Boom Trucks</i>	<i>2</i>
<i>B-402 Drill Rig</i>	<i>1</i>
<i>chem Grout Pump</i>	<i>1</i>
<i>Welder</i>	<i>1</i>
<i>Service Truck</i>	<i>1</i>
<i>Misc. Hoses</i>	<i>1</i>
<i>Case Back Hoe</i>	<i>1</i>
<i>Monitoring Equipment</i>	<i>1</i>

III-3. CONSTRUCTION SCHEDULE

The Bidder shall submit as part of this proposal a summary schedule for start, duration, and completion of all bid items, using a bar chart format. This shall include some discussion of work to be completed, 1993-1996. These same items shall be addressed in the Work Plan to be submitted by the Bidder.

The bar graph construction schedule shows actual time estimates for work ready at the start of the year or some time when most work is ready. The dotted lines indicate work that becomes available at different times throughout the year.

III-4. PROPOSED NARRATIVE WORK PLAN

As part of the Bid proposal, the Bidder shall submit proposed narrative Work Plan. Subsequently, within five days after award, the Contractor shall formally submit for Metro review and concurrence the Work Plan with any modifications or details developed after the proposal submittal. The elements of the Work Plan shall be identifiable in the construction schedule (Bid Form III-3).

Mobilization of equipment should take approximately two weeks. In the two weeks submittals and equipment purchases would be finalized.

One crew and equipment would be utilized to abandon ~~and~~ install well inserts and extend wells. A drill crew and equipment would drill and install new wells and piezometers and remove silts from existing wells.

Additional work and mobilizations would involve one drill crew as required.

Work from 1993 to 1996 would involve one drill crew and equipment as required.

Additional heavy work will be done with additional drill crews and boom truck crews depending on the amount of work within one time frame.

This schedule of work should be accurate due to the fact that we have already worked on the site on a previous contract and the fact that we are well experienced in the hazardous well abandonment type of projects.

Oregon Monitor Well Constructor's License
This license, issued by the Water Resources Director, provides that:

JENSEN, [REDACTED] OF [REDACTED] 10238

may advertise, solicit, and enter into contracts with another person or entity for the construction, alteration, or abandonment of monitor wells in Oregon, provided this licensee holds a Monitor Well Constructor's license, file with the Director the \$4,000 surety bond required by ORS 637.75.

[Signature]
Director

This license becomes effective: 7/1/92
This license expires on: 6/30/97

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 92-1633 FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO THE COMPETITIVE PROCUREMENT PROCEDURES OF METRO CODE 2.04.053 AND AUTHORIZING A CHANGE ORDER TO THE DESIGN SERVICES AGREEMENT WITH PARAMETRIX, INC.

Date: June 16, 1992

Presented by: Jim Watkins

PROPOSED ACTION

Adopt Resolution No. 92-1633, which grants exemption from the competitive procurement process and authorizes execution of Change Order No. 9 to the Design Services Agreement with Parametrix, Inc. for engineering services related to the St. Johns Landfill Closure.

FACTUAL BACKGROUND AND ANALYSIS

In June 1990, Metro entered into a Design Services Agreement with Parametrix, Inc. for engineering services related to the St. Johns Landfill Closure. Under this Agreement Parametrix has ongoing responsibility for designing closure improvements, developing construction documents, rendering bidding assistance, and performing construction management services for the closure of the landfill.

Closure of the landfill includes necessary improvements to the network of groundwater monitoring wells in and near the landfill.

In February 1992, \$9,000 was authorized in Change Order No. 8 for Parametrix, Inc. to assist Metro staff with the procurement of groundwater monitoring well abandonment, construction, and repair services. In April, 1992, an additional \$3,200 of the regulatory contingency was authorized for negotiations concerning the above procurement with the Oregon Department of Environmental Quality (DEQ), for a total of \$12,200.

Metro staff is recommending Change Order No. 9 (attached hereto as "Exhibit A"), to provide for additional design and bidding assistance services, for the following reasons. As the project developed, the scope of work for this Request for Bids (RFB) was increased in order to result in a more cost-effective contract with a better economy-of-scale. Also, changed State regulations (Oregon Water Resources Department and Oregon Department of Environmental Quality) affected the scope of technical assistance required. The consultant's standard specifications for abandonment and construction of monitoring wells language was no longer applicable, the consultant was required to act as a liaison with the DEQ, and DEQ added work to the scope.

The work included in Change Order No. 9 could not have reasonably been anticipated by Parametrix or Metro at the onset of this project.

The provisions of Code Section 2.04.054(a)(3) prohibit contract amendments for Personal Services contracts in an amount exceeding \$10,000 unless the Metro Council, acting as the Contracts Review Board, shall have specifically exempted the contract amendment from the competitive procurement procedures of Section 2.04.053.

Metro staff requests the Contract Review Board to waive the competitive procurement procedures of Code Section 2.04.053 for the following reasons:

It is impractical to consider other vendors due to Parametrix, Inc.'s familiarity and experience with the site and other, integrated portions of the work;

The above contemplated work is logically viewed as part of the ongoing work of Parametrix, Inc., who will continue to perform engineering services related to landfill closure until 1996 - Metro's planning for landfill closure was never intended to be piecemeal and fragmented between consultants;

A reduction in project costs is unlikely to occur if a substitute vendor, unfamiliar with the project, is utilized;

Introducing a new vendor would seriously hamper the project and require additional staff time to coordinate and integrate the work;

To date, the work performed by Parametrix, Inc. has been efficient and satisfactory.

BUDGET IMPACT

The current fiscal year budget for St. Johns Landfill closure is \$643,000, for work under the design services agreement with Parametrix, Inc. Change Order No. 9 is for \$23,300, which is not expected to exceed this year's closure budget.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 92-1633.

JK:ay
STAF0616.RP2

Meeting Date: June 25, 1992
Agenda Item No. 8.3

RESOLUTION NO. 92-1625A

TRANSPORTATION AND PLANNING COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 92-1625, ENDORSING CITY OF PORTLAND AND TRI-MET APPLICATIONS FOR FHWA/FTA URBAN MOBILITY GRANT FUNDS

Date: June 11, 1992

Presented by: Councilor Washington

Committee Recommendation: At the June 9 meeting, the Transportation and Planning Committee voted 4-0 to recommend Council adoption of Resolution No. 92-1625. Voting in favor: Councilors Devlin, McLain, Buchanan, and Washington. Excused: Councilor Bauer

Committee Issues/Discussion: Andy Cotugno, Planning Director, presented the staff report. He explained that the Urban Mobility Grant funds are a demonstration category of funds solicited on a competitive basis by FHWA and FTA. There is a three step application process: solicitation and final proposal submission; screening and grant application submission; and final selection. For purposes of this resolution, we have just completed the first step.

He described the three proposals being submitted. They include: 1) a neighborhood rideshare co-op based on neighborhood of rider rather than employer destination; 2) establishment of travel allowance to mitigate employer parking fees; and 3) a transit freeway operations program using radio frequency identification tags.

Subsequent Action following Transportation and Planning meeting: On June 11, the Joint Policy Advisory Committee on Transportation (JPACT) met to consider an amended version of the resolution. The amended version removed the second proposal; establishment of travel allowance. The City of Portland suggested the change because they believe that there is not sufficient foundation laid to support this option. It would be necessary to form a more substantial coalition for the project to be successful. The option may be resubmitted at a later date. JPACT approved the A-version of the resolution, which appears in this packet as 92-1625A.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ENDORSING CITY) RESOLUTION NO. 92-1625 A
OF PORTLAND AND TRI-MET APPLICATIONS))
FOR FHWA/FTA URBAN MOBILITY GRANT) Introduced by
FUNDS) Richard Devlin, Chair
) Joint Policy Advisory
) Committee on Transportation

WHEREAS, The Regional Transportation Plan calls for Transportation Demand Management measures to reduce the need for new transportation facilities and maximize the utilization of existing and planned transportation facilities; and

WHEREAS, The Federal Highway Administration and the Federal Transportation Administration are soliciting proposals for grants to demonstrate innovative urban mobility projects; and

WHEREAS, The City of Portland and Tri-Met are proposing three such demonstration grants with the assistance of Metro and the Oregon Department of Transportation; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District:

1. Endorses the Neighborhood Rideshare Co-op to develop and test a two-year neighborhood-based rideshare matching program.

~~[2. Endorses the Travel Allowance to Encourage Employers to Charge for Employee Parking by using a travel allowance to mitigate employer parking fees.]~~

2. [3.] Endorses the Transit Freeway Operations Program to use radio frequency identification tags to improve travel speeds of transit and carpool vehicles at freeway ramp-meter locations.

3. [4.] Authorizes the City of Portland and Tri-Met to proceed

with submission of a full program proposal for consideration by
FHWA and FTA.

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

Jim Gardner, Presiding Officer

MOH:mk
92-1625.RES
6-1-92

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 92-1625A FOR THE PURPOSE OF ENDORING CITY OF PORTLAND AND TRI-MET APPLICATIONS FOR FHWA/FTA URBAN MOBILITY GRANT FUNDS

Date: May 21, 1992

Presented by: Andrew Cotugno

PROPOSED ACTION

Adopt Resolution No. 92-1625A endorsing two proposed demonstration grants and authorizing the City of Portland and Tri-Met to proceed with the submission of full program proposals on the following:

1. Neighborhood Rideshare Co-op to develop and test a two-year neighborhood-based rideshare matching program. The grant would assist in the identification and organization of a demonstration neighborhood, part-time staff, technical assistance and computer rideshare technology, and a final report summarizing results.
Proposed Applicant: City of Portland with
assistance from Tri-Met
2. Transit Freeway Operations Program to use radio frequency identification tags to improve travel speeds of transit and carpool vehicles at freeway ramp meter locations.
Proposed Applicant: Tri-Met with ODOT assistance

TPAC and JPACT have reviewed these grant proposals and recommend approval of Resolution No. 92-1625A.

FACTUAL BACKGROUND AND ANALYSIS

The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) are considering applications for demonstration grants for low-cost, innovative methods to manage urban transportation systems and improve urban mobility. FHWA and FTA indications are that a wide variety of proposals are acceptable. This is the second year they have solicited such proposals. This resolution endorsed two possible applications in response to these solicitations.

Neighborhood Rideshare Co-op

1. Proposed Concept

This project would test the effectiveness of neighborhood-based, rather than employment-based, rideshare matching and supporting programs as a way to overcome the barrier of sharing a ride with strangers and increased rideshare participation. The demonstration project will also test the ability of a neighborhood to organize around transportation needs of residents and accomplish a reduction in single-occupant vehicle traffic from their neighborhood.

The project would last two years, beginning with the selection of a target neighborhood group as home for the co-op. After the co-op is established, a baseline survey of the neighborhood would be conducted to determine modal share. The project would help fund part-time staff, technical assistance and computer technology to allow rideshare matching. The final product would be a report analyzing effectiveness of the co-op and documentation of its effect on modal share.

2. Description of the Problem to be Addressed

The Portland metro area's experience with rideshare matching has been in matching carpoolers based upon their destination, at work places or schools. Carpooling has also been promoted along specific travel corridors, but no effort has been made to promote and match carpoolers on the home end of their trip.

National experience has revealed that one barrier to forming carpools through a matching service is the fear or discomfort of riding with strangers. A neighborhood-based rideshare matching service may be one way to lower that barrier. The Alternative Transportation Committee of the Portland Traffic Safety Initiative identified a neighborhood rideshare co-op as a worthwhile project to pursue to promote ridesharing in the city of Portland.

Portland is an excellent city to test this concept because of its strong network of neighborhood associations. These organizations, which are active in a wide range of neighborhood issues, provide ready sources of contacts and volunteers.

3. Estimated Costs of the Project

Elements for grant funding would include a part-time staff coordinator, computer and software, a vehicle for low-cost occasional rentals to co-op members who don't have cars, promotional materials, taxi fares for a guaranteed ride home program and storefront office space. Dues from co-op members would eventually provide some ongoing funding needed to support the co-op after start-up.

Total two-year cost of the project is estimated to be \$71,280. This amount includes both local match and grant funding.

4. Relationship to Program Objectives

The proposal provides for a cooperative, innovative, low-cost public/private venture. The proposal will apply proven rideshare technology to a new approach.

Transit Freeway Operations

1. Proposed Concept

This project would use radio frequency identification tags to improve the traveling speed of transit and carpool vehicles on freeways and reduce the impact on bus schedule reliability resulting from the introduction of ramp meters at freeway entrances.

2. Description of Problem to be Addressed

Ramp meters result in considerable delay to buses that must use the ramps. In some cases, there is no space to provide a bypass lane for buses and carpools.

If the presence of a bus in the line of vehicles behind the signal can be detected, it may be possible to temporarily alter the timing of the ramp-metering signal to lessen the impact on the buses' running time. Carpools can use the lane if they can be distinguished from other vehicles. Their identification would allow lane-control signals or other devices such as gates to be used and vehicles that inappropriately use the lane can be detected and recorded.

3. Estimated Costs of the Project

Total project budget is estimated to be \$120,500 and is comprised of \$10,500 for I.D. tags; \$80,000 for four sites; and \$30,000 for engineering and design.

4. Relationship to Program Objectives

This proposal is consistent with the Urban Mobility Program goals because it is:

- . low-cost
- . innovative
- . intermodal
- . a cooperative venture of two transportation agencies
- . a new application of proven technology

The proposal, if implemented, would reduce congestion and improve air quality in a congested freeway corridor by mitigating the present disadvantage that transit has relative to single-occupant vehicles at metered freeway entrances.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 92-1625A.

Meeting Date: June 25, 1992
Agenda Item No. 8.4

RESOLUTION NO. 92-1626

TRANSPORTATION AND PLANNING COMMITTEE REPORT

**CONSIDERATION OF RESOLUTION NO. 92-1626, ESTABLISHING THE
REGION'S PRIORITY TRANSPORTATION ENHANCEMENT PROGRAM PROJECTS**

Date: June 11, 1992

Presented by: Councilor McLain

Committee Recommendation: At the June 9 meeting, the Transportation and Planning Committee voted 4-0 to recommend Council adoption of Resolution No. 92-1626. Voting in favor: Councilors Devlin, McLain, Buchanan, and Washington. Excused: Councilor Bauer

Committee Issues/Discussion: Andy Cotugno, Planning Director, presented the staff report. He explained that the Transportation Enhancement Program projects fall within the new "flexible funding" categories created by passage of the Intermodal Surface Transportation Efficiency Act (ISTEA). Enhancement Program funds are specifically made available for bike path, historic preservation, scenic easements, wetlands preservation, etc.

Evaluation of these type of projects is new to Metro. We have no previous experience in evaluation or solicitation of such projects, except for bike paths.

In March Metro adopted, and submitted to the Oregon Department of Transportation (ODOT), comments on the six-year program and asked them to consider three things relative to "flexibility". They asked: 1) if ODOT planned to spend transportation enhancement funds, that we be permitted to submit proposals; 2) if ODOT planned to spend Air Quality funds, that we be permitted to submit projects; and 3) if ODOT would be programming the major categories of funds (i.e. the National Highway System and Surface Transportation Program) for major new highway projects that we be allowed to "flag" some of those projects for possible substitution.

This list of projects for Enhancement Funds is the first in response to these requests. We are going through a parallel process on Air Quality funds, but are not quite finished. This should be completed by next month. The request for "flagging" is on hold until completion of the six-year program. Mr. Cotugno anticipated that there will not be much in that program, so the process for Metro may be fairly simple.

ODOT is now indicating that they do not plan to spend all of the Enhancement Fund money, that they need to set up a state-wide process. This recommendation takes a compromise approach by requesting that ODOT spend two years worth of the money and not wait until a state-wide process is in place.

Attachments to the staff report illustrate the solicitation and ranking process used by Metro. A prioritized list was generated and a estimation made regarding what two years of funding would be.

The amount estimated comes to approximately one-half of the total fund.

This resolution attempts to second guess what the Transportation Commission will decide. A two level list of suggested projects is attached to the staff report. If they approve the two year allocation, then the first part of the list is our submission. If they reject the two year idea and choose to allocate all of the moneys, then the expanded version of the first list will be considered.

In response to a question regarding the criteria used for evaluation, Mr. Cotugno explained that there were different categories of projects including: 1) bike and pedestrian; 2) environmental/scenic; and 3) historic. If a project qualified for more than one category, it was allowed bonus points.

Councilor Devlin elaborated that if ODOT waits for a state-wide process to be in place before allocating any funding, then Metro will need to reevaluate the entire project. Mr. Cotugno added that while this is possible, it is more probable that two year's worth of funding will be allocated in July, with an response to this agency in October.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ESTABLISHING)	RESOLUTION NO. 92-1626
THE REGION'S PRIORITY TRANSPOR-)	
TATION ENHANCEMENT PROGRAM)	Introduced by
PROJECTS FOR INCLUSION IN ODOT'S)	Richard Devlin, Chair
SIX-YEAR PROGRAM)	Joint Policy Advisory Com- mittee on Transportation

WHEREAS, The Intermodal Surface Transportation Efficiency Act of 1991 requires the state to allocate 10 percent of its Surface Transportation Program (STP) funds to statewide Transportation Enhancement projects to address general environmental improvement activities; and

WHEREAS, ISTEA stipulates that states shall allocate Transportation Enhancement funds in consultation with the designated metropolitan area; and

WHEREAS, Metro is the designated MPO for the Portland metropolitan area; and

WHEREAS, the state is currently programming funds, including for the first time the new Transportation Enhancement Program funds, through the update of the Oregon Department of Transportation's 1993-1998 Six-Year Transportation Improvement Program; and

WHEREAS, In the absence of established ranking criteria and guidance from the Regional Transportation Plan (RTP), the Joint Policy Advisory Committee on Transportation has used interim criteria to develop a consensus as to the region's priority transportation enhancement projects for inclusion in the first two years of the Six-Year Program update; now, therefore,

BE IT RESOLVED:

1. That the Council of the Metropolitan Service District recommends the state program a maximum of two years of Transportation Enhancement funds for the 1993-1998 Six-Year Program update;

2. That the Council of the Metropolitan Service District adopts the Transportation Enhancement projects identified as project Nos. 1, 3, 6 and 7 in Exhibit A; project No. 3 in Exhibit B; and project No. 1 in Exhibit C as the region's priorities for inclusion in the 1993-1998 ODOT Six-Year Transportation Improvement Program for the first two years of the program; and that projects No. 1-7 in Exhibit A; projects 1-5 in Exhibit B; and projects 1-3 in Exhibit C be considered as the region's six-year priorities in the event the decision is made to allocate the Transportation Enhancement funds for the full six-year period.

3. That staff be directed to forward these priorities in testimony during the appropriate hearings on the Six-Year Program update by the Oregon Transportation Commission.

4. That prior to establishing the Portland metropolitan area Transportation Enhancement-related priorities for the next update of ODOT's Six-Year Program, TPAC shall coordinate the development of a regional Transportation Enhancement Program for inclusion in Metro's Transportation Improvement Program and that ranking criteria be developed to evaluate Transportation Enhancement proposals.

5. That staff be directed to work with the state and local jurisdictions and agencies to identify and incorporate into the RTP appropriate Transportation Enhancement-related recommendations and implementation measures which result from Metro's

Region 2040 Study, Metro's Greenspaces Program, regular updates to the RTP, and other state, regional and local planning activities, as necessary.

6. That ODOT be encouraged to incorporate a public review phase into its statewide transportation enhancement prioritization and selection process.

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

Jim Gardner, Presiding Officer

MJH:lmk
92-1626.RES
6-1-92

EXHIBIT A

Transportation Enhancement Projects - Bike/Ped

Table 1. Ranked Projects (15 possible points)			
Name	Jurisdiction	\$Cost	Rank(Score)
1. Springwater Corridor	COP, Mult. Co. Clack. Co., Gresham	3.0 M	1 (16.5)
2. Willamette River Bridges Accessibility Study	COP, Mult. Co.	100,000	2 (15)
3. Fanno Creek Bike Path	COB, Wash. Co.	400,000	3 (14)
4. Willamette Greenway Trail Completion	COP	3,886,100	3 (14)
5. Oregon Boardwalk	COP	1,700,000	3 (14)
6. Clackamas/Willamette River Bike Path	Oregon City	1,175,000	3 (14)
7. Oregon Electric ROW	Tualatin Hills Park & Rec Dist	135,000	3 (14)
8. Canby Ferry to SR 170	Canby	118,750	4 (13)
9. Greenway Corridor from Portland to Pacific Coast	Conservation Fund	30,000	4 (13)
10. Terwilliger Bike Path	COP	236,000	5 (12.5)
11. W. Delta Park-40 Mile Loop	COP	240,000	6 (12)
12. Marquam Trail	COP	54,000	6 (12)
13. Powerline ROW	Tualatin Hills Park & Rec	698,000	6 (12)
14. T. V. Hwy Transit Access	Wash. Co.	280,000 - 1.02 M	6 (12)
15. Bike/Ped Improvements for Highway 26	Sandy	66,700	7 (11)

BIKE/PED CON'T			
Name	Jurisdiction	\$Cost	Rank (Score)
16. 40 Mile Loop-Two Rivers	Mult. Co.	450,000	7 (11)
17. Transit Mall Extension	COP	1,280,000	7 (11)
18. Sidewalk Improvements on Major Streets	Wash. Co.	1.5-2.5 M	8 (10)
19. Ped/Bike Pathways near Schools/Parks	Clack. Co.	2,000,000	8 (10)
20. Blue Lake Road Bike/Ped Path	Mult. Co.	91,000	8 (10)
21. Hwy 26 Access Plan	Sandy	400,000	9 (9)
22. Portland Traction Right-of-Way Bike Trail	Clack. Co.	700,000	9 (9)
23. Agnes Avenue Bike/Ped Improvements	Oregon City	1,238,000	9 (9)
24. Columbia S. Shore-40 Mile Loop	COP	1,970,300	10 (8)
25. Fairview/223rd	Mult. Co.	120,000	10 (8)
26. Golf Creek Bike Path	COB/Wash. Co.	40,000	10 (8)
27. Abernethy Creek Ped/Bike Path	Oregon City	1,206,000	10 (8)
28. Bike Link/185th: T.V. Highway to Bany	Wash. Co.	375,000	10 (8)
29. Bike Link/T.V. Hwy: 209th to 229th	Wash. Co.	583,000	10 (8)
30. Bike Link/Walker: Hwy 217-Cedar Hills	Wash. Co.	741,000	10 (8)
31. Bike Link/Walker Rd: 173rd-185th	Wash. Co.	893,000	10 (8)
32. Bike Link/170th: Baseline-Reusser	Wash. Co.	1,545,000	10 (8)
33. Bike Link/Denney Road: Schools-Beaverton C.L.	Wash. Co.	1,584	10 (8)

BIKE/PED CON'T			
Name	Jurisdiction	\$Cost	Rank (Score)
34. Bike Link/N.E. Jackson School Rd: Sunrise-Grant	Hillsboro	50,000	10 (8)
35. Bike Link/Glencoe Rd: Glencoe H.S. to Grant St.	Hillsboro	80,000	10 (8)
36. Bike Link/S.E. 21st: Maple to Cypress	Hillsboro	39,300	10 (8)
37. Bike Link/S.E. Bentley: 32nd to 40th	Hillsboro	37,000	10 (8)
38. Bike Link/N.W. 17th: Sunrise to Barberry	Hillsboro	35,150	10 (8)
39. Curb Ramps at 250 Intersections	COB	225,000	10 (8)
Total for Ranked Projects		27,719,884 to 31,239,884	

EXHIBIT A

Transportation Enhancement Projects - Bike/Ped

Table 2. Unranked Projects		
Name	Jurisdiction	Reason
1. Bike/Ped Facilities on NW Cornell	COP Mult. Co.	Unable to complete in two years
2. Ped/Access from N.Portland to Smith/Bybee Lakes	COP	COP request
3. Ped Trail along Carey Blvd.	COP	COP request
4. Broughten Beach Access Ramp	COP	COP request
5. Bike Path from I-5 to NE 47th	COP	Unable to complete in two years
6. Lloyd Blvd. Pathway	COP	COP request
7. Overpass for Wildwood Trail over W.Burnside	COP	COP request
8. Bike/Ped Facilities on Skyline Dr.	COP	COP request
9. Ped/Bike Ramp from Esplanade to Burnside Bridge	COP	COP request
10. Improvements to Trail System at Powell Butte	COP	Recreation focus
11. Develop Access Plan to Oak Bottom Refuge	COP	Recreation focus
12. Bike/Ped Facilities along SW 39th/40th to Stevensen	COP	Unable to complete in two years
13. Bike/Ped Facilities on SW Multnomah	COP	COP request
14. Ped Improvements along SW Capitol	COP	COP request
15. Sidewalk along SW Capitol Hill Rd: Vermont to Barbur	COP	COP request

BIKE/PED CON'T		
Name	Jurisdiction	Reason
16. Sidewalk along SW Bertha Bl: Vermont to 30th	COP	COP request
17. Sidewalk along SW B.H. Highway: Hillsdale to SW Shatteek Rd.	COP	COP request
18. Golf Creek Walking Trail	Wash. Co.	Unable to complete in two years
19. Boardwalk Foot Trail along Highway 219	Hillsboro	Hillsboro request
20. Ped Facilities for Transit Access in High Use Transit Corridors	COP	COP request
21. Ped Path: Tualatin Hills Nature Park to Merle Rd. LRT station	Tualatin Hills Park&Rec Dist	Unable to complete in two years

EXHIBIT B

Transportation Enhancement Projects - Historic

Table 1. Ranked Projects (15 possible points)			
Name	Jurisdiction	\$Cost	Rank(Score)
1. Remodel Historic Union Station	COP	900,000	1 (17)
2. Union Station Passenger Shelter	COP	400,000	1 (17)
3. Columbia River Highway Interpretive Panels	Mult. Co.	10,000	2 (16)
4. Canby Ferry	Clack. Co.	500,000	3 (13)
5. Acquire Pristine Segments of Barlow Rd.	Clack. Co.	437,000	3 (13)
6. Terminus and Station for Tillamook Pass. Train	Hillsboro	50,000	4 (10)
7. Purchase Historic Site on Hwy 26	Sandy	300,000	4 (10)
8. Upgrade Troutdale Rail Depot	Mult. Co.	35,000	5 (8)
9. Preserve Abernethy Parkway and Rebuild Bridge	Clack. Co.	2,300,000	5 (8)
Total		4,932,000	

EXHIBIT B

Transportation Enhancement Projects - Historic

Table 2. Unranked Projects		
Name	Jurisdiction	Reason
1. Waterboard/Old Canemah Park Improvements	Oregon City	Recreation focus
2. Union Station Ped Crossing	COP	Recreation focus

EXHIBIT C

Transportation Enhancement Projects - Scenic

Table 1. Ranked Projects (12 possible points)			
Name	Jurisdiction	\$Cost	Rank(Score)
1. Line Extension to Willamette Shore Trolley	Lake Oswego	800,000	1 (11)
2. Terwilliger Bike Path	COP		1 (11)
3. Visitor Wayside: 99E	Canby	315,000	2 (9)
4. Landscape I-205 @ Johnson Creek	Clack. Co.	500,000	3 (4)
5. Landscape Hwy 217	COB	500,000	3 (4)
6. Landscape T.V. Hwy	COB	600,000	3 (4)
7. Landscape Six Arterials in Mult. Co.	Mult. Co.	350,000	4 (2)
Total		3,065,000	

EXHIBIT C

Transportation Enhancement Projects - Scenic

Table 2. Unranked Projects		
Name	Jurisdiction	Reason
1. Provide Decorative Lighting for St. Johns Bridge	COP	COP request
2. Improve Intersection of Stafford Rd. and Borland Rd.	Clack. Co.	Strictly Highway Related

EXHIBIT D

Transportation Enhancement Projects - Environmental

Table 1. Ranked Projects (12 possible points)			
Name	Jurisdiction	\$Cost	Rank(Score)
1. Retrofit Compost Filtration System to Remove Water Runoff	Wash. Co.	280,000	1 (7)

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 92-1626 FOR THE PURPOSE OF ESTABLISHING THE REGION'S PRIORITY TRANSPORTATION ENHANCEMENT PROGRAM PROJECTS

Date: May 21, 1992

Presented by: Andrew Cotugno

PROPOSED ACTION

This resolution would establish the region's priority Transportation Enhancement Program projects for funding in the 1993-1998 Oregon Department of Transportation (ODOT) Six-Year Transportation Improvement Program (Six-Year Program). The region's priorities are consistent with Transportation Enhancement Program eligibility standards as listed in Section 1007(c) of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991.

Prior to commencing construction, local governments and Metro must demonstrate that these projects are included in the Regional Transportation Plan (RTP) and Metro's Transportation Improvement Program (TIP) and are consistent with or conform to local comprehensive plans (transportation elements, public facility plans, and/or transportation system plans), the statewide planning goals, and the interim conformity guidance Clean Air Act Amendments of 1990.

The Transportation Policy Alternatives Committee (TPAC) assisted in the identification of the project list, the development and application of the ranking criteria, and the provision of criteria-related information. Additional criteria-related information was provided from other appropriate jurisdictional and agency staff and from community experts. The Joint Policy Advisory Committee on Transportation (JPACT) is scheduled to review and take action on the priorities on June 11. The priorities will be forwarded for Oregon Transportation Commission (OTC) consideration in either July or August.

TPAC supported the recommendation for approval of Resolution No. 92-1626 and emphasized the need for public input into ODOT's selection process at its May 29 meeting.

FACTUAL BACKGROUND AND ANALYSIS

In February, as part of its review of Six-Year Program priorities, TPAC initiated a solicitation process to develop a recommendation to ODOT for funding under the new Enhancement Program. A process was also established in order that the region's recommended enhancement projects could be forwarded to the OTC by June 30.

Eligible activities in accordance with the new ISTEA are as follows:

"The term 'transportation enhancement activities' means, with respect to any project or the area to be served by the project, provision of facilities for pedestrians and bicycles, acquisition of scenic easements and scenic or historic sites, scenic or historic highway programs, landscaping and other scenic beautification, historic preservation, rehabilitation and operation of historic transportation buildings, structures or facilities (including historic railroad facilities and canals), preservation or abandoned railway corridors (including the conversion and use thereof for pedestrian or bicycle trails), control and removal of outdoor advertising, archaeological planning and research, and mitigation of water pollution due to highway runoff."

Prior Activities

Project solicitation activities occurred during March and April. A preliminary list was presented for TPAC review at its May 1 meeting. The list included 80 projects valued in excess of \$80 million. In review of the project list, TPAC noted that a number of worthy projects are included and should be considered for programming. TPAC also recognized that the region lacks established comprehensive planning or programming to guide regional prioritization. As a result, TPAC recommended the following on May 1:

- . The region pursue programming for up to two years of funding in order to address established high-priority projects or critical needs.
- . Appropriate Transportation Enhancement Program project ranking criteria should be developed through Metro and applied for future updates to the Six-Year Program. As appropriate, additional Federal Highway Administration (FHWA) guidance should be utilized.
- . To the degree possible, funds should be used to implement projects. System planning and program development related to the Transportation Enhancement Program is necessary, but should be done using regular planning funds (PL, HPR, etc.) and addressed through the Unified Work Program (UWP) process.
- . To the degree possible, any projects approved for the 1993-1998 Six-Year Program include an evaluation component.

To address the first two years of the program, two special TPAC meetings were held in early May. The first identified project screening and ranking criteria and the second applied the criteria to each of the submitted projects. In order to be ranked, a project had to be consistent with each of the following screening criteria:

- . Projects are contained in an adopted plan.

- . Projects can be started within two years.
- . Projects fall within the eligible activities listed in Section 1007(c) of ISTEA relative to transportation enhancements..

The interim transportation ranking criteria are included in Attachment A. The criteria correspond to and consolidate qualifying transportation enhancement activities into four general categories: 1) bicycle/pedestrian; 2) historic; 3) scenic; and 4) environmental. Bonus points were awarded to projects if they provided for more than one enhancement (i.e., scenic and historic qualifies for one extra bonus point; scenic, historic, and bike/pedestrian qualifies for two, etc.).

Assisting TPAC in the ranking procedure were appropriate agency and jurisdictional staff and community experts knowledgeable in the various enhancement categories. In addition to participation by citizen TPAC members, the process provided a forum for public comment on the process and the proposals. As a result, TPAC recommends that ODOT be encouraged to develop a public forum as part of its process to identify priority enhancement projects. Currently, ODOT is proposing that a "stakeholders" group of government representatives (MPOs and appropriate state agencies) be convened to develop statewide priorities. TPAC suggests the stakeholders' group conduct a public hearing or meeting to solicit comment on its recommendations. The hearing can be scheduled prior to submission of priorities to the Oregon Transportation Commission.

Portland Area Transportation Enhancement Priorities

Exhibits A through E to the resolution show the results of the ranking process. The highest ranking overall projects were the Union Station Remodel and Union Station Shelter, both with 17 out of a possible 15 points (including bonuses). Both projects were categorized as "historic" (see Exhibit B, project Nos. 1 and 2). The Springwater Corridor was second with 16.5 out of a possible 15 (Exhibit A, No. 1). The highest ranking scenic projects included the Line Extension to Willamette Shore Trolley in Lake Oswego and the Terwilliger Bike Path Scenic Easement (Exhibit C, Nos. 1 and 2). Only one environmental project was ranked, Retrofit Compost Filtration in Washington County, and received 7 out of a possible 12 points.

The remainder of the exhibits shows the scores of other ranked projects and which projects were not ranked and why. Those not ranked were generally not consistent with the screening criteria.

At the May 15 special TPAC meeting, Metro staff was asked to make a recommendation for developing the region's priority Transportation Enhancement projects and present them back to TPAC on May 29. Based on previous TPAC guidelines, based on a desire to evenly distribute program benefits regionwide, and with a preference towards multi-jurisdictional project proposals, Metro staff recommended the following projects be considered the regional

priority projects for programming in the first two years of the 1993-1998 Six-Year Program:

<u>Project</u>	<u>Jurisdiction</u>	<u>Cost</u>	<u>Pts. Pts./Poss.</u>
1. Springwater Corr. Corridor	City of Portland, Clack./Multnomah Counties, City of Gresham	\$3.0 million	16.5/15
2. Col. Highway Interpretive Panels	Multnomah County	\$10,000	16/15
3. Fanno Creek Bike Path	Washington County	\$400,000	14/15
4. Clack/Willamette River Bike Path	Clackamas County	\$600,000	14/15
5. Oregon Electric Right-of-way	Washington County	\$135,000	14/15
6. Line Extension to Willamette Shore Trolley	Clackamas County (Lake Oswego)	\$800,000	11/12

A complete description of each project as submitted is included as Attachment B.

If a decision is made by the OTC to program the full six-year allocation, Metro staff proposes that projects 1 through 7 of Exhibit A, projects 1 through 5 of Exhibit B, and projects 1 through 3 of Exhibit C be recommended as Portland metropolitan area Transportation Enhancement funding priorities for the 1993-1998 Six-Year Program.

Project Costs

The total estimated cost of the six projects is \$4.945 million. The two-year Transportation Enhancement Program Oregon allocation is approximately \$9.7 million and is eligible statewide. The regional request is half that total. The projects identified as six-year priorities total \$13.658 million of a total Oregon allocation of \$30.93 million.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 92-1626.

Attachment A

Project Score Sheet
Transportation Enhancement:
SCENIC

Legend

- 0= Does Not Meet Criteria
- 1= Minimally Addresses Criteria
- 2= Moderately Addresses Criteria
- 3= Fully Addresses Criteria

Scenic	Score
1. Included in Scenic or View Corridor	_____
-- designated scenic or view corridor	
-- regional "gateway" or entry-point	
-- has relationship to other scenic site, etc.	
2. Are Enhancement Funds Critical?	_____
-- other dollars available	
-- restricted by state constitution	
-- cannot be integrated with other CIP/TIP project	
3. Size of Need/Market	_____
-- number of potential users	
-- large geographic or multi-jurisdictional	
-- high certainty for use (existing counts, etc.)	
4. Local Commitment	_____
-- past dollars spent	
-- private dollars spent	
-- community support	
-- planned future phases	
Total Score	_____

MH
5/15/92

Attachment A

Project Score Sheet
Transportation Enhancement:
HISTORIC

Legend

- 0= Does Not Meet Criteria
- 1= Minimally Addresses Criteria
- 2= Moderately Addresses Criteria
- 3= Fully Addresses Criteria

Historic	Score
1. Historic Significance	_____
-- National Register	
-- State	
-- local	
2. Are Enhancement Funds Critical?	_____
-- other dollars available	
-- restricted by state constitution	
-- cannot be integrated with other CIP/TIP project	
3. Size of Need/Market	_____
-- number of potential user	
-- high certainty for use (existing counts, etc.)	
4. Significance of Transportation Function	_____
-- provides/restores transportation function	
-- historic renovation only	
-- historic and transportation	
5. Local Commitment	_____
-- past dollars spent	
-- private dollars spent	
-- community support	
-- planned future phases	
Total Score	_____

MH
5/15/92

Attachment A

Project Score Sheet
Transportation Enhancement:
ENVIRONMENTAL

Legend

- 0= Does Not Meet Criteria
- 1= Minimally Addresses Criteria
- 2= Moderately Addresses Criteria
- 3= Fully Addresses Criteria

Environmental	Score
1. Degree of Severity	_____
-- Size	
-- other	
2. Are Enhancement Funds Critical?	_____
-- other dollars available	
-- restricted by state constitution	
-- cannot be integrated with other CIP/TIP project	
3. Relationship to environmental resource?	_____
-- included in resource plan	
-- other	
-- access to transit	
-- service for bike and ped. and ADA	
4. Local Commitment	_____
-- past dollars spent	
-- private dollars spent	
-- community support	
-- planned future phases	
Total Score	_____

MH
5/15/92

Attachment A

Project Score Sheet
Transportation Enhancement:
BICYCLE/PEDESTRIAN PROJECTS

Legend

- 0= Does Not Meet Criteria
- 1= Minimally Addresses Criteria
- 2= Moderately Addresses Criteria
- 3= Fully Addresses Criteria

Bike/Ped	Score
1. Does the project provide for a critical link or access?	_____
2. Are Enhancement Funds Critical? -- other dollars available -- restricted by state constitution -- cannot be integrated with other CIP/TIP project	_____
3. Size of Need/Market -- number of potential users -- large geographic or multi-jurisdictional -- high certainty for use (existing counts, etc.)	_____
4. Multi- or Inter-Modal -- access to transit -- service for bike and ped. and ADA	_____
5. Local Commitment -- past dollars spent -- private dollars spent -- community support -- planned future phases	_____
Total Score	_____

MH
5/15/92

ATTACHMENT B

1. SPRINGWATER
CORRIDOR

**ISTEA Fund TPAC Background Report for:
Springwater Corridor**

1. Is it in an adopted plan? If yes, identify the plan.

This project completes the southern portion of the *40 Mile Loop Master Plan*. It also complies with *City of Portland Park Futures* document, the *Johnson Creek Resource Management Plan* and several neighborhood plans.

2. Does it tie into the existing transportation system?

Over 17 mile of smooth even grade along with separation from road right of ways makes the Springwater Corridor an ideal bicycle commuter route. It has direct connections with the I-205 bike trail and designated off street bike routes at 182nd/Highland Road, Eastman Parkway and Birdsdales Road.

3. Does it meet the needs of more than one jurisdiction?

The project passes through Clackamas County, Multnomah County, Cities of Milwaukee, Portland, Gresham and Boring. Additionally, the corridor continues beyond Portland's ownership at Boring and falls into the jurisdiction of State Parks, Estacada and Mt. Hood National Forest.

4. Will it have a broad range of users?

FAUNA, Friends of Johnson Creek, 40 Mile Loop Land Trust, Southeast Uplift, SOAR, Oregon Equestrian Trails, Oregon Road Runners Club, Rose City Relay, Volkspart, Portland Urban Mountain Peddlers, ICU Skate and Portland Area Bicycle Coalition have all provided input in the design process of this project and have expressed a strong interest in using the corridor.

5. Will it leverage other funds, either existing or committed?

Matching funds exceeding 20% will be leveraged from donated labor from the US Marines, the City of Gresham, the Portland park trust fund and the Portland Park Levy. These dollars committed.

6. Is it consistent with existing land use?

The corridor is currently zoned open space with a transportation overlay. The development of this as a bicycle/recreation corridor is consistent with existing land use.

7. Is there a broad range of community support? Briefly explain.

In addition to the support base groups mentioned in question 4, a friends group was formed approximately 5 months ago. This friends group already has over 100 members. In a door to door survey conducted by PSU students last spring, 70% of all adjacent businesses and

residences favored development of the corridor for recreation use.

8. Does it allow an historic transportation facility to continue use as a transportation facility?

Historically the corridor was a railroad. As part of the condition of sale, a reversionary clause was included which allows future use of the corridor by rail if the need arises. One of our development goals therefore, is to maintain the linear integrity of the corridor. Technically, the corridor will remain a transportation facility.

9. Does it allow an historic transportation facility to continue use as an alternate use?

Yes, see question #8 above.

10. Does it provide for alternate modes?

All non-motorized forms of transportation will be permitted on the corridor. This includes bicycles, equestrians, pedestrians, etc.

11. Briefly define the historic significance of the project, the significance of its transportation service and its environmental impact to be mitigated.

The corridor was developed in 1903 for rail transportation purposes. It falls within the Johnson Creek Basin area and it serves as the recreation component to the *Johnson Creek Resource Management Plan*. The corridor parallels Johnson Creek and has numerous wetlands within it. These wetlands will be enhanced and serve as an educational resource for all trail users.

THE SPRINGWATER CORRIDOR

A Transportation Enhancement Activities Project

The Springwater Corridor is a 16.5 mile long abandoned rail corridor that was acquired in 1990 by the City of Portland, Bureau of Parks and Recreation. The acquisition and development of the corridor are an important step forward in an ongoing effort to complete the 40 Mile Loop. The Springwater Corridor will parallel Johnson Creek and extend the Loop from the Willamette River through Gresham to Troutdale and Boring.

This Corridor is ideal for providing a southeast connection to the Loop. For the most part, it is well-separated from both road right-of-way and neighboring residential areas. The smooth, even grade required for the passage of trains will be ideally suited to hiking and biking long distances, making it accessible to all age groups.

Because of its location, it will also serve as an important alternative transportation commuter route, linking employment centers with residential neighborhoods. The route it travels is a scenic one, encompassing wetlands and buttes, agricultural fields and pastures, residential and historic sites. The right-of-way can accommodate a variety of uses, since it varies in width from 60' to 200' in width; most of it is 100' wide.

In addition, ownership of the line on the other side of Boring, as far as Estacada, is currently held by the State. This section of the Springwater Line was acquired by ODOT 20 years ago, and is under the management of State Parks. The Springwater Corridor serves not only the needs of the 40 Mile Loop, but offers the real possibility of a trail connection from Mt. Hood, through the Mt. Hood National Forest, directly to downtown Portland.

The corridor is preserved for future use by an interim rails use clause as part of the abandonment process. In the meantime, development of the corridor envisions a surfaced trail throughout its length, including a shared use agreement for the 5-mile section west of McLoughlin, which is still a working short-line railroad (the East Portland Traction Co.) and is not owned by the City of Portland. The connection across McLoughlin will be made via the new Tacoma Street Overpass. Six trailhead access points will be incorporated into the final plan. A separated equestrian trail will be accommodated in the eastern sections. Signage, street crossings, and bridge improvements are part of the plan.

The plan is divided into three phases in order to facilitate construction. First phase development includes all needed property acquisition (for trailheads and a linkage to the Boring - Estacada section), surfacing for six miles of trail, and safety improvements for bridges and street crossings. The attached construction cost estimates outline details for what is included in each of the phases. The full 21.5 mile package represents a total project that has been coordinated with each of the involved jurisdictions and communities: Portland, Milwaukie, Gresham, and Boring, and Multnomah and Clackamas Counties.

The Oregon Department of Transportation has been a partner in the progress to date. The 40 Mile Loop was appointed as a State-designated Trail by ODOT in 1987. Further, acquisition of the Springwater Corridor was the result of a three-party agreement between the Portland Traction Co. line, ODOT, and the City of Portland.

Implementation of the first phase of the Springwater Corridor is ready to go as soon as funding is approved. It will benefit the entire region, and enjoys broad public support. The Springwater Corridor meets all the criteria of the recommended "transportation enhancement activities" and is a creative way to meet the goals of a multi-modal transportation system.

RESOLUTION NO. **34960**

Designate the Springwater Corridor as the City's immediate first priority for transportation enhancement funds from the federal Intermodal Surface Transportation Efficiency Act of 1991 (Resolution).

WHEREAS, the City of Portland has designated a series of recreational trails in its Comprehensive Plan that encircle the metropolitan area, connecting its parks and scenic corridors; and

WHEREAS, the 40 Mile Loop Master Plan includes those recreational trails as recommended routes for a connected system of parks and open spaces; and

WHEREAS, Resolution No. 33937, adopted by the Portland City Council on August 28, 1985, resolved that the City of Portland would join with Multnomah County, Troutdale and Gresham to implement the 40 Mile Loop Master Plan by 1995; and

WHEREAS, Ordinance No. 161737, March 1989, authorized the City of Portland to acquire title to the Springwater Corridor as a strategic element of the 40 Mile Loop; and

WHEREAS, the Springwater Corridor will serve as both a recreational and an alternative transportation route; and

WHEREAS, use of the Springwater Corridor as a pedestrian and bicycle trail is included in the City's Arterial Streets Classification Policy; and

WHEREAS, development funds for the Springwater Corridor need to be secured; and

WHEREAS, the Federal Surface Transportation Efficiency Act of 1991 authorized a Surface Transportation Program (Section 132) which specified that 10% of the funds must be spent on "transportation enhancements;" and

WHEREAS, one of the enhancements listed under the definition of "transportation enhancements" includes "preservation of abandoned railway corridors including the conversion and use thereof for pedestrian and bicycle trails;" and

WHEREAS, the Springwater Corridor will preserve an abandoned railway corridor while converting it for use as a pedestrian and bicycle trail; and

WHEREAS, the Springwater Corridor is eligible for funding by the federal government under its Surface Transportation Program;

NOW, THEREFORE, BE IT RESOLVED that the City of Portland shall request federal support from the Oregon Department of Transportation for the Springwater Corridor as the City's immediate first priority for transportation enhancement funds.

Adopted by the Council, **FEB 19 1992**

Commissioner Mike Lindberg
Mary Anne Cassin
February 11, 1992

BARBARA CLARK
Auditor of the City of Portland
By

W. J. Bauere

SPRINGWATER CORRIDOR PRELIMINARY COST ESTIMATES FOR CONSTRUCTION

PHASE I \$2,859,480
PHASE II 2,598,810
PHASE III 1,456,920

PHASE I DETAILS:

- Safety Improvements
 - Trestle repairs
 - Intersection Warnings:
 - Flashing lights
 - Full signals

- Acquisition
 - 4 trailhead sites
 - Missing ¼ mile link in Boring (connecting to State-owned section).

- Trail Enhancement
 - 6 miles of trail surfacing
 - Planting
 - Signage
 - Gresham's trail surfacing

PHASE I MATCHING FUNDING 92-93

Amount:	Item:	Source:
\$165,000	Trestle repairs	General fund and donations
150,000	Gresham's expended	Bond
200,000	Gresham's committed	Bond
50,000	Land & Water Fund	Grant
50,000	Park Trust	Match to L&WCF
40,000	Trail Improvements	Levy

\$655,000 TOTAL (More than required 20% minimum match required of \$571,896)

FUTURE PHASES:

PHASE II DETAILS:

- Trailhead Development (2)
 - Restrooms
 - Parking lot
 - Lighting
 - Signage

- Trail Enhancement
 - 6 miles trail surfacing
 - 8.5 miles equestrian trail

- Gresham's Trail Completion

PHASE III DETAILS:

- **Trailhead Development (2)**
 - Restrooms
 - Parking lot
 - Lighting
 - Signage

- **Trail Enhancement**
 - 5 miles trail surfacing
 - Fencing

**Springwater Corridor - Gresham to Boring
(property acquisition and trail improvement)**

\$102,360

1. Is it in an adopted Plan?

Yes, the Clackamas County Comprehensive Plan has a policy to support acquisition and development of abandoned rights-of-way for pedestrian/bikeways.

2. Does it tie into the existing transportation system?

Yes, this would complete a "missing link" to allow for a trail connecting to the 40-mile loop and southward to forest service trails going to destinations such as Timothy Lake.

3. Does it meet the needs of more than one jurisdiction?

Yes, Clackamas County, Gresham, Multnomah County, Portland.

4. Will it have a broad range of users?

Yes, the proposed design is for pedestrians, bicyclists, and equestrians.

5. Will it leverage other funds?

Yes, Clackamas County is prepared to provide the match. Purchase of this "missing link" would allow for better use of the public investment that has already been made on other segments of the trail.

6. Is it consistent with existing land use?

Yes, the trail would pass through a rural area with scenic and historical qualities.

7. Is there a broad range of community support?

Yes, the Boring Community Association supports this trail and has offered to provide volunteer skilled expertise and manpower.

8. Does it allow an historic transportation facility to continue use as a transportation facility?

Yes, with a change of mode it would put this asset to good use.

9. Does it allow an historic transportation facility to continue as an alternate use?

Yes, it would have recreation and scenic value as well as continuing as a transportation route.

10. Does it provide for alternate modes?

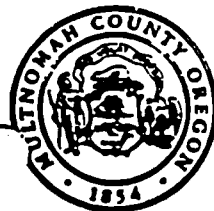
Yes, pedestrian, bicycle, and equestrian.

11. What is the historic significance of the project? What is the significance of its transportation service, or the environmental impact to be mitigated?

Shortly after the railway was built an electric plant was built at Boring to provide power. Boring produced the power to move workers and materials out to Cazedero for the construction of the dam. After 1907 the dam provided the power for the railway. The depot on this property was recently designated as an historical building.

As a pedestrian/bikeway this trail follows the historic route that is an extension of the part that has been incorporated into the "40-mile loop". This trail would connect the "40-mile loop" to Forest trails in the Mt. Hood National Forest.

2. Cox. Hwy INT. PANELS



GLADYS McCOY, Multnomah County Chair

Room 1410, Portland Building
1120 S.W. Fifth Avenue
Portland, Oregon 97204
(503) 248-3308

March 26, 1992

RE: Request for funds for Transportation Enhancement Projects

Multnomah County is requesting funds available under the Enhancement Program of the Intermodal Surface Transportation Efficiency Act (ISTEA) to enhance the Historic Columbia River Highway.

Built over a ten year period (1913-1922) at the dawn of the automobile age, the Columbia River Highway was a technical and civil achievement of its time; a successful mix of sensitivity to the magnificent Columbia River Gorge landscape and ambitious engineering. Its engineering standards and technological response to the Gorge's geographic obstacles were praised by famous persons at the time, calling the highway the world's finest scenic drive, a poem in stone and king of roads. In the Pacific Northwest, there are no other scenic roadways which compare to the Historic Columbia River Highway in engineering design, quality, length, age, associated features, natural setting, or historic recreational use.

Few visitors have an opportunity to appreciate the significant of the highway and the surrounding attractions because of the lack of interpretative information available along the highway. This project seeks to fill this information gap by constructing a series of 18 panels along the highway to interpret the outstanding cultural, historical and natural resources. These 2' x 3' interpretative panels will be strategically placed to enhance -- not detract -- from the visitor's experience. The panels will be fabricated using porcelain technology, with high quality design and interpretative information.

The total cost of the project including design and illustration, fabrication, and installation is estimated at \$80,375. Partnerships have already been formed to support and advance this project. The amount remaining and requested from this enhancement program is \$10,000.

Thank you for considering this project. If you have any questions regarding this matter, feel free to call me at 248-3308.

Sincerely,

Sharon Timko
Columbia Gorge Coordinator

SET:mr
8649G

3. FANNO CREEK

4. Golf Creek Bike path - Transit Corridor Enhancement

As a part of the Beaverton Downtown Development Plan and the Comprehensive Plan the city seeks to improve pedestrian access in the downtown area. This is particularly important in the case of linking multi-family land uses with the existing and future Transit facilities. Considering the possible project scope reduction for the LRT project and fact that the Beaverton Transit Center is the Transit hub for the greater Beaverton area the city places a keen interest in developing (completing) the bike path link between SW 114th and SW 117th, along Golf Creek. Existing portions of this pathway have been constructed by earlier apartment developments but about 500 feet of this pathway remain to complete this connection to 114th street. Extensions of this pathway will be developed to the west as the city grows and redevelopment shapes the planned Esplanade area. Cost for this facility is estimated at \$40,000. Local match would be pursued through Tri-Met and the city.

5. Fanno Creek Bike path - Green Space Corridor Enhancement

The city plans to provide an extension of the Fanno Creek Bikeway system between Highway 217 and Scholls Ferry Road. This would be a continuation of the path system that begins on the south in the City of Tigard and extends nearly two miles north into Beaverton. This particular segment of new pathway is unique in the respect that it will provide both a continuation of the pathway along the Fanno Green Space and a potential alternative transportation corridor. It would provide a new pathway and transportation link between SW Allen Blvd. and Denney Road, and, it would provide an alternative to traveling SW Denney Road, east of Highway 217 (which is presently hazardous due to its narrow width and lack of full shoulders), between Highway 217 and Scholls Ferry Road. The Fanno Creek pathway system has provided city residents a rare opportunity to experience both the tranquil natural environment and the freedom of the off street pathway system. This project would include the acquisition of property, construction of pathway and the construction of a wood bridge spanning Fanno Creek north of SW 105th Court. The estimated cost for this project is \$400,000. Local match for this project would be sought from the city.

ADDITIONAL INFORMATION FOR
OREGON CITY ISTEА PROPOSALS

PROJECT TITLE: Clackamas/Willamette River Pedestrian/Bicycle Paths

Supplemental Questions

1. *Is it in an adopted plan? If yes, identify the plan.*

Yes. The project is listed in the Oregon City Downtown/North End Urban Renewal Plan. It is also consistent with the Park Master Plan, which encourages acquisition of waterfront properties and other natural and "unique" sites. The Park Master Plan also places as a high priority development of pathways and trails, especially those that create connections between existing or proposed facilities.

2. *Does it tie into the existing transportation system?*

Yes. The project would develop a bicycle and pedestrian path connecting the 82nd Drive bridge to McLoughlin Boulevard, and would intertie with existing segments of a State bicycle route. This project would also intersect with another Oregon City "ISTEA" proposal, the Agnes Avenue relocation/reconstruction.

3. *Does it meet the needs of more than one jurisdiction?*

Yes. As noted, the project would intertie with existing segments of a State bicycle route. Portions of the project would also traverse State highway right-of-way and would serve an area much broader than Oregon City limits.

4. *Will it have a broad range of users? Briefly explain.*

Yes. The project connects with the City's proposed Willamette Riverfront Park. The bicycle/pedestrian path will serve a broad range of users, which would include tourists, boaters, residents, shoppers, tour groups, etc.

5. *Will it leverage other funds, either existing or committed?*

Yes. The City, through its Metro-Enhancement Committee, has already purchased a one-acre parcel in Phase 1 of the project; acquisition of an easement across County-owned property is proceeding. The City has been recommended for approval of State Marine Board funding, for engineering/design of one element of the Riverfront Park. Other funding sources would be from State Bicycle Funds, City Transportation System Development Charges (SDCs), or from the City Park Trust Fund.

6. *Is it consistent with existing land use?*

Yes. The areas along the Clackamas and Willamette Rivers have been designated as "QP" (Quasi-Public) on the Comprehensive Plan, for implementation of park or other public development. Other segments are along existing State Highway right-of-way, and are consistent with existing land use.

7. *Is there a broad range of community support? Briefly explain.*

The Park Master Plan and Urban Renewal Plan were developed with a broad range of community involvement. The proposed Willamette Riverfront Park has been presented in conceptual form to a variety of community groups, all of whom have endorsed the concept. The trail segments along the Clackamas River have been coordinated with fishing and other community groups, who have supported the idea of increased river access. The City believes there is broad community support for the project in its entirety.

8. *Does it allow an historic transportation facility to continue use as a transportation facility?*

The proposed project does not include a historic transportation facility, except for segments along Highway 99E.

9. *Does it allow an historic transportation facility to continue use as an alternate use?*

The proposed project is primarily a transportation enhancement activity, to provide increased accessibility for pedestrians and bicyclists. The project also has recreational aspects in that it will provide greater access to the Clackamas and Willamette Rivers, and provide scenic opportunities.

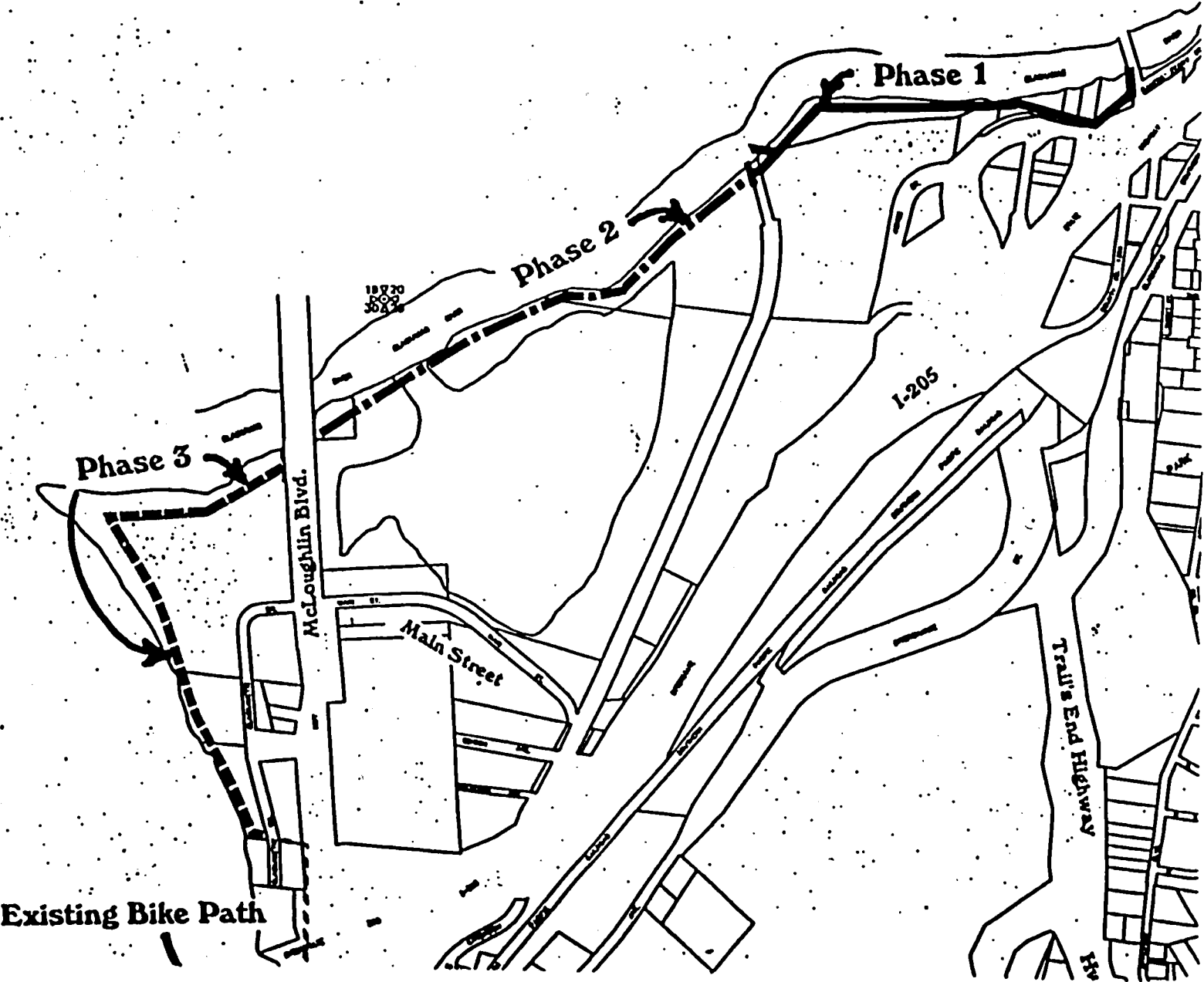
10. Does it provide for alternate modes?

The project will provide transportation opportunities for pedestrians and bicyclists where none currently exist.

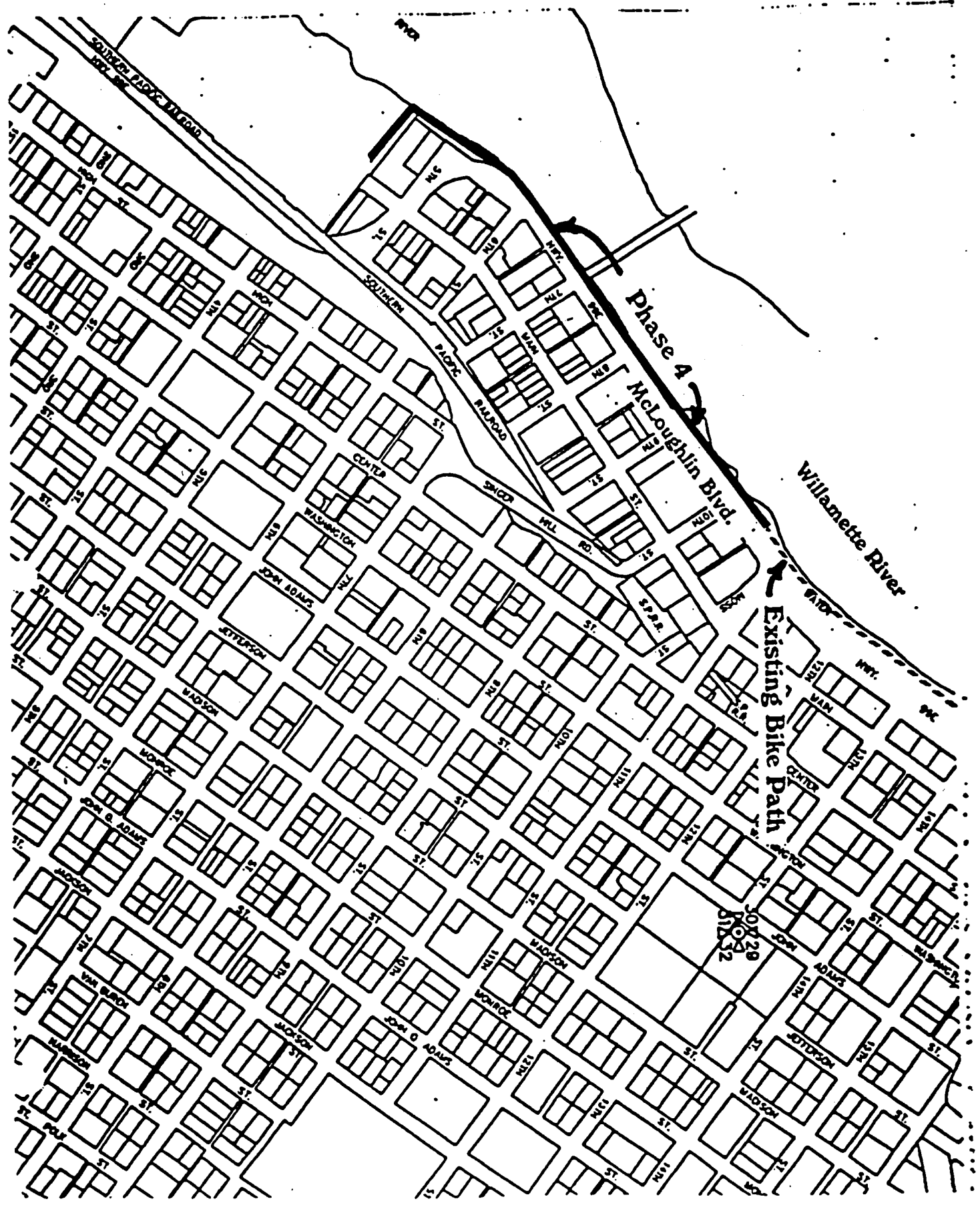
11. Briefly define the historic significance of the project, the significance of its transportation service and its environmental impact to be mitigated.

The City believes this project to be one of the most significant transportation projects to be undertaken in recent years, because it will provide a variety of linkages for pedestrians and bicyclists where none currently exist. The project also meets the goals and objectives of the Parks Master Plan, because it will create connections between existing or proposed facilities. Finally, it will provide several steps in implementation of projects in the Urban Renewal Plan, projects that have been endorsed, but unfunded, for many years.

Riverfront Pedestrian/Bike Path Project



Riverfront Pedestrian/Bike Path Project



5. OREGON ELECTRIC
R/W



TUALATIN
HILLS
PARK &
RECREATION
DISTRICT ADMINISTRATION OFFICE
15707 SW Walker Road • Beaverton, Oregon 97005 • 645-6433 • FAX 690-9649

Ronald D. Willoughby
Assistant General Manager

RECEIVED

APR 8 1992

PLANNING DIVISION
LAND USE & TRANSPORTATION

March 31, 1992

BOARD OF DIRECTORS

Jane Crabb
Dennis Doyle
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Mr. Mark Brown, Principal Planner
Washington County, Department of Land Use and Transportation
155 North First Avenue
Hillsboro, OR 97124

Dear Mr. Brown:

The Tualatin Hills Park and Recreation District hereby submits the following projects for inclusion in project review for the 1991 Intermodal Surface Transportation Efficiency Act.

Oregon Electric Right of Way

The Park District requests consideration for a project that includes acquisition and development of property located on the old Oregon Electric Right of Way in eastern Washington County. The property would connect two pieces of property already owned by the Park District and would complete this linear park between SW 92nd Avenue and SW Oleson Road.

This linear park would provide off street pedestrian and bicycle access through this region. The streets are generally without sidewalks in the area so this path system would provide a safer route for bicyclists and pedestrians (including those using wheelchairs).

Another benefit of completing this path system (other than safety) would be that neighbors would be more likely to walk to the commercial district near SW Oleson and SW Garden Home Roads if a safe access was provided. A resulting benefit would be fewer automobiles on the roads when people walked rather than drove.

The old Oregon Electric Right of Ways historical significance is that this was the route by which railroad trains travelled from the Tualatin Valley to Portland docks moving various types of materials such as lumber, crop harvests and other goods. It played an important role in the development of Washington County and needs to be preserved for its historical (then) and functional (now) values.

By encouraging walking and bicycling, a lesser burden will be placed on the environment in this area. Fewer cars would mean cleaner air and quieter neighborhoods.

Encouraging walking, bicycling, running, etc. will also create an important recreational opportunity that the residents in this area do not currently enjoy. In addition to access to the commercial district, completing this linear park will also provide a much improved access to the Garden Home Recreation Center. This center is heavily used by local residents who currently drive to the Center. Providing a safe pedestrian access will allow these residents to walk rather than drive to the Center. Again, reducing the number of vehicles on the local streets and providing a recreational opportunity.

Washington County has identified the Right of Way as an area of special concern for preservation and pathway development in its Raleigh Hills-Garden Home Community Plan. In addition, Community Participation Organization #3 supports the completion of this park and pathway system.

This project would acquire and develop powerline right of way for pathway access from the Tualatin Hills Nature Park to the Victoria Road-Vestside Light Rail station. This project would not only encourage the use of Light Rail but would also provide non-vehicular access to our Nature Park. Off-street access would be easier without the competition with automobiles and would tie into a planned linear park system within powerline rights of way throughout the Park District (see next project).

The one hundred eighty (180) acre Nature Park is one of the last untouched natural areas in our region. By providing bicycle and pedestrian travel (as well as Light Rail) less space would be required for parking areas and thereby maintaining more natural area.

Powerline Right of Way Acquisition and Development

The final project for your consideration is the acquisition and development of powerline rights of way for linear park systems. This concept has been adopted in the Park District's Action Plan and is addressed in Washington County's Community Plans. Once again, off street pedestrian and bicycle path systems provide a safer route of travel.

It is, as mentioned earlier, the intent of the Park District to create a linear park system that will extend from one end of the Park District to the other. This park system will take advantage of a variety of land types and pass through a variety of land use types. This park system will provide regional access to many THPRD facilities as well as commercial, industrial and residential districts. It would not be unreasonable to expect this path system to become a commuter route, a recreational course and a passive walking/strolling route.

As with the other two projects, this proposed pedestrian/bicycle linear park will encourage citizens to walk or ride a bike as opposed to driving an automobile. The environmental benefits would be cleaner air and quieter neighborhoods. This project could also access bus routes and enjoy the same environmental sound results.

In addition to the transportation and environmental benefit of acquiring and developing powerline rights of way, there are recreational values to be recognized as well. Open play areas, scenic viewpoints and natural resource areas to name a few could be developed along within the pathway system. Multiple uses attract many interests thereby enhancing the this system.

The Tualatin Hills Park and Recreation District supports, as well, the preservation and pathway development of linear park systems. We have attempted to identify and define the transportation, environmental, historical and recreational values and benefits of our proposed projects to assist your review process.

Should further information be required regarding these proposals, please do not hesitate to contact this office at 645-6433.

Your consideration of our proposals are most appreciated.

Sincerely,



Ronald D. Willoughby
Assistant General Manager

RDW:kw

Washington County Enhancement
May 14, 1992
Page 19

TUALATIN HILLS PARK AND RECREATION DISTRICT
TRANSPORTATION ENHANCEMENT PROJECT PROPOSALS

1. OREGON ELECTRIC RIGHT OF WAY

- 1) Is it in an adopted plan? If yes, identify the plan.

Yes. The project is identified in the Regional Bicycle Plan and the the Raleigh Hills Garden Home Community Plan.

- 2) Does it tie into the existing transportation system?

Yes. It would provide an off-road pedestrian and bicycle link between Scholls Ferry Road and Oleson Road.

- 3) Does it meet the needs of more than one jurisdiction?

Yes. The park would serve residents of Beaverton, Portland, and unincorporated Washington County.

- 4) Will it have a broad range of users? Briefly explain.

The park would provide access between employment, transit, shopping, schools, recreation and neighborhoods. As such it would serve a range of users making a variety of different types of trips.

- 5) Will it leverage other funds, either existing or committed?

- 6) Is it consistent with existing land use?

Yes. The development of the park is discussed in the Raleigh Hills-Garden Home Community Plan which is a part of the Washington County Comprehensive Plan.

- 7) Is there a broad range of community support? Briefly explain.

The park and pathway is supported by Citizen Participation Organization #3 - Raleigh Hills/Garden Home.

- 8) Does it allow an historic transportation facility to to continue use as a transportation facility?

Yes. The project would allow the old Oregon Electric Right of Way to continue as a transportation facility to serve pedestrians and bicyclists.

- 9) Does it allow an historic transportation facility to continue as an

Washington County Enhancement
May 14, 1992
Page 20

N/A

10) Does it provide for alternate modes?

Yes. The project would serve both walkers and bicyclists, two important alternate modes of transportation.

11) Briefly define the historic significance of the project, the significance of its transportation service and its environmental impact to be mitigated?

Pedestrian and bikeway facilities are promoted by federal regional and County acts and plans. Construction of pedestrian and bicycle facilities improve important alternative forms of transportation which lessen reliance on the automobile.



LAKE
OSWEGO.
6. WILL. TROLLEY

DEPARTMENT OF PUBLIC WORKS

May 8, 1992.

Michael Hoglund
Transportation Planning Supervisor
2000 SW First Avenue
Portland, OR 97201-5398

RE: Transportation Enhancement Program Funding Request

Dear Mike:

Attached is the project background for Lake Oswego's funding request for the South Trolley extension. This material is being faxed to you. The original will follow by mail.

Sincerely,

J.R. Baker
City Engineer

/ppk

attachment

CITY OF LAKE OSWEGO
Transportation Enhancement Program Status Report
Project Background
South Trolley Extension
Priority: High

1. Is it in an adopted plan?

Yes, it is part of the RTP

2. Does it tie into the existing Transportation System?

The extension will tie into existing sidewalk, pathway, transit, and street system.

3. Does it meet the needs of more than one jurisdiction?

Yes, it serves Portland, Multnomah County, Clackamas County and Lake Oswego.

4. Will it have a broad range of users? Briefly explain.

Its present use is recreational. With improvement it offers a way to augment capacity in the Highway 43/Macadam corridor.

5. Will it leverage other funds, either existing or committed?

The existing line is eligible for use as local match for federal grants.

6. Is it consistent with existing land use?

Yes.

7. Is there a broad range of community support? Briefly explain.

In the November 1990 election, 73% of the voters approved a bond necessary to expand LRT and the regional rail plan is widely supported. On the other hand some of the residents along the line are opposed to the rail operation.

- 8. Does it allow a historic transportation facility to continue use as a transportation facility?**

Originally opened in 1887, this line operated as an electric rail commute line from 1915 to 1929 and much of the early development grew up around it. It is now returning to that function as a result of growth, traffic congestion, and environmental concerns.

- 9. Does it allow a historic transportation facility to continue use as an alternate use?**

No, as the same (rail) use.

- 10. Does it provide for alternate modes of transportation?**

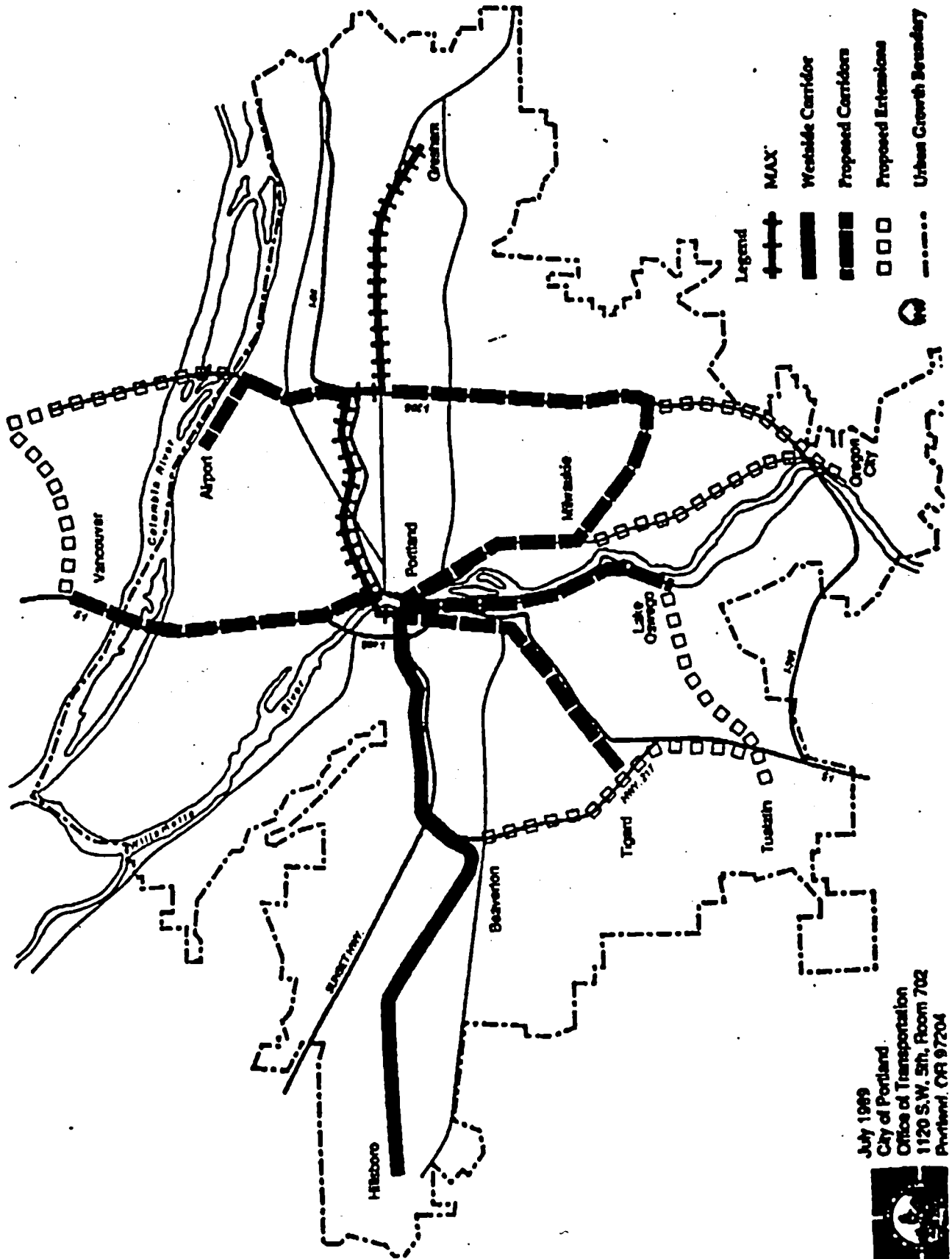
It provides an alternative to traffic on Highway 43 that is insulated from traffic congestion. Rail transit, bikes, and walking provide an alternative to driving for some trips.

- 11. Briefly define the historic significance of the project, the significance of its transportation service and its environmental impact to be mitigated.**

The existing rail line terminates short of the destination of rides and bus connections in Lake Oswego. This project will extend the line into Lake Oswego and correct this situation.

Historically, the line did operate from Lake Oswego and the extension will be entirely in a rail corridor, thereby avoiding any major impacts.

PORTLAND REGIONAL LIGHT RAIL SYSTEM



July 1989
 City of Portland
 Office of Transportation
 1120 S.W. 5th, Room 702
 Portland, OR 97204



Meeting Date: June 25, 1992
Agenda Item No. 8.5

RESOLUTION NO. 92-1618A

TRANSPORTATION AND PLANNING COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 92-1618 FOR THE PURPOSE OF AMENDING THE TOTAL AMOUNT OF THE REGION 2040 CONSULTING CONTRACTING

Date: June 18, 1992

Presented by: Councilor Devlin

Committee Recommendation: At the June 9 meeting, the Transportation and Planning Committee voted unanimously to recommend Council adoption of Resolution No. 92-1618-A. Voting in favor: Councilors Devlin, McLain, Buchanan, and Washington. Excused: Councilor Bauer.

Committee Issues/Discussion: Andy Cotugno presented the staff report. He explained reviewed the history of the Region 2040 Consultant contract and explained that the department is in the process of soliciting corporate funds for the Region 2040 project. This resolution is the result of a donation from Portland General Electric of \$40,000 of in-kind funds and \$20,000 cash. In order to expend the cash bequest, the contract amount needs to be increased from \$280,000 to \$300,000.

If the corporate solicitation continues to be successful, as the department hopes, there will be additional contract amendments. For that reason, the resolution also asks the Council to authorize "the Transportation and Planning Committee to amend the total amount for this contract to incorporate additional non-excise tax sources of funding as long as the department has sufficient expenditure authority, or to refer such amendments to the full Council for its consideration should the Committee fail to reach agreement".

The committee approved the resolution with the following changes and concerns regarding section 2:

1. They amended the language (above in bold) to state "...to incorporate additional revenue [non-excise tax] sources [of funding]...".
2. They asked Council Staff to request a legal opinion regarding the appropriateness of section 2. They questioned the precedent being set by allowing a Metro committee to act independent of Council approval.

Subsequent Action following Transportation and Planning meeting: Discussions with Dan Cooper, Metro Legal Counsel, indicate that adoption of section 2 of the resolution, amended or unamended, is an inappropriate action. He explained that only the Public Contract Review Board (PCRB) can amend a contract over \$10,000 and suggested removal of section 2 of the resolution (memo to follow).

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING THE) RESOLUTION NO. 92-1618A
TOTAL AMOUNT OF THE REGION 2040) Introduced by Rena Cusma,
CONSULTING CONTRACT) Executive Officer

WHEREAS, The Metropolitan Service District Council approved Resolution No. 91-1530 on December 12, 1991, authorizing the execution of a contract for the Region 2040 Study with the team led by ECO Northwest; and

WHEREAS, Resolution No. 91-1530 states that the "project will not exceed \$280,000 without the express consent of the Council"; and

WHEREAS, Portland General Electric has provided the Region 2040 Study with \$20,000 for additional public outreach, in addition to a total of \$40,000 in in-kind services for public outreach; and

WHEREAS, the donation of cash and in-kind services from Portland General Electric was discussed with the Metro Council Transportation and Planning Committee; and

WHEREAS, The application of the \$20,000 provided by Portland General Electric to the Region 2040 Study raises the total consultant contract from \$280,000 to \$300,000; and

WHEREAS, Metro Staff are exploring other possible non-excise tax avenues for augmenting the Region 2040 Study budget; now, therefore

BE IT RESOLVED,

1. That the Metro Council hereby consents to the increase

of the Region 2040 Consultant Contract from \$280,000 to \$300,000 due to the donation of \$20,000 from Portland General Electric.

2. That the Metro Council hereby authorizes the Transportation and Planning Committee to amend the total amount for this contract to incorporate additional revenue [~~non-exercise tax~~] sources [~~of funding~~] as long as the department has sufficient expenditure authority, or to refer such amendments to the full Council for its consideration should the Committee fail to reach agreement.

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

Jim Gardner, Presiding Officer

Contract Number: 902254

REVENUE AGREEMENT

THIS AGREEMENT dated this 20th day of December, 1991, is between the METROPOLITAN SERVICE DISTRICT, a municipal corporation, hereinafter referred to as "METRO", whose address is 2000 Southwest First Avenue, Portland Oregon 97201-5398, and PORTLAND GENERAL ELECTRIC COMPANY, 121 Southwest Salmon Street, Portland, Oregon 97204, hereinafter referred to as "PGE", for the period of December 18, 1991, through June 30, 1992, and for any extensions thereafter pursuant to written agreement of both parties.

WITNESSETH:

WHEREAS, This agreement is exclusively for contributions relating to Metro's Region 2040 project; NOW THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

PGE AGREES:

1. To contribute to METRO the sum, TWENTY THOUSAND DOLLARS EXACTLY (\$20,000.00), one-third to be provided immediately and two-thirds to be contributed during the first quarter of calendar year 1992; and
2. To contribute printing services not to exceed the sum TWENTY THOUSAND DOLLARS (\$20,000.00) as determined by PGE; and
3. To contribute video services not to exceed the sum TWENTY THOUSAND DOLLARS (\$20,000.00) as determined by PGE; and
4. That cash contribution, printing and video services shall be used solely to support efforts to explain to the public the purpose and design of METRO's Region 2040 project and to provide opportunities for the public to express their preferences for how the region should manage future growth; and,
5. That METRO will be responsible for the final decision as to how the resources provided by PGE will be used by the consultant team selected by METRO. PGE's Manager of Community Development will participate as liaison between PGE and METRO to coordinate the provision of printing and video services; and,

METRO AGREES:

1. That PGE's contribution will be recognized, along with those contributions of other project sponsors, on documents printed by PGE and videos produced by PGE as well as at public workshops, related public events and appropriate documents; and,
2. That METRO will be responsible for the final decision as to how the resources provided by PGE will be used by the consultant team selected by METRO. PGE's Manager of Community Development will participate as liaison between PGE and METRO to coordinate the provision of printing and video services and to review products to be distributed to the public which are to be contributed by PGE; and,
3. That METRO will accept a contribution from PGE in the amount of a sum not to exceed TWENTY THOUSAND DOLLARS EXACTLY, (\$20,000) as well as video and printing services, to be used for tasks related to public involvement with Region 2040, Phase I; and,

BOTH PARTIES AGREE:

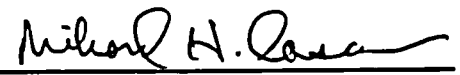
1. That this Agreement may be amended only by the written agreement of both parties.

PORTLAND GENERAL ELECTRIC

By: 
Gregg Kainor, Manager, Community Development

Date: 12-13-91

METROPOLITAN SERVICE DISTRICT

By: 
Richard H. Carson, Director, Planning & Development

Date: 12-19-91

APPROVED AS TO FORM:



STAFF REPORT

RESOLUTION NO. 92-1618, FOR THE PURPOSE OF AMENDING THE TOTAL AMOUNT OF THE REGION 2040 CONSULTING CONTRACT

May 8, 1992

Presented by: Ethan Seltzer

On December 12, 1991, the Metro Council passed Resolution No. 91-1530 and approved the awarding of a contract for consulting services for the Region 2040 Study to the team led by ECO Northwest. The Resolution included three conditions:

- 1) The project would not exceed \$280,000 without the express consent of the Council;
- 2) That progress reports would be made at reasonable intervals to the Transportation and Planning Committee; and
- 3) A final scope of work would be completed prior to initiation of work on the contract, and would be forwarded to the Transportation and Planning Committee.

Since December, the final scope of work has been agreed on, and has been forwarded to the Transportation and Planning Committee. However, it has been abundantly clear since that time that the total resources available to the project then, some \$280,000, was barely adequate to effectively accomplish the objectives of the project. Consequently, Metro staff approached Portland General Electric to see if they would be interested in making a contribution of either cash or in-kind services to the project.

Portland General Electric responded with both \$20,000 in cash and up to \$40,000 in in-kind services, all to be directed at public outreach. In addition to contributing generously to the project, PGE has also provided additional support through the time of their senior staff and the use of their helicopter to provide speakers at the 1992 Regional Growth Conference with a tour of the region.

The cash contribution has been applied to consultant services directed at public outreach. However, doing so raises the direct project budget from \$280,000 to \$300,000, necessitating an amendment of the previous resolution. Since Metro staff are continuing to seek additional funding for the project, and additional amendments of this type are anticipated, Resolution No. 92-1618 requests that the Transportation and Planning Committee be authorized to approve increases in the size of the contract as long as any subsequent increases involve non-excise tax resources, the department has sufficient expenditure authority, and the Committee can reach agreement.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval for Resolution No. 92-1618.

ES/es 5/8/92

Meeting Date: June 25, 1992
Agenda Item No. 8.6

RESOLUTION NO. 92-1641



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503.221-1646

Memorandum

DATE: June 19, 1992

TO: Metro Council
Executive Officer
Interested Parties

FROM: Paulette Allen, Clerk of the Council *PA*

RE: AGENDA ITEM NO. 8.6; RESOLUTION NO. 92-1641

The Transportation & Planning Committee will consider Resolution No. 92-1641 on June 23. Committee reports will be distributed in advance to Councilors and available at the Council meeting June 25.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF APPROVING) RESOLUTION NO. 92-1641
A CONTRACT BETWEEN METRO AND)
TRI-MET FOR METRO'S PARTICI-) Introduced by
PATION ON THE WESTSIDE CORRIDOR) Councilor Richard Devlin
HIGH CAPACITY TRANSIT PROJECT)

WHEREAS, The Westside Corridor Project is the highest transportation priority for the region; and

WHEREAS, The project is now in final design and Tri-Met expects to commence construction in the spring of 1993; and

WHEREAS, Tri-Met wishes to contract with Metro through a Design Services Agreement to provide technical data and analyses for the project including the Washington Park station; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District authorizes the Executive Officer to enter into a Design Services Agreement (Attachment A) with Tri-Met for Metro's continued participation in the Westside LRT project.

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

Jim Gardner, Presiding Officer

92-1641.RES
KT:lmk
6-11-92

EXHIBIT A

FEDERAL REQUIREMENTS

1. Disadvantaged Business Enterprises

Disadvantaged Business Enterprise (DBE)

The DBE goal for this contract is 0 percent (0%). If the DBE goal is zero percent (0%), only subparagraph (A) below applies. If the DBE goal exceeds zero percent (0%), subparagraphs (A) and (B) below apply.

A. Policy

Pursuant to 49 CFR 23.43(a), the following provisions are made a part of this Contract:

1. Policy. It is the policy of the U.S. Department of Transportation (DOT) and Tri-Met that DBEs as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this contract. Consequently, the DBE requirements of 49 CFR Part 23 apply to this contract.
2. DBE Obligation. Contractor agrees to ensure that DBEs as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this contract. In this regard, Contractor shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that DBEs have the maximum opportunity to compete for and perform contracts. Contractor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of DOT-assisted contracts.
3. Contractor's failure to carry out the requirements set forth herein shall constitute a breach of contract, and may result in termination of the contract by Tri-Met or such other remedy as Tri-Met deems appropriate.

B. DBE Contract Reporting Requirements

1. Within ten (10) calendar days after this contract is signed by both parties, Contractor shall execute a written subcontract with each DBE that will participate in contract work, and submit a true and complete copy of each of those subcontracts to Tri-Met's DBE Officer, Tri-Met, 4012 SE 17th Avenue, Portland, Oregon 97202.
2. Upon execution of the contract, Tri-Met's DBE Officer shall provide Contractor with DBE Participation Report forms which must be submitted by Contractor with each invoice during the term of the contract. The DBE Participation Report form must be submitted even if no DBE participation is included in the work for which an invoice is submitted.
3. Within five (5) calendar days after final completion of contract work and final acceptance by Tri-Met, Contractor shall submit a final report to Tri-Met's DBE Officer stating the total amount owed to each DBE subcontractor and the amount actually paid to each as of the date of the report. The final report shall clearly identify any retainage being withheld.
4. Failure to comply with this paragraph shall constitute a material breach of this contract warranting Tri-Met's withholding of further payments to Contractor until the breach has been cured.
5. If for any reason a DBE subcontractor becomes unable to perform its obligation under its subcontract with Contractor, Contractor shall immediately notify Tri-Met's DBE Officer. Contractor shall exercise good faith efforts to replace a DBE subcontractor that is unable to perform successfully with another DBE. Contractor shall not unilaterally make any substitution for a DBE subcontractor without prior approval of Tri-Met's DBE Officer, and the Project Manager.

2. Equal Employment Opportunity

In connection with the execution of this contract, Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, or national origin. Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, age, or national origin. Such action shall include, but not be limited to, the following: employment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including

apprenticeship. Contractor further agrees to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

3. Title VI Compliance

During the performance of this contract, Contractor, for itself, its assignees, and its successors in interest (hereinafter referred to as "Contractor"), agrees as follows:

- A. Compliance with Regulations: Contractor shall comply with the Regulations relative to nondiscrimination in federally- assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- B. Nondiscrimination: Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, religion, color, sex, age, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- C. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, sex, age, or national origin.
- D. Information and Reports: Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Tri-Met or the Urban Mass Transportation Administration (UMTA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of Contractor is in the exclusive possession of another who fails or refuses to furnish

this information, Contractor shall so certify to Tri-Met, or the Urban Mass Transportation Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.

E. Sanctions for Noncompliance: In the event of Contractor's noncompliance with the nondiscrimination provisions of this contract, Tri-Met shall impose such contract sanctions as it or the Urban Mass Transportation Administration may determine to be appropriate, including, but not limited to:

- (1) Withholding of payments to Contractor under the contract until Contractor complies, and/or,
- (2) Cancellation, termination or suspension of the contract, in whole or in part.

F. Incorporation of Provisions: Contractor shall include the provisions of subparagraphs A through E of this Paragraph in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. Contractor shall take such action with respect to any subcontract or procurement as Tri-Met or the Urban Mass Transportation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, Contractor may request Tri-Met to enter into such litigation to protect the interests of Tri-Met, and, in addition, Contractor may request the United States to enter into such litigation to protect the interests of the United States.

4. Labor Provisions

A. Overtime Requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any work week in which he or she is employed on such work to work in excess of eight hours in any calendar day or in excess of forty hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in such work week, whichever is greater.

- B. **Violation; Liability for Unpaid Wages; Liquidated Damages.** In the event of any violation of the clause set forth in subparagraph (b)(1) of 29 CFR Section 5.5, Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such district or territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (b)(1) of 29 CFR Section 5.5 in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of eight hours or in excess of the standard work week of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (b)(1) of 29 CFR Section 5.5.
- C. **Withholding for Unpaid Wages and Liquidated Damages.** DOT or Tri-Met shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (b)(2) of 29 CFR Section 5.5.
- D. **Nonconstruction Grants.** Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, Tri-Met shall require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this Paragraph shall be made

available by Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of DOT and the Department of Labor, and Contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

- E. Subcontracts. Contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraphs A through E of this Paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs A through E of this Paragraph.

5. Cargo Preference

Contractor agrees:

- A. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, materials, or commodities pursuant to this section, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.
- B. To furnish within 30 days following the date of loading for shipments originating within the United States, or within 30 working days following the date of loading for shipment originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in subparagraph A of this Paragraph to Tri-Met (through Contractor in the case of sub-contractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, 400 Seventh St. S.W., Washington, D.C. 20550, marked with appropriate identification of the Project.
- C. To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.

6. Conservation

Contractor shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC Section 6321, et seq.).

7. Buy America

This procurement is subject to the Urban Mass Transportation Buy America Requirements in 49 CFR Part 661.

Section 165a of the Surface Transportation Assistance Act of 1982, as amended, permits UMTA participation in this contract only if steel and manufactured products used in the contract are produced in the United States. By signing this contract, Contractor certifies that it will comply with the requirements of section 165a of the Surface Transportation Assistance Act of 1982, as amended, and the regulations in 49 CFR Part 661.

8. Interest of Members of, or Delegates to, Congress

No member of, or delegate to, the Congress of the United States shall be admitted to a share or part of this contract or to any benefit arising therefrom.

9. Prohibited Interest

Tri-Met's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subagreements.

10. Debarred Bidders

Neither Contractor, nor any officer or controlling interest holders of Contractor, is currently, or has been previously, on any debarred bidders list maintained by the United States Government or by the State of Oregon.

11. Air Pollution

Contractor and suppliers must submit evidence to Tri-Met that the governing air pollution criteria will be met. This evidence and related documents will be retained by Tri-Met for on-site examination by UMTA. This Paragraph applies only to procurements for which governing air pollution criteria exist.

12. Maintenance and Inspection of Records

A. Contractor shall maintain comprehensive records and documentation relating to this contract, and shall permit the authorized representatives of Tri-Met, the U.S. Comptroller General, or the U.S. Department of Transportation to inspect and audit all records and documentation for a period of three (3) years after Tri-Met has made final payment to Contractor.

- B. Contractor shall include in all of its subcontracts hereunder a provision to the effect that the subcontractor agrees that Tri-Met, the U.S. Comptroller General, or the U.S. Department of Transportation shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (1) purchase orders not exceeding \$10,000.00 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.
- C. The period of access and examination for records that relate to (1) litigation of the settlement of claims arising out of the performance of this Contract, or (2) costs and expenses of this contract as to which exception has been taken by the Comptroller General or any of his or her duly authorized representatives, shall continue until such litigation, claims, or exceptions have been disposed of.

13. Lobbying Prohibitions/Certifications/Disclosures

- A. Definitions. As used in this clause,

"Agency", as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1).

"Covered Federal action" means any of the following Federal actions:

- (1) The awarding of any Federal contract;
- (2) The making of any Federal grant;
- (3) The making of any Federal loan;
- (4) The entering into of any cooperative agreement; and,
- (5) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan.

"Indian tribe" and "tribal organization" have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in that Act.

"Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

"Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency" includes the following individuals who are employed by an agency:

- (1) An individual who is appointed to a position in the Government under title 5, U.S. Code, including a position under a temporary appointment;
- (2) A member of the uniformed services as defined in section 101(3), title 37, U.S. Code;
- (3) A special Government employee as defined in section 202, title 18, U.S. Code; and,
- (4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, U.S. Code appendix 2.

"Person" means an individual, corporation, company association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Reasonable compensation" means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

"Reasonable payment" means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

"Recipient" includes all contractors and subcontractors at any tier in connection with a Federal contract. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly employed" means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

B. Prohibition

- (1) Section 1352 of title 31, U.S. Code provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) The prohibition does not apply as follows:
 - (i) Agency and legislative liaison by Own Employees.
 - (a) The prohibition on the use of appropriated funds, in paragraph B (1) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or

employee of a person requesting or receiving a Federal contract if the payment is for agency and legislative liaison activities not directly related to a covered Federal action.

- (b) For purposes of paragraph B (2) (i) (A) of this section, providing any information specifically requested by an agency or Congress is allowable at any time.
- (c) For purposes of paragraph B (2) (i) (A) of this section the following agency and legislative liaison activities are allowable at any time only where they are not related to a specific solicitation for any covered Federal action:
 - (1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,
 - (2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.
- (d) For purposes of paragraph B (2) (i) (A) of this section, the following agency and legislative liaison activities are allowable only where they are prior to formal solicitation of any covered Federal action:
 - (1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;
 - (2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and,
 - (3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

- (e) Only those activities expressly authorized by paragraph B (2) (i) of this section are allowable under paragraph B (2) (i).
- (ii) Professional and technical services by Own Employees.
- (a) The prohibition on the use of appropriated funds, in paragraph B (1) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract or an extension, continuation, renewal, amendment, or modification of a Federal contract if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract.
- (b) For purposes of paragraph B (2) (ii) (A) of this section, "professional and technical services" shall be limited advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the

lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(d) Only those services expressly authorized by paragraph B (2) (ii) of this section are allowable under paragraph B (2) (ii).

(iii) Reporting for Own Employees.

No reporting is required with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

(iv) Professional and technical services by Other than Own Employees.

(a) The prohibition on the use of appropriated funds, in paragraph B (1) of this section, does not apply in the case of any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action, if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract.

(b) For purposes of paragraph B (2) (iv) (A) of this section, "professional and technical

services" shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

- (c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation,

or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(d) Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(e) Only those services expressly authorized by paragraph B (2) (iv) of this section are allowable under paragraph B (2) (iv).

C. Disclosure

- (1) Each person who requests or receives from an agency a Federal contract shall file with that agency a certification, set forth in this document, that the person has not made, and will not make, any payment prohibited by paragraph (b) of this clause.
- (2) Each person who requests or receives from an agency a Federal contract shall file with that agency a disclosure form, Standard Form-LLL, "Disclosure of Lobbying Activities," if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (b) of this clause if paid for with appropriated funds.
- (3) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraph C (2) of this section. An event that materially affects the accuracy of the information reported includes:
 - (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
 - (b) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,

- (c) A change in the officer(s), employee(s), or member(s) contacted to influence or attempt to influence a covered Federal action.
- (4) Any person who requests or receives from a person referred to in paragraph (C) (1) of this section a subcontract exceeding \$100,000 at any tier under a Federal contract shall file a certification, and a disclosure form, if required, to the next tier above.
- (5) All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraph C (1) of this section. That person shall forward all disclosure forms to the agency.

D. Agreement

In accepting any contract resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.

E. Penalties

- (1) Any person who makes an expenditure prohibited under paragraph B of this clause shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.
- (2) Any person who fails to file or amend the disclosure form to be filed or amended if required by this clause, shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- (3) Contractors may rely without liability on the representations made by their subcontractors in the certification and disclosure form.

F. Cost Allowability

Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of Part 31 of the Federal Acquisition Regulation.

END OF EXHIBIT A - FEDERAL REQUIREMENTS

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 92-1641 FOR THE PURPOSE OF APPROVING A CONTRACT BETWEEN METRO AND TRI-MET FOR METRO'S PARTICIPATION ON THE WESTSIDE CORRIDOR HIGH CAPACITY TRANSIT PROJECT

Date: June 11, 1992

Presented by: Richard Brandman

PROPOSED ACTION

Adopt Resolution No. 92-1641 which approves a contract for Metro's work and compensation for the Westside Corridor Light Rail Project including the Washington Park Station.

FACTUAL BACKGROUND AND ANALYSIS

The Westside Corridor Project is being designed as a combined highway/light rail project and is the region's highest priority transportation project. Part of the final design is an underground station which will serve the Metro Washington Park Zoo, World Forestry Center, the Vietnam Veterans Memorial and the Hoyt Arboretum.

Metro's Transportation Department has been involved in the Westside project since inception. During the last three years, Tri-Met has contracted with Metro to provide traffic forecasts, ridership forecasts and environmental analyses.

This \$200,000 contract will continue provision of technical expertise through forecasts and analyses as may be required to complete the final design, including development of the project's traffic management plan, environmental impact requirements, financial analyses for Metro's local match contribution, and design issues related to the construction of the Washington Park LRT station. Participation on the Washington Park Area Advisory Committee (WPAC) by both the Planning Director and Zoo Director will include oversight of major issues such as construction mitigation, station issues, financial issues, and the long-term traffic management plan.

Approval of Resolution No. 92-1641 will authorize Metro's Executive Officer to enter into the contract and accept funds for Metro's participation in the final design of the Westside Light Rail Project.

Executive Officer's Recommendation

The Executive Officer recommends approval of Resolution No. 92-1641.

ATTACHMENT A

**DESIGN SERVICES AGREEMENT
3/26/92**

This agreement is between the Tri-County Metropolitan Transportation District of Oregon (Tri-Met) and the Metropolitan Service District (Metro).

ARTICLE I - RECITALS

Metro and Tri-Met agree:

1. The Westside Corridor Project (Project) is a combined highway and light rail project designed to accommodate transportation needs in the Westside Corridor, as fully described in the Westside Corridor Project Final Environmental Impact Statement (August, 1991).
2. The Metro Council has identified the Westside Corridor Project as the region's number one priority transportation project and has confirmed its support through Resolution's No. 91-1424 (April 11, 1990), 90-1300 (July 26, 1990).
3. Under the authority of Senate Bill 573 (Oregon Laws 1991, Chapter 3), the Tri-Met Board adopted a final order on April 12, 1991 for the Westside Corridor Project, which includes an underground station serving Metro's Washington Park Zoo, OMSI, World Forestry Center, and Vietnam Veteran's, and Hoyt Arboretum.
4. Senate Bill 573 defines the relationship between Tri-Met and other governmental entities following adoption of the final order for the Project, and states "The State and all counties, cities, special districts and political subdivisions shall:
 - (a) Amend comprehensive or function plans, including public facility plans and their land use regulations to the extent necessary to make them consistent with a final order, and;
 - (b) Issue the appropriate permits, licenses and certificates necessary for the construction of the Project or Project extension consistent with a final order. Permits, licenses and certificates may be subject to reasonable and necessary conditions of approval, but may not, either by themselves or cumulatively, prevent implementation of the final order."

5. The Project is subject to budgetary limitations imposed by the U.S. Department of Transportation, local Tri-Met bonds, Regional Compact funds including \$2 million from Metro, and State funding. The Westside Corridor Project is subject to all terms and conditions of the FTA grant Agreement in so far as Federal participation in costs of the Project.
6. The Project includes a light rail station and associated siteworks, utilities and structures at Washington Park and will serve the Metro Washington Park Zoo, OMSI, the World Forestry Center, and the Vietnam Vet Memorial, Washington Park, and Hoyt Arboretum.
7. A committee known as the Washington Park Area Advisory Committee hereafter referred to as WPAC made up of representatives of the City of Portland, Metro, Tri-Met, and affected institutions will be formed to address the design of the station, mitigation issues, traffic management issues, and Metro's funding share.

The Committee will have as a subset a Technical Advisory Committee known hereafter referred to as the TAC.

ARTICLE II - PROJECT DIRECTION, COORDINATION AND MANAGEMENT

1. The Westside Regional Steering Group and Project Management Group (PMG) with membership from all affected jurisdictions will be retained through the design phase to address issues of regional significance.
2. Formation of WPAC: Metro and Tri-Met agree to form a committee as mentioned in Article 1, #7. The Committee will be formed to address issues of significance regarding the Zoo station, funding, mitigation plans traffic management, and other related factors. The Westside Project Management Group will appoint the Policy committee members (or their representatives) to include:

Director, Portland Office of Transportation
Director, Metro Washington Park Zoo
Director, Portland Parks Bureau
Transportation Director, Metro
Director, OMSI
Westside Project Director, Tri-Met
Representative, Vietnam Vets
Representative, World Forestry Center
Representative, Hoyt Arboretum
Regional Engineer, ODOT

The committee will be administered and coordinated by Tri-Met. The WPAC will shepherd all information gathering and analysis through to its completion. The role of the committee will be to provide advice on policy, political and constituency based issues that will arise as a part of the analysis.

3. **Project Coordinator:** Tri-Met and Metro shall each designate a Project Coordinator who shall be responsible for coordinating all aspects of their respective employer's work on the Project. The Project Coordinators shall ensure that the Project and tasks related thereto are completed expeditiously and economically, shall be contact persons through whom Tri-Met and Metro officially shall communicate, and shall have the authority to make decisions and resolve disputes relating to the Project. Project Coordinator for Metro will be Richard Brandman and for Tri-Met, Neil McFarlane. Changes to the designated project coordinators may be made by Metro's Transportation Director or Tri-Met's Westside Light Rail Project Director, respectively.

ARTICLE III - TRI-MET OBLIGATIONS

1. Except as otherwise provided herein, Tri-Met shall design, construct, operate and pay all costs for the Project. In the execution of the design and construction, except as otherwise provided herein, Tri-Met shall provide for the public's health, safety, and welfare by providing the proper construction, reconstruction to existing or better levels of improvement, and modifications to those existing public facilities in the right-of-way which are affected by the project.
2. Tri-Met agrees to enter into an intergovernmental agreement or agreements in which Metro obligates itself to pay for any work requested by Metro to be completed Tri-Met or its contractors that is not included in the Project Scope of Work.
3. **Development of Final Plans and Specifications.** Tri-Met shall work in close cooperation with Metro and the WPAC during preparation of final plans for the Station and will submit plans and specifications (hereafter plans) for official Metro review at the 50%, 85% and 100% completion points. Input will be sought from WPAC prior to those completion points through the creation of a Zoo Station Committee.

The Design Development (50%) stage is the first draft of final design drawings and specifications. The Detail Design (85%) stage represents the identification and specification of all major construction work. The Final Design (100%) stage is defined as the completion of all required changes and revisions identified at the 85% stage.

Except as noted above, Tri-Met shall allow Metro 15 calendar days after the receipt of plans at the 50% and 85% stages to complete its review and return the plans with required revisions to Tri-Met. All comments will flow through the project coordinators.

4. Tri-Met will coordinate the WPAC and TAC to work to ensure satisfactory resolution of issues including Metro's funding mechanism, station design, traffic and construction mitigation plans, and long-term traffic management plan.
5. Tri-Met will contract for and manage station design and construction mitigation tasks for the WPAC. Tri-Met will contract and Metro will manage the financial consultant for the finance task of the WPAC. Tri-Met will contract and the City of Portland will manage the traffic management task of the WPAC.
6. Tri-Met will participate in the WPAC to guide, help resolve issues and make recommendations regarding the work of the WPAC.

ARTICLE IV - METRO OBLIGATIONS

1. Metro agrees to use its best efforts to assist Tri-Met in maintaining the Project schedule.
2. Metro, through its Transportation Planning Department will provide:
 - (a.) ridership forecasts and analyses as necessary for final design and engineering phases of the Westside Corridor Project as may be requested by Tri-Met's Project Coordinator.
 - (b.) environmental analyses and expertise as may be required by the Project through development of final plans, specifications and issuance of permits. Such services may include assistance in reviewing final design changes, preparing environmental assessments, and other analysis as Tri-Met may request through its Project Coordinator.

- (c.) **Participation in the WPAC and TAC.**
- (d.) **Coordination and management of the financial consultant for the WPAC financial analysis to include: working with the consultants to provide financial analysis, including definition of alternative funding mechanisms (alternative parking fee structures, others), provide evaluation criteria (including but not limited to, impact on attendance, equity, administration) determination of short and long-term financial implications.**
- (e.) **Metro will participate in the development of the Project's Traffic Management Plan (TMP).**

3. Metro, through the Zoo Department will:

Participate in and coordinate with the WPAC and the TAC its work products, including:

- (a.) **Background Information: Provide Master Plan information (include data on parking, attendance and projections, travel characteristics, etc.) Provide baseline plans and projections in order to help define the implications for the surrounding area.**
- (b.) **Construction Mitigation: Work with the consultants to identify the project's construction needs and issues of concern to the adjacent institutions and residents, and work through project-related issues in the overall Construction Mitigation Plan.**
- (c.) **Station Issues: Work with the consultant and the WPAC to address station issues such as station access and location, design of the station, and together with the City of Portland, a mechanism for continuing control (lease agreement, deed, or such a mechanism) of the station site by Tri-Met.**
- (d.) **Long Term Traffic Management Plan: Work with the Consultant and the Metro Transportation Department to define long-term projections of attendance, travel characteristics, impacts to city streets, and long-term use and management of parking. Result will be a transportation management plan for the area and the institutions. A portion of the plan will directly address the circulation immediately affecting Metro's Washington Park Zoo. This may require approval of the traffic management plan or sections thereof by the Metro Executive and Council.**

ARTICLE V. COMPENSATION

- 1. Metro's compensation for services to be provided under this Agreement shall not exceed the amounts listed in Subsection 2A below, without amendment of this agreement. The costs identified represent Metro's best effort at this date to estimate the costs for providing Metro services called for under this Agreement on a reimbursable cost basis.**
- 2. Method of Payment.**

A. Tri-Met shall pay Metro a maximum of \$200,000 for Metro's actual costs of performance of the projects as described heretofore. Actual costs consist of direct costs to be determined as follows:

1) Direct and Indirect Salary Costs and Fringe Benefits

Actual time computed at the applicable hourly payroll rate, fringe benefits earned with actual time and indirect costs as eligible under an approved cost allocation plan.

2) Direct Non-Salary Costs

Those costs directly incurred in fulfilling the terms of this Agreement, including, but not limited to reproduction, computer and communications expense, telephone, supplies, and transportation. Extraordinary costs must be approved by Tri-Met's Project Coordinator.

B. Metro shall submit monthly invoices for 100% of its actual costs directly to Westside Project Control. All invoices shall document the services for which the invoices are submitted and shall be in conformance with this paragraph. Tri-Met shall make payment to Metro for the invoiced amount within 30 days of Tri-Met's receipt of Tri-Met approved invoices.

C. Metro shall notify Tri-Met in writing when approximately \$190,000 of actual costs will be accrued. Consistent with Article VI, Tri-Met may initiate an amendment to this agreement if the project will require continued Metro services exceeding the maximum \$200,000 for Metro's actual costs. This Metro notice shall be sufficient notice that Metro will not provide additional services after \$200,000 of actual costs have accrued if Tri-Met has not initiated an amendment to this agreement.

3. Metro agrees to provide all of the end products over which it has control, referred to in Article VI of this agreement, or by mutual agreement, reasonable substitutes therefore.

ARTICLE VI - FINAL RESULTS OF THIS AGREEMENT

The purpose of this agreement is to enable Tri-Met with Metro assistance, to perform all tasks necessary to ensure the successful design, and subsequent construction and operation of the Project while at the same time integrating Project facilities into Metro's existing improvements in a manner which ensures the protection of the public health, safety, and welfare. To this end, Tri-Met and Metro acknowledge that amendments to reflect changing conditions and better knowledge of Project requirements are anticipated.

1. End Products

The lead agency designated for the following end products shall have primary responsibility for initiating and accomplishing those end products. It is understood, however, that the accomplishment of the end products for the station will require the cooperative efforts of both parties, and Tri-Met and Metro agree to utilize their best efforts to this end:

- | | |
|---|---------------|
| a. Detailed Final Plans and Specifications for Station | Lead: Tri-Met |
| b. Review of Final Design | Lead: Metro |
| c. Construction Phasing/Scheduling Plan
Project Overall
Coordination with Sunset Highway improvements | Lead: Tri-Met |
| d. Public Information/property owner liaison plan | Lead: Tri-Met |
| e. Construction Plan at Zoo: | Lead: Tri-Met |
| 1) Protection of public and private property provisions | |
| 2) Dirt/debris mitigation provisions | |
| 3) Construction Drainage and Erosion Control provisions | |
| 4) Construction Zone Traffic Control Provisions | |

- a) Traffic Control
- b) Temporary street closures
- c) Emergency vehicle access
- d) Coordination with Sunset Highway improvements

5) Construction Zone Private Property Access Provisions

- a) Through pedestrian traffic
- b) Building-pedestrian access
- c) Driveway/Loading Zone Access

6) Provisions for the protection of pedestrians and vehicles in the vicinity of LRT construction

7) Provisions for days of the week, hours of the day construction activity may proceed; focusing on minimizing impacts during the Zoo's busy season which extends from May 1 through Labor Day.

8) Provisions for construction restriction during special events and holidays.

9) Provisions that designate Contractor staging area and employee/vendor parking in the Washington Park area

10) Provisions for conflict resolution between Project contractors and contractors performing public or private work unrelated to the Project, if applicable.

11) Process to resolve claims for damage to Metro property resulting from construction and communication process for construction emergencies.

f. Liability Insurance Agreement Lead: Tri-Met

- 1) During construction
- 2) During on-going operations

g. Agreement for use of property and continuing control of property for Washington Park station by Metro and City of Portland. (3 party agreement) Lead: Tri-Met

h. Coordination of special "we're open for business" promotions for Washington Park attractions during Construction Lead: Tri-Met

i. Traffic Mitigation Plan Lead: Tri-Met

- j. Long Term Traffic Management Plan Lead: City of Portland
- k. Financial Plan/analysis leading to funding of Metro Regional Compact Commitment Lead: Metro
- l. Amendment to agreement specifying roles, responsibilities and funding for a Station Area Development program. Lead: Joint

ARTICLE VII- GENERAL PROVISIONS

1. Term

The term of this agreement shall be from February 2, 1992, to October 31, 1997, inclusive, unless terminated sooner under the provisions of this agreement.

2. Federal Requirements

This agreement is funded in part under a financial assistance agreement between Tri-Met and the U.S. Department of Transportation, Federal Transportation Administration ("FTA"). This agreement is subject to all provisions described for third party contracts by that financial assistance agreement, including, but not necessarily limited to, the provisions in Exhibit A, which is attached to, and made a part of, this agreement (and in which the term "contractor" shall include "Metro" under this agreement).

3. Metro is an Independent Contractor

Metro is an independent contractor for all purposes, and shall be entitled to no compensation other than the compensation provided for under this agreement.

4. Project Information

Metro agrees to share all Project information, to fully cooperate with all corporations, firms, contractors, governmental entities, and persons involved in or associated with the Project. No information, news, or press releases related to the project shall be made available to representatives of newspapers, magazines, television or radio stations, or any other news media without the prior authorization of the Tri-Met Project Coordinator.

5. **Duty to Inform**

Metro shall give prompt written notice to Tri-Met's contract coordinator if, at any time during the performance of this agreement or at any time in the future, Metro become aware of actual or potential problems, faults, or defects in the project, any nonconformance with the agreement, or with any federal, state, or local law, rule, or regulation, or has any objection to any decision or order made by Tri-Met. Any delay or failure on the part of Tri-Met to provide a written response to Metro shall constitute neither agreement with nor acquiescence in Metro statement or claim, and shall not constitute a waiver of any of Tri-Met's rights.

6. **Indemnity**

Tri-Met shall hold harmless and indemnify Metro and its officers, agents, and employees against any and all liability, settlements, loss, costs, and expenses in connection with any action, suit, or claim arising out of Tri-Met work under this Agreement within the maximum liability limits under the Oregon Tort Claims Act.

Metro shall hold harmless and indemnify Tri-Met and its officers, agents, and employees against any and all liability, settlements, loss, costs, and expenses in connection with any action, suite, or claim arising out of Metro's work under this Agreement within the maximum liability limits under the Oregon Tort Claims Act.

7. **Insurance**

Metro shall maintain commercial liability and automobile insurance or self-insurance to the maximum liability limits under the Oregon Tort Claims Act. If commercial insurance is maintained, Tri-Met, its directors, officers, agents, and employees shall be named as an additional insured. If self-insurance is maintained, Metro shall certify the reserves are actuarial appropriate.

8. **Public Contract Provisions**

All provisions required in Personal Services contracts under ORS Chapter 279 are incorporated by reference and shall be deemed a part of this agreement as if fully set forth.

9. Hours of Employment

Pursuant to ORS 279.316 and ORS 279.334, under this personal Services Contract all laborers shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, and for all work performed on legal holidays, except for individuals who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. sections 201 to 209 from receiving overtime.

10. Workers Compensation

Metro, its subconsultants, if any, and all employers working under this Contract 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 subject workers.

Metro warrants that all persons engaged in contract work and subject to the Oregon workers' compensation law are covered by a workers' compensation plan or insurance policy that fully complies with Oregon law. Metro shall indemnify Tri-Met for any liability incurred by Tri-Met as a result of Metro's breach of the warrant under this Paragraph.

11. Assignments and Subconsultants

- A. Each party binds itself, and any partner, successor, executor, administrator, or assign to this agreement.
- B. Neither Tri-Met nor Metro shall assign, or transfer any interest in or obligation under this contract without the prior written consent of the others.

12. Labor and Material

Metro shall provide and pay for all labor, materials, equipment, tools, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of all Metro obligations under this agreement, all at no cost to Tri-Met other than the compensation provided in this agreement.

13. Termination for Convenience

Tri-Met or Metro may terminate all or part of this agreement upon determining that termination is in the public interest. Termination under this paragraph shall be effective upon delivery of written notice of termination to Metro or Tri-Met. Upon termination under this paragraph, Metro shall be entitled to payment in

accordance with the terms of the contract for contract work completed before termination, and to payment for all reasonable contract close-out costs. within thirty (30) days after termination pursuant to this paragraph, Metro shall submit an itemized invoice for all unreimbursed contract work completed before termination and all contract close-out costs actually incurred by Metro. Tri-Met shall not be liable for any costs invoiced later than thirty (30) days after termination unless Metro can show good cause beyond its control for the delay.

14. Nondiscrimination

During the term of this agreement, Metro shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, or national origin.

15. Jurisdiction

This contract shall be governed by the laws of the State of Oregon, and the parties agree to submit to the jurisdiction of the courts of the State of Oregon and to the venue of the Multnomah County circuit court.

16. Compliance with Laws and Regulations

Metro shall adhere to all applicable Federal, state, and local laws, regulations, and policies, including, but not limited to, those related to workers' compensation, those of the Contract Work Hours and Safety Standards Act, and those relating to equal employment opportunity, nondiscrimination, and affirmative action, including, but not limited to, those regulations implementing executive Order No. 11246 of the President of the United States and Section 402 of the Vietnam Readjustment Act of 1973. Metro shall adhere to all safety standards and regulations established by Tri-Met for work performed on its premises or under its auspices.

17. Integration and Modification

This contract includes the entire agreement of the parties and supersedes any prior discussions or agreements regarding the same subject. This contract may be modified only by a written agreement signed by authorized representatives for the parties.

18. Mediation

Should any dispute arise between the parties concerning this agreement which is not resolved by mutual agreement, it is agreed that it will be submitted to mediated negotiation prior to any party commencing litigation. In such an event, the parties to this agreement agree to participate in good faith in a non-binding mediation process. The mediator shall be selected by mutual agreement of the parties, but in the absence of such agreement each party shall select a temporary mediator and those mediators shall jointly select the permanent mediator. All costs of mediation shall be borne equally by the parties.

19. Authority

The representatives signing on behalf of the parties certify that they are duly authorized by the party for which they sign to make this contract.

**METROPOLITAN SERVICE DISTRICT
TRANSPORTATION**

**TRI-COUNTY METROPOLITAN
DISTRICT OF OREGON**

By: _____
(signature)

By: _____
(signature)

Name: _____

Name: _____

Title: _____

Title: _____

Approved as to Form:

Approved as to Form:

By: _____

By: _____

Federal Employer ID Number:

Meeting Date: June 25, 1992
Agenda Item No. 8.7

RESOLUTION NO. 92-1636A



METRO

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

Memorandum

DATE: June 19, 1992

TO: Metro Council
Executive Officer
Interested Parties

FROM: Paulette Allen, Clerk of the Council *PA*

RE: AGENDA ITEM NO. 8.7; RESOLUTION NO. 92-1636A

The Finance Committee report for Resolution No. 92-1636A will be distributed in advance to Councilors and available at the Council meeting June 25.



METRO

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

Memorandum

Date: June 18, 1992
To: Finance Committee
From: Donald E. Carlson, Council Administrator *DE*
Re: Resolution No. 92-1636A

Please find attached a copy of Resolution No. 92-1636A which includes proposed amendments to Resolution No. 92-1636. Metro Code Section 2.02.145 requiring the Executive Officer to prepare a pay plan for Metro Employees for Council approval does not distinguish between represented and non-represented employees. These proposed amendments include within the new Pay Plan the schedules for the LIU Local 483 and the AFSCME Local 3580. These amendments are consistent with the action the Council took when it approved the current Pay Plan through adoption of Resolution No. 92-1565A.

cc: Dick Engstrom
Paula Paris

Res 92-1636A.mem

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ADOPTING THE FY) RESOLUTION NO. 92-1636A
1992-93 PAY PLAN FOR DISTRICT [NON-)
REPRESENTED] EMPLOYEES AND AWARDED A) Introduced by
COST OF LIVING ADJUSTMENT FOR) Rena Cusma,
DESIGNATED NON-REPRESENTED EMPLOYEES) Executive Officer

WHEREAS, Metro Code Section 2.02.145 requires the Executive Officer to prepare a Pay Plan for [non-represented] Metro employees for approval by the Council of the Metropolitan Service District; and

WHEREAS, Metro Code Section 2.02.150 requires the Executive Officer to annually review the Pay Plan, taking into consideration changes in Consumer Price Index and market factors and recommend changes for Council consideration; and

WHEREAS, The current [non-represented] Pay Plan was adopted by the Council on [June 27, 1991] February 27, 1992, through Resolution No. [91-1471] 92-1565A; and

~~[WHEREAS, In the approved FY 1992-93 Budget, Council has authorized sufficient funds be allocated to support this action, and]~~

WHEREAS, The Collective Bargaining Agreements with the Laborers International Union, Local 483, and AFSCME Local 3580 provide for an automatic Cost of Living Adjustment which is 3.69% for FY 1992-93; and

WHEREAS, The Executive Officer recommends a 3.69 percent Cost of Living Adjustment for designated non-represented employees; ~~[now, therefore]~~ and,

WHEREAS, The Council has authorized sufficient funds in the FY 1992-93 Approved Budget to support this action; now therefore,

BE IT RESOLVED,

1. That the Pay Plan schedule for non-represented District employees is amended and approved as shown on Exhibit A attached hereto[.] and the Pay Plan Schedules for the Laborers International Union Local 483 and the AFSCME Union Local 3580 are amended and approved as shown on Exhibits B and C respective attached hereto.

2. That a 3.69 percent Cost of Living Adjustment is hereby approved for all non-represented employees effective July 1, 1992 except those seasonal Visitor Services employees paid according to Table S of the current Pay Plan and all non-represented temporary Zoo summer employees.

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

Jim Gardner, Presiding Officer

ATTEST:

Clerk of the Council

**METROPOLITAN SERVICE DISTRICT
NON-REPRESENTED EMPLOYEES PAY SCHEDULE
(Monthly and Annual Rate Based on 2,088 Hours Per Year For Exempt Employees)**

<u>SALARY RANGE</u>	<u>CLASS CODE</u>	<u>CLASSIFICATION</u>	<u>BEGINNING RATE</u>	<u>ENTRY MERIT RATE</u>	<u>MAXIMUM MERIT RATE</u>	
1	001* 012* 265*	Visitor Service Worker 1 - Regular Office Assistant Education Service Aide 1	7.03	7.38	10.25	Hourly
4	266* 530*	Education Service Aide 2 Animal Hospital Attendant	8.14	8.55	11.87	Hourly
5	010* 022*	Management Intern Secretary	8.55	8.98	12.46	Hourly
8	021*	Administrative Secretary	9.90	10.40	14.43	Hourly
10	004 031 108*	Food Service/Retail Coord Administrative Assistant Legal Secretary	10.92 1,900 22,801	11.47 1,996 23,949	15.91 2,768 33,220	Hourly Monthly Annual
11	032 520*	Clerk of the Council Veterinarian Technician	11.47 1,996 23,949	12.04 2,095 25,140	16.70 2,906 34,870	Hourly Monthly Annual
12	075 329 360	Assistant Research Coord Management Technician Graphics/Exhibit Designer	12.04 2,095 25,140	12.64 2,199 26,392	17.53 3,050 36,603	Hourly Monthly Annual
14	333 540	Asst Management Analyst Safety/Security Supervisor	13.27 2,309 27,708	13.93 2,424 29,086	19.34 3,365 40,382	Hourly Monthly Annual
15	007 014 107	Retail Supervisor Site Supervisor Law Clerk	13.93 2,424 29,086	14.63 2,546 30,547	20.30 3,532 42,386	Hourly Monthly Annual
16	016 270 334 362	Senior Site Supervisor Education Services Spec Assoc. Management Analyst Graphics Coordinator	14.63 2,546 30,547	15.36 2,673 32,072	21.32 3,710 44,516	Hourly Monthly Annual

- * Non-exempt classification. Employees in this classification are paid hourly and are eligible to receive overtime compensation.

Effective: July 1, 1992
Prepared: May 18, 1992

**METROPOLITAN SERVICE DISTRICT
NON-REPRESENTED EMPLOYEES PAY SCHEDULE
(Monthly and Annual Rate Based on 2,088 Hours Per Year For Exempt Employees)**

<u>SALARY CLASS RANGE</u>	<u>CODE</u>	<u>CLASSIFICATION</u>	<u>BEGINNING RATE</u>	<u>ENTRY MERIT RATE</u>	<u>MAXIMUM MERIT RATE</u>			
23	068	Procurement Officer	20.59	21.62	30.00	Hourly		
	070	Personnel Manager	3,583	3,762	5,220	Monthly		
	090	Transportation Tech Mgr	42,992	45,143	62,640	Annual		
	092	Govt Relations Manager						
	311	Engineering/Analysis Mgr						
	322	Solid Waste Facilities Mgr						
	352	Transportation Planning Mgr						
477	Construction Manager							
24	064	Assistant Zoo Director	21.62	22.70	31.50	Hourly		
			3,762	3,950	5,481	Monthly		
			45,143	47,398	65,772	Annual		
25	080	Dir of Regional Facilities	22.70	23.84	33.07	Hourly		
	081	Director of Public Affairs	3,950	4,148	5,754	Monthly		
	084	Dir Finance & Mgmt Info	47,398	49,778	69,050	Annual		
	088	Convention Ctr Proj Dir						
	093	Council Administrator						
095	Deputy Executive Officer							
26	089	Director of Tran Planning	23.84	25.03	34.72	Hourly		
			105	General Counsel	4,148	4,355	6,041	Monthly
					49,778	52,263	72,495	Annual
28	086	Director of Solid Waste	26.28	27.59	38.28	Hourly		
			087	Zoo Director	4,573	4,801	6,661	Monthly
					54,873	57,608	79,929	Annual

ADDITIONAL PROVISION:

As provided in Metro Code Section 2.02.160, the Executive Officer may annually (on anniversary date) award an Incentive Salary Rate of 1 to 3 percent above the Maximum Merit Rate (annual award is not cumulative from year to year).

- Non-exempt classification. Employees in this classification are paid hourly and are eligible to receive overtime compensation.

Effective: July 1, 1992
Prepared: May 18, 1992

EXHIBIT B

**METROPOLITAN SERVICE DISTRICT
LABORERS INTERNATIONAL UNION, LOCAL 483 PAY SCHEDULE**

<u>Class Code</u>	<u>Classification</u>	<u>Pay Range (Hourly Rates):</u>		
		<u>Entrance Rate</u>	<u>After Six Months</u>	<u>After One Year</u>
019*	Typist-Receptionist	8.81	9.22	9.89
035*	Clerk/Bookkeeper	9.28	9.90	10.55
020*	Clerk/Stenographer	9.93	10.56	11.27
430*	Laborer (90 working days)	9.96	-----	-----
461*	Stationmaster	10.94	11.30	11.72
465*	Gardener 1	11.31	12.11	12.54
445*	Maintenance Worker 1	11.31	12.11	12.54
535*	Nutrition Technician	11.76	12.72	13.70
470*	Animal Keeper	11.76	-----	13.70
466*	Gardener 2	12.32	12.93	13.87
446*	Maintenance Worker 2	12.32	12.93	13.87
447*	Maintenance Worker 3	13.11	13.71	14.63
467*	Senior Gardener	14.16	14.79	15.71
478*	Work Center Coordinator	14.16	14.79	15.71
471*	Senior Animal Keeper	14.46	-----	-----
448*	Maintenance Technician	14.58	15.24	16.27
455*	Maintenance Mechanic	15.25	-----	17.02
456*	Master Mechanic	15.25	-----	17.02
457*	Maintenance Electrician	19.63	-----	-----

* Non-exempt classifications. Employees in these classifications are eligible to receive overtime compensation.

Effective: July 1, 1992 - June 30, 1993
Prepared: May 18, 1992

**METROPOLITAN SERVICE DISTRICT
AFSCME PAY SCHEDULE**

Range #	Class Code	Classification	Pay Range (Hourly Rates):							
			Base Rate	1st Step	2nd Step	3rd Step	4th Step	5th Step	6th Step	7th Step
1	012°	Office Assistant	7.03	7.38	7.75	8.14	8.55	8.98	9.43	9.90
2			7.38	7.75	8.14	8.55	8.98	9.43	9.90	10.40
3	018° 037° 538°	Receptionist Accounting Clerk 1 Safety/Security Officer 1	7.75	8.14	8.55	8.98	9.43	9.90	10.40	10.92
4			8.14	8.55	8.98	9.43	9.90	10.40	10.92	11.47
5	022° 040° 364° 625°	Secretary Program Assistant 1 Graphics Technician Word Processing Operator	8.55	8.98	9.43	9.90	10.40	10.92	11.47	12.04
6	013° 017° 539°	Scalehouse Technician Reproduction Clerk Safety/Security Officer 2	8.98	9.43	9.90	10.40	10.92	11.47	12.04	12.64
7	006° 015° 038° 330°	Food Service/Retail Specialist Building Service Worker Accounting Clerk 2 Planning Technician	9.43	9.90	10.40	10.92	11.47	12.04	12.64	13.27
8	021° 035°	Administrative Secretary Payroll Clerk	9.90	10.40	10.92	11.47	12.04	12.64	13.27	13.93
9	042° 626°	Program Assistant 2 Lead Word Processing Operator	10.40	10.92	11.47	12.04	12.64	13.27	13.93	14.63
10	005° 031 036	Storekeeper Administrative Assistant Lead Accounting Clerk	10.92	11.47	12.04	12.64	13.27	13.93	14.63	15.36
11	634°	Data Processing Operator	11.47	12.04	12.64	13.27	13.93	14.63	15.36	16.13

• Non-exempt classifications. Employees in these classifications are eligible to receive overtime compensation.

Effective: July 1, 1992 - June 30, 1993
Prepared: May 18, 1992

**METROPOLITAN SERVICE DISTRICT
AFSCME PAY SCHEDULE**

Range #	Class Code	Classification	Pay Range (Hourly Rates):							
			Base Rate	1st Step	2nd Step	3rd Step	4th Step	5th Step	6th Step	7th Step
12	023	Program Coordinator	12.04	12.64	13.27	13.93	14.63	15.36	16.13	16.94
	329	Management Technician								
	331*	Hazardous Waste Technician								
	360	Graphics/Exhibit Designer								
13			12.64	13.27	13.93	14.63	15.36	16.13	16.94	17.79
14	268	Volunteer Coordinator	13.27	13.93	14.63	15.36	16.13	16.94	17.79	18.68
	333	Asst Management Analyst								
	338	Asst Public Affairs Specialist								
	348	Asst Transportation Planner								
	354	Asst Regional Planner								
	637*	Technical Specialist								
15	306	Asst Engineer	13.93	14.63	15.36	16.13	16.94	17.79	18.68	19.61
	343	Asst Solid Waste Planner								
	635	D.P. Operations Analyst								
16	039	Senior Accountant	14.63	15.36	16.13	16.94	17.79	18.68	19.61	20.59
	332	Hazardous Waste Specialist								
	334	Assoc Management Analyst								
	339	Assoc Public Affairs Specialist								
	349	Assoc Transportation Planner								
	355	Assoc Regional Planner								
	362	Graphics Coordinator								
	638	Programmer/Analyst								
17	307	Associate Engineer	15.36	16.13	16.94	17.79	18.68	19.61	20.59	21.62
	344	Associate Solid Waste Planner								
	636	D.P. Systems Analyst								
18	335	Senior Management Analyst	16.13	16.94	17.79	18.68	19.61	20.59	21.62	22.70
	340	Senior Public Affairs Specialist								
	350	Senior Transportation Planner								
	356	Senior Regional Planner								
19	308	Senior Engineer	16.94	17.79	18.68	19.61	20.59	21.62	22.70	23.84
	345	Senior Solid Waste Planner								

* Non-exempt classifications. Employees in these classifications are eligible to receive overtime compensation.

Effective: July 1, 1992 - June 30, 1993
Prepared: May 18, 1992

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 92-1636 ADOPTING THE FISCAL YEAR 1992-93 PAY PLAN FOR NON-REPRESENTED EMPLOYEES, AND AWARDING A COST OF LIVING ADJUSTMENT FOR DESIGNATED NON-REPRESENTED EMPLOYEES.

Date: June 10, 1992

Presented by: Paula Paris

DESCRIPTION OF ACTIONS RECOMMENDED

This Resolution filed by the Executive Officer accomplishes the following: (1) grants a 3.69% Cost of Living Adjustment increase to all designated non-represented employees; and (2) approves the non-represented Pay Plan which incorporates the 3.69% increase.

3.69% COLA

As directed in 2.02.150 of the Metro Code, an annual review of employee compensation has been conducted. The Consumer Price Index has risen by at least 4.34% according to the CPI-W for the Portland area reported by the U.S. Department of Labor for January 1991 to January 1992. The recommended COLA for non-represented employees is designed to equate to the same amount given contractually to the Metro employees represented by AFSCME and LIU Local 483. Those collective bargaining agreements provide that the pay rates shall be increased by 85% of the increase in the CPI-W. The 3.69% recommended increase is 85% of the reported 4.34% total CPI increase, and will maintain an equitable pay structure for all employees.

FISCAL IMPACT AND RECOMMENDATION

The recommended Pay Plan accomplishes the goal of maintaining internal pay equity between the non-represented employees and the represented employees. The Fiscal Year 1992-93 Budget approved by Council authorizes sufficient funds to support this action. It is, therefore, recommended by the Executive Officer that this Resolution be approved and forwarded to full Council on June 25, 1992.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ADOPTING THE FY	)	RESOLUTION NO. 92-1636
1992-93 PAY PLAN FOR DISTRICT NON-)	
REPRESENTED EMPLOYEES AND AWARDED A	)	Introduced by
COST OF LIVING ADJUSTMENT FOR	)	Rena Cusma,
DESIGNATED NON-REPRESENTED EMPLOYEES	)	Executive Officer

WHEREAS, Metro Code Section 2.02.145 requires the Executive Officer to prepare a Pay Plan for non-represented Metro employees for approval by the Council of the Metropolitan Service District; and

WHEREAS, Metro Code Section 2.02.150 requires the Executive Officer to annually review the Pay Plan, taking into consideration changes in Consumer Price Index and market factors and recommend changes for Council consideration; and

WHEREAS, The current non-represented Pay Plan was adopted by the Council on June 27, 1991 through Resolution No. 91-1471; and

WHEREAS, In the approved FY 1992-93 Budget, Council has authorized sufficient funds be allocated to support this action; and

WHEREAS, The Executive Officer recommends a 3.69 percent Cost of Living Adjustment for designated non-represented employees; now, therefore,

BE IT RESOLVED,

1. That the Pay Plan schedule for non-represented District is amended and approved as shown on Exhibit A attached hereto.

2. That a 3.69 percent Cost of Living Adjustment is hereby approved for all non-represented employees effective July 1, 1992 except those seasonal Visitor Services employees paid according to Table S of the current Pay Plan and all non-represented temporary Zoo summer employees.

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

Jim Gardner, Presiding Officer

**METROPOLITAN SERVICE DISTRICT
NON-REPRESENTED EMPLOYEES PAY SCHEDULE
(Monthly and Annual Rate Based on 2,088 Hours Per Year For Exempt Employees)**

<u>SALARY RANGE</u>	<u>CLASS CODE</u>	<u>CLASSIFICATION</u>	<u>BEGINNING RATE</u>	<u>ENTRY MERIT RATE</u>	<u>MAXIMUM MERIT RATE</u>	
1	001* 012* 265*	Visitor Service Worker 1 - Regular Office Assistant Education Service Aide 1	7.03	7.38	10.25	Hourly
4	266* 530*	Education Service Aide 2 Animal Hospital Attendant	8.14	8.55	11.87	Hourly
5	010* 022*	Management Intern Secretary	8.55	8.98	12.46	Hourly
8	021*	Administrative Secretary	9.90	10.40	14.43	Hourly
10	004 031 108*	Food Service/Retail Coord Administrative Assistant Legal Secretary	10.92 1,900 22,801	11.47 1,996 23,949	15.91 2,768 33,220	Hourly Monthly Annual
11	032 520*	Clerk of the Council Veterinarian Technician	11.47 1,996 23,949	12.04 2,095 25,140	16.70 2,906 34,870	Hourly Monthly Annual
12	075 329 360	Assistant Research Coord Management Technician Graphics/Exhibit Designer	12.04 2,095 25,140	12.64 2,199 26,392	17.53 3,050 36,603	Hourly Monthly Annual
14	333 540	Asst Management Analyst Safety/Security Supervisor	13.27 2,309 27,708	13.93 2,424 29,086	19.34 3,365 40,382	Hourly Monthly Annual
15	007 014 107	Retail Supervisor Site Supervisor Law Clerk	13.93 2,424 29,086	14.63 2,546 30,547	20.30 3,532 42,386	Hourly Monthly Annual
16	016 270 334 362	Senior Site Supervisor Education Services Spec Assoc. Management Analyst Graphics Coordinator	14.63 2,546 30,547	15.36 2,673 32,072	21.32 3,710 44,516	Hourly Monthly Annual

- * Non-exempt classification. Employees in this classification are paid hourly and are eligible to receive overtime compensation.

Effective: July 1, 1992
Prepared: May 18, 1992

**METROPOLITAN SERVICE DISTRICT
NON-REPRESENTED EMPLOYEES PAY SCHEDULE
(Monthly and Annual Rate Based on 2,088 Hours Per Year For Exempt Employees)**

SALARY RANGE	CLASS CODE	CLASSIFICATION	BEGINNING RATE	ENTRY MERIT RATE	MAXIMUM MERIT RATE	
17	009	Food Service Supervisor	15.36	16.13	22.40	Hourly
	076	Research Coordinator	2,673	2,807	3,898	Monthly
	473	Fac. Mgt. Project Coord	32,072	33,679	46,771	Annual
18	030	Support Services Supervisor	16.13	16.94	23.51	Hourly
	335	Senior Management Analyst	2,807	2,948	4,091	Monthly
	340	Senior PA Specialist	33,679	35,371	49,089	Annual
	472	Assistant Curator				
	474	Facilities Supervisor				
19	060	Zoo Marketing Manager	16.94	17.79	24.69	Hourly
	061	Zoo Development Officer	2,948	3,095	4,296	Monthly
	525	Veterinarian	35,371	37,146	51,553	Annual
20	062	Visitors Services Manager	17.79	18.68	25.92	Hourly
	275	Education Services Manager	3,095	3,250	4,510	Monthly
	336	Management Analyst Supv	37,146	39,004	54,121	Annual
	341	Public Information Supv				
	351	Trans. Planning Supervisor				
	357	Regional Planning Supv				
21	476	Construction Coordinator				
	063	Curator	18.68	19.61	27.21	Hourly
	085	Mgr Development Services	3,250	3,412	4,735	Monthly
	309	Engineering Supervisor	39,004	40,946	56,814	Annual
	346	Solid Waste Planning Supv				
	353	Data Resource Center Supv				
22	475	Zoo Facilities Manager				
	071	Chief Accountant	19.61	20.59	28.58	Hourly
	103	Sr Assistant Counsel	3,412	3,583	4,973	Monthly
	320	SW Budget & Finance Mgr	40,946	42,992	59,675	Annual
	337	Administrative Manager				
347	Waste Reduction Manager					

• Non-exempt classification. Employees in this classification are paid hourly and are eligible to receive overtime compensation.

Effective: July 1, 1992
Prepared: May 18, 1992

**METROPOLITAN SERVICE DISTRICT
NON-REPRESENTED EMPLOYEES PAY SCHEDULE
(Monthly and Annual Rate Based on 2,088 Hours Per Year For Exempt Employees)**

SALARY RANGE	CLASS CODE	CLASSIFICATION	BEGINNING RATE	ENTRY MERIT RATE	MAXIMUM MERIT RATE			
23	068	Procurement Officer	20.59	21.62	30.00	Hourly		
	070	Personnel Manager	3,583	3,762	5,220	Monthly		
	090	Transportation Tech Mgr	42,992	45,143	62,640	Annual		
	092	Govt Relations Manager						
	311	Engineering/Analysis Mgr						
	322	Solid Waste Facilities Mgr						
	352	Transportation Planning Mgr						
477	Construction Manager							
24	064	Assistant Zoo Director	21.62	22.70	31.50	Hourly		
			3,762	3,950	5,481	Monthly		
			45,143	47,398	65,772	Annual		
25	080	Dir of Regional Facilities	22.70	23.84	33.07	Hourly		
	081	Director of Public Affairs	3,950	4,148	5,754	Monthly		
	084	Dir Finance & Mgmt Info	47,398	49,778	69,050	Annual		
	088	Convention Ctr Proj Dir						
	093	Council Administrator						
095	Deputy Executive Officer							
26	089	Director of Tran Planning	23.84	25.03	34.72	Hourly		
			105	General Counsel	4,148	4,355	6,041	Monthly
					49,778	52,263	72,495	Annual
28	086	Director of Solid Waste	26.28	27.59	38.28	Hourly		
			087	Zoo Director	4,573	4,801	6,661	Monthly
					54,873	57,608	79,929	Annual

ADDITIONAL PROVISION:

As provided in Metro Code Section 2.02.160, the Executive Officer may annually (on anniversary date) award an Incentive Salary Rate of 1 to 3 percent above the Maximum Merit Rate (annual award is not cumulative from year to year).

- Non-exempt classification. Employees in this classification are paid hourly and are eligible to receive overtime compensation.

Effective: July 1, 1992
Prepared: May 18, 1992