



METRO

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

Agenda

DATE: October 22, 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
- (10 min.) 3.1 Annual Report on Metro Facilities Recycling Efforts Per Executive Order No. 47
- (30 min.) 3.2 Slide Show on Greenspaces Restoration
- 6:15
(5 min.) 4. CONSENT AGENDA (Action Requested: Motion to Adopt the Consent Agenda)
- 4.1 Minutes of September 24, 1992
- REFERRED FROM THE TRANSPORTATION & PLANNING COMMITTEE
- 4.2 Resolution No. 92-1679, For the Purpose of Approving in Concept the City of Portland's Master Plan for the Springwater Corridor
- 6:20
(5 min.) 5. ORDINANCES, FIRST READINGS
- 5.1 Ordinance No. 92-473, For the Purpose of Amending Metro Code Sections 5.02.015 and 5.02.065, Relating to Disposal Charges at Metro Facilities, and Declaring an Emergency (Action Requested: Referral to the Solid Waste Committee)
6. ORDINANCES, SECOND READINGS
- 6:25
(10 min.) 6.1 Ordinance No. 92-472, An Ordinance Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 91-4: PCC Rock Creek (Action Requested: Motion to Adopt the Ordinance)
7. RESOLUTIONS
- REFERRED FROM THE SOLID WASTE COMMITTEE
- 6:35
(10 min.) 7.1 Resolution No. 92-1699, For the Purpose of Approving the One Percent for Recycling Program Criteria, Application and Project List for FY 1992-93 (Action Requested: Motion to Adopt the Resolution)
- 6:45
(10 min.) 7.2 Resolution No. 92-1686, For the Purpose of Entering Into a Multi-Year Contract with the Most Qualified Proposer by Authorizing Issuance of a Request for Proposals for a Comprehensive Waste Stream Characterization Study (Action Requested: Motion to Adopt the Resolution)

(Continued)

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7. RESOLUTIONS (Continued)

BEFORE THE CONTRACT REVIEW BOARD

6:55
(10 min.) **7.3 Resolution No. 92-1683A, For the Purpose of Authorizing an Exemption from the Competitive Procurement Procedures of Metro Code Section 2.04.053 to Permit the Executive Officer to Execute Contract Amendment No. 16 with SCS Engineers (Action Requested: Motion to Adopt the Resolution)** McFarland

REFERRED FROM THE TRANSPORTATION & PLANNING COMMITTEE

7:05
(10 min.) **7.4 Resolution No. 92-1693, For the Purpose of Authorizing the Executive Officer to Execute the Acquisition of Land in the Smith and Bybee Lakes Management Area (Action Requested: Motion to Adopt the Resolution)** Washington

7:15
(10 min.) **7.5 Resolution No. 92-1668A, For the Purpose of Deferring Pursuit of a Local Option Vehicle Registration Fee for Arterial-Related Improvements (Action Requested: Motion to Adopt the Resolution)**

7:25
(10 min.) **7.6 Resolution No. 92-1696, For the Purpose of Authorizing the Acceptance of a Transferred Position from the Oregon Office of Emergency Management to Metro and Directing Preparation of Budget Amendment (Action Requested: Motion to Adopt the Resolution)** McLain

REFERRED FROM THE REGIONAL FACILITIES COMMITTEE

7:35
(10 min.) **7.7 Resolution No. 92-1652A, For the Purpose of Authorizing a Development Effort and Stating Metro's Intent to Provide Financing Via General Obligation Bonds for the End of the Oregon Trail Project (Action Requested: Motion to Adopt the Resolution)** McFarland

7:45
(10 min.) **7.8 Resolution No. 92-1694, For the Purpose of Authorizing the Issuance of the Request for Proposals for the Operator of Metro's On-Site Childcare Facility to be Located in the Headquarters Building (Action Requested: Motion to Adopt the Resolution)** Washington

7:55
(10 min.) **8. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS**

8:05 **ADJOURN**



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REVISED AGENDA: Item Nos. 8.1 and 10 have been added

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8. NON-REFERRED RESOLUTIONS

7:55 (5 min.) 8.1 Resolution No. 92-1703, For the Purpose of Expressing Metro's Appreciation to Janet Cobb for Her Volunteer Work on the Greenspaces Program and Bond Measure (Action Requested: Motion to Adopt the Resolution)

8:00 (10 min.) **9. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS**

8:10 (10 min.) **10. EXECUTIVE SESSION Held Under the Authority of ORS 192.660(1)(h) to Consult with Legal Counsel with Regard to Oregon Laborers-Employers Health & Welfare Trust Fund v. Metropolitan Service District**

8:20 **ADJOURN**

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Meeting Date: October 22, 1992
Agenda Item No. 4.1

MINUTES

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

September 24, 1992

Council Chamber

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

Councilors Excused: Tanya Collier and Richard Devlin

Presiding Officer Gardner called the regular meeting to order at
5:36 p.m.

Presiding Officer Gardner announced an Executive Session had been
added to the agenda and would be held before Agenda Item No. 10,
"Councilor Communications and Committee Reports."

1. CONSIDERATION OF A CANDIDATE FOR VACANT DISTRICT 2 COUNCIL
POSITION

A. Interview of Candidates by Council:

Presiding Officer Gardner announced that due to the September 1,
1992, resignation of District 2 Councilor Larry Bauer, the
Council had been involved in a process to select a person to
serve in that position.

Presiding Officer Gardner announced advertisements for the vacant
seat had been advertised in The Valley Times and in The Oregonian
and that neighborhood associations, business associations and
elected officials were informed of the vacant position. He
announced applications were made available to all interested
citizens beginning September 2, 1992.

Presiding Officer Gardner noted a subcommittee of Councilors
Devlin, Gronke and himself conducted a public hearing in District
2 at Cedar Hills Recreation Center on Monday, September 21, to
hear applicants and receive testimony from interested citizens.
He said Terry Moore and Cal Hamreus were the applicants from that
meeting for consideration by the Council at this meeting.

Presiding Officer Gardner announced the Council would interview
applicants for the vacant Council position per the provisions of
Metro Code Section 2.01.180. He said each applicant would have
up to 15 minutes to respond to the series of five questions they
received in the application packet and to make closing remarks.
He said Councilor questions would not be applied against the
applicants' allotted time.

The Council then interviewed Ms. Moore and Mr. Hamreus separately who were each asked the following five questions:

1. Metro currently provides regional services in the areas of solid waste disposal, transportation planning, urban growth management, and regional facilities management. Should Metro provide other programs or services? If so, what programs and services? If not, why not?
2. What should Metro's relationship be with other governments in the region?
3. Metro Councilors are responsible for setting regional policy and for program and fiscal oversight of the Metropolitan Service District. Explain how your background would enhance the Council's ability to perform these tasks.
4. By assuming this position, you would be appointed to represent a district of approximately 100,000 people. Please share with us your knowledge of the needs and concerns of your district. What experience do you have in working with community organizations, as well as individuals in your district? How would you balance the needs of District 2 with the needs of the region?
5. What do you believe ought to be changed about Metro, if anything?

B. Selection of Candidate for the District 2 Position

Presiding Officer Gardner opened the nominations.

First Nomination: Councilor Buchanan moved, seconded by Councilor Hansen, to nominate Terry Moore.

Second Nomination: Councilor Gronke moved, seconded by Councilor McFarland, to nominate Cal Hamreus.

Presiding Officer Gardner closed the nominations.

The Council as a whole discussed the nominations. Councilor McFarland said the Council was fortunate to have two excellent candidates for consideration, especially for an appointment which would only last for three months. Councilor Van Bergen noted in past appointment processes, the Council had avoided appointing candidates running for Metro office during election periods because it was felt appointment would give that candidate an advantage over his/her opponents in their respective races. He believed that was an unfair prohibition and that Ms. Moore was

eminently qualified to fill the vacancy. Councilor Wyers concurred with Councilor McFarland on the quality of the two candidates.

Presiding Officer Gardner explained per Metro Code Section 2.01.180, Councilors would vote for one candidate and sign their ballots. He said a candidate would be elected if he or she received six or more votes. He said if no one candidate received six votes, a second ballot would be held. He said ballots would continue to be cast until one candidate received six or more votes.

Vote: Councilors Washington, Van Bergen, McLain, Buchanan, Hansen, Wyers, McFarland, and Gardner voted for Terry Moore. Councilor Gronke voted for Cal Hamreus. Councilors Collier and Devlin were absent.

The Council congratulated Ms. Moore on her appointment and thanked Mr. Hamreus for his participation and interest in Metro.

C. Resolution No. 92-1684, For the Purpose of Appointing a Candidate to Fill the Vacant District 2 Council Position

Motion to Suspend Rules: Councilor Wyers moved, seconded by Councilor Wyers, to suspend the Council's rules requiring that resolutions be referred by committee so that the Council as a whole could consider Resolution No. 92-1684.

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

Motion: Councilor McFarland moved, seconded by Councilor Hansen, to adopt Resolution No. 92-1684 with Terry Moore's name incorporated into the resolution.

Vote: Councilors Buchanan, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington, Wyers, and Gardner voted aye. Councilors Collier and Devlin were absent. The vote was unanimous and Resolution No. 92-1684 was adopted.

General Counsel Dan Cooper gave Ms. Moore the oath of office and Ms. Moore was sworn in. Presiding Officer Gardner announced Councilor Moore would be seated at the October 8 Council meeting.

2. INTRODUCTIONS

Councilor Buchanan introduced Muhammed Ghunein, bureau chief, Arabic Bureau, U.S. Voice of America, Aman, Jordan.

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

None.

4. EXECUTIVE OFFICER COMMUNICATIONS

None.

5. CONSENT AGENDA

5.1 Minutes of July 23, August 13 and 27, 1992

Motion: Councilor Gronke moved, seconded by Councilor McLain, for adoption of the Consent Agenda.

Councilor Gronke noted Councilor Washington's name was listed twice in the attendance record of the July 23 minutes and his name was omitted.

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

6. ORDINANCES, SECOND READINGS

6.1 Ordinance No. 92-467A, For the Purpose of Approving the Revision of Metro Code Section 2.02.275, Zoo Visitor Services Employees (Public Hearing)

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

Presiding Officer Gardner announced Ordinance No. 92-467 was first read on July 23 and referred to the Governmental Affairs Committee for consideration. The Governmental Affairs Committee considered it on September 17 and recommended Ordinance No. 92-467A to the full Council for adoption.

Motion: Councilor Gronke moved, seconded by Councilor Buchanan, for adoption of Ordinance No. 92-467A.

Councilor Gronke gave the Governmental Affairs Committee's report and recommendations. He explained the ordinance would clarify rules and regulations for temporary Zoo employees in Metro Code Chapter 4.01 as well as clarify current procedures.

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

Vote: Councilors Buchanan, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington, Wyers, and Gardner voted aye. Councilors Collier and Devlin were absent. The vote was unanimous and Ordinance No. 92-467A was adopted.

6.2 Ordinance No. 92-466A, 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 (Public Hearing)

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

Presiding Officer Gardner announced Ordinance No. 92-466 was first read on June 25 and referred to the Governmental Affairs Committee for consideration. The Governmental Affairs Committee considered it on July 2 and September 17 and recommended Ordinance No. 92-466A for adoption.

Motion: Councilor Gronke moved, seconded by Councilor Hansen, for adoption of Ordinance No. 92-466A.

Councilor Gronke gave the Governmental Affairs Committee's report and recommendations. He said the ordinance was the result of Council staff working with Legal Counsel and a small task force of interested parties to develop the most liberal program possible that would withstand legal scrutiny. He said the ordinance would establish separate programs for minority and women-owned businesses for locally funded contracts and focussed on good faith efforts by both Metro and prime bidders for construction contracts over \$50,000, and on good faith and outreach efforts by Metro for other contracts.

The Council discussed the ordinance. Councilor Washington asked what the budget impact of the ordinance would be. Casey Short, Council Analyst, said the Regional Facilities Department would

submit a preliminary budget request for sufficient staff to support the program.

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

Councilor McLain said the ordinance showed a true effort on Metro's part to address inequities. Councilor Wyers concurred and said, because of current case law on the subject matter, the ordinance was the best effort Metro could make at this time.

Vote: Councilors Buchanan, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington, Wyers, and Gardner voted aye. Councilors Collier and Devlin were absent. The vote was unanimous and Ordinance No. 92-466A was adopted.

7. RESOLUTIONS

7.1 Resolution No. 92-1661, For the Purpose of Authorizing the Executive Officer to Execute a Statement in Support of a Predicate/Disparity Study

Motion: Councilor Gronke moved, seconded by Councilor Wyers, for adoption of Resolution No. 92-1661.

Councilor Gronke gave the Governmental Affairs Committee's report and recommendations. He said the resolution would authorize research to see if a final study should be made on percentage goals related to Ordinance No. 92-466A. He said the study was endorsed by Multnomah County and Tri-Met, that both agencies would participate, and that there would be no financial impact to Metro. He said if sufficient evidence was gathered, a predicate study on whether past discriminatory practices had occurred would take place.

Councilor Hansen asked if numbers would be pooled or factored out.

Neil Saling, Director of Regional Facilities, said each agency's staff had to go before their governing bodies to get permission for additional study also.

Councilor Van Bergen asked if the study would result in numbers that were actionable or prosecutable. Mr. Saling said he did not know at this time if facts gathered would result in such action. Councilor Van Bergen said the courts were becoming involved in legislative issues. General Counsel Dan Cooper said the victims, or specific bodies discriminated against, had to be identified

before legal action could take place. Councilor Van Bergen said there was evidence that predicate/disparity studies could cost as much as \$500,000. Councilor Washington asked if there was confirmation the other agencies involved would continue in this action with Metro. Mr. Saling said Metro would sign a non-binding agreement that allowed Metro not to continue if the other agencies did not continue with the study.

Vote: Councilors Buchanan, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilors Collier, Devlin and Wyers were absent. The vote was unanimous and Resolution No. 92-1661 was adopted.

7.2 Resolution No. 92-1680, For the Purpose of Endorsing Tri-Met's Financing Plan for the Westside Light Rail Projects Which Includes Advancing the Region's Extension Allocated Funds to the 185th Project

Motion: Councilor McLain moved, seconded by Councilor Buchanan, for adoption of Resolution No. 92-1680.

Councilor McLain gave the Transportation and Planning Committee's report and recommendations. Councilor McLain referred the Council to the committee report, Transportation Department staff's report and Be It Resolved language clauses in the resolution. She noted also the draft letter attached to the committee report from Brian Clymer, Federal Transit Administration Administrator to Senator Mark Hatfield received this date. Councilor McLain discussed Committee concerns including: 1) enforcement of the letter attached to the committee report; 2) the differing definitions of what would be enforceable; 3) National Environmental Protection Agency (NEPA) regulations; and 4) the policy commitment based on the letter's favorable response. Councilor McLain said she suggested at Committee the resolution be forwarded with no recommendation until the Council knew what Mr. Clymer's letter said. She said Dick Feeney, Tri-Met Director of Governmental Affairs, said that could be done but stressed the importance of having the Council consider the resolution before or by September 30. She said Councilor Washington asked Mr. Feeney whether such difficulties and complications occurred during development of the eastside MAX project. She said Mr. Feeney said difficulties arose during the MAX project because of the region's inexperience in dealing with the federal government. She said Chair Devlin suggested the Committee forward the resolution with a favorable recommendation contingent on the letter from Mr. Clymer being deemed satisfactory by the Joint Policy Advisory Committee on Transportation (JPACT) and the Council, and that if the response

letter was not satisfactory, the resolution would be returned to JPACT for further work. Councilor McLain said the draft letter received this date now before the Council was satisfactory.

The Council briefly discussed the issues further.

Vote: Councilors Buchanan, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington, Wyers, and Gardner voted aye. Councilors Collier and Devlin were absent. The vote was unanimous and Resolution No. 92-1680 was adopted.

7.3 Resolution No. 92-1667, For the Purpose of Adopting the FY 1993 to Post 1996 Transportation Improvement Program and the FY 1993 Annual Element

Motion: Councilor Washington moved, seconded by Councilor Hansen, for adoption of Resolution No. 92-1667.

Councilor Washington gave the Transportation and Planning Committee's report and recommendations. He explained the resolution would approve the annual Transportation Improvement Program (TIP), the five-year funding element required by the Federal Highway Administration (FHA) to detail how the region should spend its transportation funds. He said the resolution endorsed the TIP for years 1993-1998. He said the resolution would continue past projects and approve the list of new projects in staff's report.

The Council briefly discussed the resolution further.

Vote: Councilors Buchanan, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington, Wyers, and Gardner voted aye. Councilors Collier and Devlin were absent. The vote was unanimous and Resolution No. 92-1667 was adopted.

7.4 Resolution No. 92-1670, For the Purpose of Approving an Amendment to the 1993 Unified Work Program for Transportation and Land Use Modelling Improvements

Motion: Councilor McLain moved, seconded by Councilor Hansen, for adoption of Resolution No. 92-1670.

Councilor McLain gave the Transportation and Planning Committee's report and recommendations. She explained the Transportation Department recently became aware of some discretionary FHA funding that could be available for the Region 2040 project if expended before the end of the federal fiscal year, or September

30. She said the Transportation Policy Alternative Committee (TPAC) and JPACT had both approved the resolution.

The Council and Director of Planning Andy Cotugno, briefly discussed funding mechanisms and the modelling work for which the funds would be used.

Vote: Councilors Buchanan, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington, Wyers, and Gardner voted aye. Councilors Collier and Devlin were absent. The vote was unanimous and Resolution No. 92-1670 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. 7.5.

7.5 Resolution No. 92-1671, For the Purpose of Authorizing an Exemption to the Competitive Procurement Procedures of Metro Code Chapter 2.04.053 and Authorizing a Personal Services Agreement with the Oregon Graduate Institute of Science and Technology

Motion: Councilor McFarland moved, seconded by Councilor Wyers, for adoption of Resolution No. 92-1671.

Councilor McFarland gave the Solid Waste Committee's report and recommendations. She explained the original St. Johns Landfill (SJL) closure plan recognized potential research opportunities and that the Oregon Graduate Institute had submitted a proposal for research in three areas: 1) chemical, reactions and migration of soil contaminants; 2) development of computer models related to the surface water and contaminant movement in the Smith and Bybee Lakes area; and 3) soil and vegetation interaction in the landfill cap. She said the sole source contract would cost \$99,999, with \$75,000 to be spent FY 1992-93. She said benefits to Metro from the research included: 1) a data based and computer modeling technology that would assist in cost-effective environmental management of the site; 2) assistance in developing a proper cap for SJL; and 3) development of the site as a "field laboratory: for a variety of educational and environmental uses. Councilor McFarland recommended adoption of the resolution.

The Council briefly discussed the resolution.

Vote: Councilors Buchanan, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington, Wyers, and Gardner voted aye. Councilors Collier and Devlin were absent. The vote was unanimous and Resolution No. 92-1671 was adopted.

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

7.6 Resolution No. 92-1672, For the Purpose of Establishing the District's Intent to Include a Citizen's Bond Sale as Part of Its General Obligation Bond Issuance of \$200 Million for the Regional Greenspaces System

Motion: Councilor Wyers moved, seconded by Councilor Hansen, for adoption of Resolution No. 92-1672.

Councilor Wyers gave the Finance Committee's report and recommendations. She said the program would set aside up to \$3 million of the bond issue in \$1,000 denominations to be administered by a local bank, and would be slightly more costly than a usual program, but with the benefit of being available to more people because of the lower bond face amount. She said the bonds would be advertised via, and tied into, the public information campaign advertising the Greenspaces bond measure.

Jennifer Sims, Director of Finance and Management Information, briefly discussed the resolution.

Vote: Councilors Buchanan, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington, Wyers, and Gardner voted aye. Councilors Collier and Devlin were absent. The vote was unanimous and Resolution No. 92-1672 was adopted.

7.7 Resolution No. 92-1676, For the Purpose of Approving Contract for Performance Audit Services

Motion: Councilor Van Bergen moved, seconded by Councilor Wyers, for adoption of Resolution No. 92-1676.

Councilor Van Bergen gave the Finance Committee's report and recommendations. He said Talbot, Korvala and Warwick did a good job during the interview process and said the department to be audited had not yet been determined. He said if the Metro Charter was adopted, the auditor would take over the contract in 1993, but noted also Metro's contract contained a five-day escape clause.

Vote: Councilors Buchanan, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington, Wyers, and Gardner voted aye. Councilors Collier and Devlin were absent. The vote was unanimous and Resolution No. 92-1672 was adopted.

8. NON-REFERRED RESOLUTIONS

8.1 Resolution No. 92-1681, For the Purpose of Directing the Preparation of Neutral Factual Information Regarding the Proposed Metro Charter (Ballot Measure 26-3)

Motion to Suspend Rules: Councilor Buchanan moved, seconded by Councilor Van Bergen, to suspend the Council's rules requiring that resolutions be referred by committee so that the Council as a whole could consider Resolution No. 92-1681.

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

Main Motion: Councilor Gronke moved, seconded by Councilor Buchanan, for adoption of Resolution No. 92-1681.

Councilor Gronke explained the Governmental Affairs Committee determined it would benefit the voters if a neutral, factual information sheet on the Metro Charter ballot measure was developed.

Councilor Hansen asked if it was necessary for the resolution title to state both "neutral" and "factual."

Motion to Amend: Councilor Hansen moved, seconded by Councilor Gronke, to amend the title of Resolution No. 92-1681 (additional underlined; deleted language bracketed): "Resolution No. 92-1681, For the Purpose of Preparing [~~Directing the Preparation of Neutral Factual~~] Information Regarding the Proposed Metro Charter (Ballot Measure 26-3).

Councilor Wyers said "neutral" and "factual" had different meanings. She had questions about the use of funds.

Vote on Motion to Amend: Councilors Gronke and Hansen voted aye. Councilors Buchanan, McFarland, McLain, Van Bergen, Washington, Wyers and Gardner voted nay. Councilors Collier and Devlin were absent. The vote was 7 to 2 against and the motion failed.

Councilor Gronke asked how much it would cost to prepare the fact sheet. Councilor Van Bergen said mailing costs were prohibitive and the fact sheet could be distributed by hand. Councilor Gronke noted the resolution was in response to his request at the September Councilor retreat. Councilor McLain said she had wanted a fact sheet for use when speaking in the community and had planned to use personal funds for reproduction costs. Councilor Washington said he thought the resolution was intended for Councilors' use only when speaking to the public and asked why the Council had to get permission to expend funds for its own materials. Mr. Cooper explained Oregon law specified no public funds were to be spent to support or oppose ballot measures. He said the law did allow expenditure for the dissemination of neutral, factual information. He said Councilors could discuss any topic they wished. Councilor Wyers said a fact sheet for the Council and a fact sheet for citizens were two separate items. She asked if the fact sheet would talk about the Charter's effect or its provisions. Mr. Cooper said it would not be appropriate to include specific information about effects.

The Council discussed the issues further.

Vote on Main Motion: Councilors Buchanan, Gronke, Hansen, McLain and Gardner voted aye. Councilors McFarland, Van Bergen, Washington and Wyers voted nay. Councilors Collier and Devlin were absent. The vote was 5 to 4 in favor and Resolution No. 92-1681 was adopted.

ADDITIONAL AGENDA ITEM

8.2 Resolution No. 92-1687, For the Purpose of Making Appointments to Council Standing Committees

Presiding Officer Gardner explained Resolution No. 92-1687 would appoint Councilor Moore to the Governmental Affairs and Transportation & Planning Committees.

Motion to Suspend Rules: Councilor Wyers moved, seconded by Councilor Buchanan, to suspend the Council's rules requiring that resolutions be referred by committee so that the Council as a whole could consider Resolution No. 92-1687.

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

Motion: Councilor Wyers moved, seconded by Councilor Buchanan, for adoption of Resolution No. 92-1681.

Vote: Councilors Buchanan, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington, Wyers, and Gardner voted aye. Councilors Collier and Devlin were absent. The vote was unanimous and Resolution No. 92-1681 was adopted.

9. Executive Session Held Under the Authority of ORS 192.660(1)(h) to Consult with Counsel with Regard to Litigation

Presiding Officer Gardner announced the Council would hold an Executive Session under the authority of ORS 192.660(1)(h) to consult with Legal Counsel with regard to litigation.

The Executive Session began at 8:28 p.m. Present: Councilors Gronke, Washington, McFarland, Wyers, Gardner, Hansen, Buchanan, McLain and Van Bergen. Also present: Dan Cooper, Mark Williams, Don Carlson and Casey Short. The Executive Session ended at 8:45 p.m.

10. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS

Councilor Gronke noted press coverage of the dedication of the Oregon Trail Interpretative Center.

Councilor Wyers said the Council should be fully informed on all of the issues it was expected to vote on and said the date of a meeting was too late to receive papers the Council was expected to make decisions on. She understood emergency situations did occur at times. Councilor Hansen concurred with Councilor Wyers.

Presiding Officer Gardner adjourned the meeting at 9:05 p.m.

Respectfully submitted,



Paulette Allen
Clerk of the Council

Meeting Date: October 22, 1992
Agenda Item No. 4.2

RESOLUTION NO. 92-1679



METRO

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

Memorandum

DATE: October 15, 1992

TO: Metro Council
Executive Officer
Interested Parties

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

RE: AGENDA ITEM NO. 4.2; RESOLUTION NO. 92-1679

Exhibit A to Resolution No. 92-1679, "City of Portland's Master Plan for the Springwater Corridor" will be published separately from the agenda packet due to the volume of that document. It will be distributed in advance to Councilors and available at the Council meeting October 22.

TRANSPORTATION AND PLANNING COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 92-1679, FOR THE PURPOSE OF ENDORSING IN CONCEPT THE CITY OF PORTLAND'S MASTER PLAN FOR THE SPRINGWATER CORRIDOR

Date: October 15, 1992

Presented by: Councilor Buchanan

Committee Recommendation: At the October 13 meeting, the Transportation and Planning Committee voted unanimously to recommend Council adoption of Resolution No. 92-1679. Voting in favor: Councilors Devlin, McLain, Buchanan, Moore, and Washington.

Committee Issues/Discussion: Mel Huie, Senior Regional Planner, presented the staff report with the assistance of Mary Anne Cassin, the Springwater Corridor Project Manager for the City of Portland. Mr. Huie explained that the Springwater Corridor Project has been well coordinated with the Metropolitan Greenspaces Program, of which the Springwater Corridor is a major trail segment. In the past, Metro has supported funding for the Springwater Corridor through the Highway Enhancement Fund and through the Greenspaces Restoration Grants.

Ms. Cassin explained that the Master Plan being considered is the product of two years' worth of work on the part of all local jurisdictions (e.g. Metro, City of Portland, two counties, Cities of Gresham and Milwaukie) and the Forest Service and State Parks Division. The process has been very noncontroversial, with all parties strongly in favor. Over 77% of those recently polled agreed with the development of the site as a recreation corridor. Nearly 90% of those polled said they would use the site for recreation if it were developed.

The Springwater Corridor Project has been on the City of Portland's agenda for a long time. The project completes the southeast section of the 40 Mile Loop. It also ties into a large section of the original rail corridor, making it possible to travel from downtown Portland to the Mount Hood National Forest. The section extending beyond the City's ownership, to Boring, is owned by Oregon State Parks.

Most of the corridor itself is 100 feet wide. Because it was developed as a rail corridor, there is an existing rail bed that is extremely flat and easy to work with, with a maximum grade of two percent. This will make it easier to make the Corridor "accessible". The main, twelve foot wide, multi-purpose path will separate the soft shoulder and a separate equestrian trail. The original idea was to bring the equestrian trail only to Powell Butte or 122nd Avenue, but there is strong support to complete the trail all the way into the City; this is now within the proposal. The Corridor will also have Trail Heads and an Interpretive Center

at certain locations within the Urban Growth Boundary. In the more rural areas, the improvements will be less visible.

Funding for the project appears very positive. Enhancement funds may be available from the Oregon Department of Transportation. \$3.7 million has been requested. JPACT gave the project a "number one" priority. Receipt of this funding would complete the property acquisition for the project and provide for hard trails from McLoughlin Boulevard through Gresham. The Trail Heads and some of the street intersections may take longer.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF APPROVING IN) RESOLUTION NO. 92-1679
CONCEPT THE CITY OF PORTLAND'S)
MASTER PLAN FOR THE SPRINGWATER) Introduced by Rena Cusma,
CORRIDOR) Executive Officer

WHEREAS, The City of Portland has been planning for the 40-Mile Loop, of which the Springwater Corridor is an integral 16.5 mile segment, around its boundaries since 1903; and

WHEREAS, The City of Portland's "Park Futures: A Master Plan for Portland's Park System" recommends the development of a trails system that will encircle the city and interconnect parks, open space, natural areas, bike paths, recreational facilities, and other public attractions; and

WHEREAS, The 40-Mile Loop and Springwater Corridor segment of the loop are trail priorities in the city's "Park Futures" and Metro's Greenspaces Master Plan; and

WHEREAS, The City of Portland is working cooperatively with Metro, City of Gresham, City of Milwaukie, Multnomah County, Clackamas County, North Clackamas Parks and Recreation District, Oregon Parks and Recreation Department, Oregon Department of Transportation, Friends of Springwater Corridor, 40-Mile Loop Land Trust, neighborhood groups, adjacent property owners, residents of the corridor, and citizens in the corridor to plan for and implement the master plan for the Springwater Corridor; and

WHEREAS, Metro is represented on the Springwater Corridor Agency Steering Committee which developed the master plan; and

WHEREAS, City of Portland parks planners are represented on Metro's Greenspaces technical advisory committee, and Metro's regional trails working group; and

WHEREAS, The Springwater Corridor project has been coordinated with Metro's Greenspaces Master Plan and its regional trails and greenways component; and

WHEREAS, The Springwater Corridor is listed and mapped in the Greenspaces Master Plan as a priority trails project; and

WHEREAS, The goals and objectives of the Springwater Corridor Master Plan are consistent and complementary with those of the Greenspaces Master Plan; and

WHEREAS, Metro has awarded a Greenspaces Restoration/ Enhancement Grant to the City of Portland to restore a degraded natural area in the corridor at Leach Botanical Gardens along Johnson Creek; and

WHEREAS, The Metro Council and the Joint Policy Advisory Committee on Transportation (JPACT) have made a recommendation to the Oregon Transportation Commission that it allocate \$3,000,000 in federal highway enhancement funds Intermodal Surface Transportation Efficiency Act (ISTEA) to the Springwater Corridor; now, therefore,

BE IT RESOLVED,

1. That the Council of the Metropolitan Service District endorses in concept the City of Portland's Master Plan for the Springwater Corridor which is detailed in Exhibit A hereto.

2. That the Metro Greenspaces staff continue to work cooperatively with the city of Portland staff and other agencies, neighborhood groups, property owners, and citizens in implementing the goals and objectives of the Springwater Corridor Master Plan.

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

Jim Gardner, Presiding Officer

STAFF REPORT

FOR THE PURPOSE OF ENDORSING IN CONCEPT THE CITY OF PORTLAND'S MASTER PLAN FOR THE SPRINGWATER CORRIDOR

Date: October 13, 1992

Presented By: Mel Huie, Planning Dept.

FACTUAL BACKGROUND AND ANALYSIS

The Springwater Corridor, an abandoned railroad line, owned by the city of Portland will be developed into a trail for walking, biking and horseback riding. It also has importance as a wildlife corridor. For the most part, it is separated from streets and neighborhood residential areas. It stretches 16.5 miles from S.E. McLoughlin Blvd. to Boring. The corridor occupies 190.8 acres of land. The corridor forms the southern perimeter of the 40-Mile Loop (which is now about 140 miles). The corridor lies within the Urban Growth Boundary for most of its length, with the exception of a small pocket near Jenne Road, and then leaves the boundary at Hogan Road. U.S. Census figures show that 88,797 people live in the twenty census tracts within the corridor. These people live in 41,889 housing units.

The Springwater Corridor acts as a hub for many recreational sites and facilities within a half-mile to a one mile distance from it. Located within one-half mile distance of the corridor are 38 parks and facilities. Johnson Creek runs along a great length of the corridor. The goals for the Johnson Creek riparian zone include improving water quality, restoring its habitat as a fishery, minimizing flooding, preserving natural areas, and providing recreational opportunities.

The concept and planning for the 40-Mile Loop dates back to 1903. The Olmsted Brothers' Master Plan for the city of Portland Parks Board envisioned an interconnected system of parks and natural areas of which the 40-Mile Loop would be the main trail. Passenger train, and freight lines have used the Springwater Corridor since the turn of the century. The Springwater Division Line, an interurban electric railway, carried passengers and freight from Portland to Estacada from 1903 to 1958. Limited freight service was maintained until 1990. The city of Portland received the deed to the corridor's right-of-way in February 1990. The Oregon Department of Transportation purchased the ROW for \$1.5 million from the railroad company and conveyed the deed to the city of Portland.

"Park Futures: A Master Plan for the Portland's Park System" recommends the development of a trails system that will encircle the city and interconnect parks, open space, natural areas, bike paths, recreational facilities and other public attractions. The 40-Mile Loop and its Springwater Corridor segment are trail priorities.

The cost for development of the corridor is estimated at \$6,703,744. Costs include construction costs, trail head site acquisition and development, trestle repairs, pathway construction, equestrian trail development, signage, plants, street crossings, lighting, and construction of restrooms at trail heads. Management and operation of the corridor will be carried out primarily by the cities of Portland and Gresham. If Metro provides funding for the project via future revenues from the Greenspaces Bond Measure (if it is passed), it will work with these two cities in developing the various management plans

for natural areas in the corridor, and trail development standards.

Planning for the corridor has been extensive and include many local governments, Metro, Oregon Parks and Recreation Department, Friends of the Springwater Corridor, 40-Mile Loop Land Trust, neighborhood groups, adjacent property owners, and citizens. Public meetings, workshops and media events have been conducted. Two public surveys were conducted in 1991. An actual door to door survey of all residences within 500 feet of the corridor was conducted to gain public input into the master plan. Metro Greenspaces staff have been involved in the planning process and sit on the Springwater Corridor Agency Steering Committee.

The Springwater Corridor project has been coordinated with Metro's Greenspaces Master Plan and its regional trails and greenways component. City planners are represented on the Greenspaces Technical Advisory Committee. The Springwater Corridor is listed and mapped in the Greenspaces Master Plan as a priority project. The corridor is an integral part of the regional trails system. Metro has awarded a Greenspaces Restoration/Enhancement Grant (\$11,500) in the corridor to improve a degraded natural area at Leach Botanical Gardens and to improve water quality in Johnson Creek. The Metro Council, the Joint Policy Advisory Committee on Transportation (JPACT) have recommended that the Oregon Transportation Commission allocate federal highway enhancement funds (Intermodal Surface Transportation Efficiency Act -ISTEA funding of \$3,000,000) for the development of the corridor.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 92-1679.

Meeting Date: October 22, 1992
Agenda Item No. 5.1

ORDINANCE NO. 92-473

Staff Report

CONSIDERATION OF ORDINANCE NO. 92-473 FOR THE PURPOSE OF AMENDING METRO CODE SECTIONS 5.02.015 AND 5.02.065, RELATING TO DISPOSAL CHARGES AT METRO FACILITIES, AND DECLARING AN EMERGENCY

Date: September 30, 1992

Presented by: Sam Chandler

Proposed Action:

Ordinance No. 92-473 amends the Metro Code to include refrigeration units in the definition of Special Waste and allows for a Special Waste surcharge to cover the cost of testing and special handling of freon recovered from refrigeration units received at Metro solid waste facilities.

Background:

"Freon" is a trade name referring to a group of chlorofluorocarbons (CFC's) widely used in industry. Concerns about their negative effects on the earth's ozone layer caused them to be banned from aerosol cans in the mid 1970's. Recently, growing concerns about the impacts of freon from other sources, such as escape when repairing or discarding refrigeration units, have brought about changes in the Clean Air Act Rules. The ultimate goal of the rule change is to phase out the use of freon in most industries.

Metro is a responsible party in the management of freon contained in refrigeration units accepted for disposal or recycling at the Metro solid waste facilities for the following reasons:

- Under the conditions of the 1990 Clean Air Act Amendments, the intentional release of freon from refrigeration units is illegal, effective July 1, 1992.
- Freon is a non-acceptable waste at the Columbia Ridge Landfill.
- Compressors, the components that contains the freon refrigerant, in refrigeration units must be removed before the units or compressors can be accepted by scrap metal processors for recycling.

At Metro solid waste facilities there are two sources of waste freon: that contained in household and commercial refrigeration units, and the residue remaining in metal freon charging canisters. With the removal of the compressor prior to recycling, if the freon is not recovered before the tubing is cut and the is compressor removed, the freon will escape into the atmosphere. Metal canisters, if not evacuated before compaction will crack, allowing the freon to escape. In addition, by removing the freon, the canisters then can be recycled.

It is preferable to have the freon that comes into Metro facilities recycled. In the freon field, the term "recycling" has a particular meaning, as do the terms "recovery", and "reclamation." Recovery refers to the act of removing freon from refrigeration units and containing the material in a storage tank. Recycling refers to the process of cycling recovered freon through a machine that removes many of the common contaminants, primarily using simple filters. Reclamation

refers to the actual distillation of the freon. Because freon is a gas at room temperature, reclamation requires sophisticated equipment, currently found at only a handful of facilities in the country.

Current Practice:

Removal and collection of freon from refrigeration units and canisters received at Metro solid waste facilities began July 1, 1992. Three recovery systems were purchased for use at the two transfer stations. Each facility has a stationary system for the recovery of R-12 (primarily from refrigerators and freezers); the third system for the recovery of R-22 (primarily from air conditioners) is transported between the two sites. Refrigerators, freezers, water coolers, air conditioners, etc. received at both Metro South and Metro Central are delivered to a specified area within the transfer station. A Metro employee, specially trained in the recovery of freon, inserts a valve into the tube which leads from the compressor. This valve is attached to a hose leading to the recovery unit which evacuates and transfers the freon to 100 pound storage tanks. When the tanks are full they are delivered to a refrigeration supply company for transport to a freon reclamation/disposal plant in California. The stripped units and evacuated compressors are placed in a dropbox for delivery to a scrap metals dealer.

Refrigerator and freezer units contain between one-half pound and two pounds of freon, depending on their age. Air conditioners may contain up to six pounds of freon. Some refrigeration units that are brought to the facilities have lost or expended their freon. Unfortunately, there is no way of knowing this until the valves have been inserted and evacuation procedures are underway. The process of removing freon takes approximately 15-20 minutes per refrigerator/freezer, 30 minutes per air conditioner and 12-15 minutes per canister. Since July, a monthly average of 300 refrigerator/freezers, 30 air conditioners, and 110 canisters have been received at the two transfer stations. These numbers represent a significant increase over previous months when freon recovery was not required. Consequently, it has been determined that the program will require one full time employee to manage recovery of freon at the facilities. Given the anticipated extensive use, the equipment has an expected life of from two or three years with regular maintenance. At this time, refrigeration units accepted at the facilities have been treated as a recyclable and therefore not charged a disposal or processing fee.

Budget Impact:

Data obtained over the past three months indicate that it costs \$15 to manage freon recovery from residential refrigeration units and \$20 to manage freon recovery from commercial refrigeration units. These costs include labor, maintenance on existing equipment and the cost for replacement equipment. At current customer levels, revenue from Ordinance No. 92-473 is estimated to be \$72,000 per year. This will fund 1 FTE Hazardous Waste Technician classification, the purchase and maintenance of \$10,000 worth of freon equipment, and approximately \$2,000 work of disposable supplies. With the adoption of Ordinance No. 92-473 the task is projected to be revenue-cost neutral.

Executive Officer's Recommendation:

The Executive Officer recommends approval of Ordinance No. 92-473.

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

| | | |
|---|---|----------------------------------|
| FOR THE PURPOSE OF AMENDING |) | ORDINANCE NO. 92-473 |
| METRO CODE SECTIONS 5.02.015 AND |) | |
| 5.02.065, RELATING TO DISPOSAL CHARGES |) | Introduced by Rena Cusma, |
| AT METRO FACILITIES, AND DECLARING |) | Executive Officer |
| AN EMERGENCY |) | |

WHEREAS, Recent federal law changes prohibit the release of chlorofluorocarbons (CFC's, also commonly referred to by the trade name "Freon") into the atmosphere; and

WHEREAS, Metro currently accepts refrigeration units and air conditioners for recycling at its transfer stations, and uses special equipment to remove and capture the CFC's contained in such appliances; and

WHEREAS, the cost of equipment to remove refrigerants from appliances, and the staff time needed to perform removal activities should properly be recuperated from individuals delivering such appliances to Metro facilities; and

WHEREAS, ORS 268.515(7) states that "Except in an emergency, the imposition of or increase in a service or user charge shall not become effective until 65 business days after approval by the governing body."; and

WHEREAS, Because the program is ongoing, and expenses have been, and continue to be incurred specifically related to refrigerant recovery activities, it is necessary to begin recuperating necessary expenses as soon as reasonable public notice will allow and in less than 65 days; and

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

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Subsection (s) (10) of Metro Code Section 5.02.015 is amended as follows. The remainder of the Section 5.02.015 is unaltered by this amendment:

"5.02.015 Definitions:

(s) "Special Waste" means any waste (even though it may be part of a delivered load of waste) which is:

10) Chemical containing equipment removed from service (for example - filters, oil filters, cathode ray tubes, lab equipment, acetylene tanks, CFC tanks, refrigeration units, or any other chemical containing equipment); or"

Section 2 - Metro Code Section 5.02.065 is amended to read:

"5.02.065 Special Waste Surcharge and Special Waste Permit Application Fees:

(a) There is hereby established a Special Waste Surcharge and a Special Waste Permit Application Fee which shall be collected on all special wastes disposed at Metro facilities and on all Special Waste Permit Applications. Said Surcharge and fee shall be in addition to any other charge or fee established by this chapter. The purpose of the surcharge and permit application fee is to require disposers of special waste to pay the cost of those services which are provided by the Metro Solid Waste Department to manage special wastes. The said surcharge and fee shall be applied to all acceptable special wastes as defined in Metro Code Section 5.02.015.

(b) The amount of the Special Waste Surcharge collected shall be \$4.00 per ton of special waste delivered.

(c) The amount of the Special Waste Permit Application Fee shall be \$25.00. This fee shall be collected at the time Special Waste Permit Applications are received for processing.

(d) Lab or testing costs which are incurred by Metro for evaluation of a particular waste may be charged to the disposer of that waste.

(e) The amount charged for residential refrigeration units and CFC containing tanks shall be \$15.00.

(f) The amount charged for commercial refrigeration units shall be \$20.00.

(g) Refrigeration units that can be certified as free of CFC chemical content shall be considered a recyclable and therefore exempt from any fee."

Section 3. Because the ongoing refrigerant recovery program at Metro facilities is dependent on fees to offset the cost of collection equipment and testing, an emergency is declared to exist, and the effective date of this ordinance shall be January 1, 1993.

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

Jim Gardner, Presiding Officer

ATTEST:

Clerk of the Council

SC:ay
SW92473.ORD

Meeting Date: October 22, 1992
Agenda Item No. 6.1

ORDINANCE NO. 92-472

STAFF REPORT

CONSIDERATION OF AN ORDINANCE ADOPTING A FINAL ORDER AND AMENDING THE METRO URBAN GROWTH BOUNDARY FOR CONTESTED CASE 91-4:PCC ROCK CREEK

Date: September 28, 1992

Presented By: Mark Turpel

BACKGROUND

On June 25, 1992, the Metro Council held a public hearing and approved Metro Council Resolution Number 92-1630(attached), expressing its intent to amend the Metro Urban Growth Boundary, as requested in Contested Case 91-4, pending annexation of the subject property to the Metro District. When the Metro Council wishes to amend the Urban Growth Boundary to add property not currently within the Metro District Boundary, it states its intent to do so in the form of a resolution, with final action on an ordinance delayed until the property is brought under its territorial jurisdiction.

On August 27, 1992, the Boundary Commission approved the annexation of the subject property to the Metro District. Therefore, Ordinance Number 92-472 is now before the Metro Council to complete the amendment consistent with the Council's earlier statement of intent.

Contested Case No. 914 is a petition from Portland Community College for a major amendment of the Urban Growth Boundary in Washington County. The property proposed for inclusion in the UGB comprises approximately 160 acres. The lands affected by this proposal are shown on the map included as Exhibit A. Washington County has gone on record in support of the amendment. Metro Hearings Officer Larry Epstein held a hearing on this matter on March 30, 1992, in Hillsboro, and again on April 27, 1992 in the Metro Council Chambers. Testimony was received from both the petitioner and from concerned citizens. The Hearings Officer's Report and Recommendation, attached as Exhibit B, concludes that the petition meets the applicable standards and should be approved. No exceptions to the decision were filed.

At its meeting on the 25th of June, 1992, Council heard from parties to the case, reviewed the record, reviewed the report and recommendation of the Hearings Officer, and approved the resolution. The petitioner was given 6 months from the date of adoption of the Resolution No. 92-1630 to complete the annexation. Petitioner has successfully completed this step, and final action by the Metro Council is now requested.

EXECUTIVE OFFICER'S RECOMMENDATION

The Metro Council should approve Ordinance No. 92-472, consistent with its intent as stated in Resolution No. 92-1630.

ES/st

9/28/92

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

**AN ORDINANCE ADOPTING A FINAL ORDER) ORDINANCE NO. 92-472
AND AMENDING THE METRO URBAN)
GROWTH BOUNDARY FOR CONTESTED CASE)
NO. 91-4:PCC ROCK CREEK)**

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

Section 1. The Council of the Metropolitan Service District adopted Resolution No.92-1630, attached as Exhibit C of this Ordinance and incorporated by this reference, on June 25, 1992, stated its intent to amend the Metro Urban Growth Boundary with certain conditions for Contested Case 91-4:PCC Rock Creek pending annexation of the subject property to the Metropolitan Service District within 6 months of adoption of the resolution.

Section 2. The Portland Metropolitan Area Local Government Boundary Commission acted on August 27, 1992, to annex the petitioner's PCC Rock Creek Campus property, the subject of Contested Case No. 91-4:PCC Rock Creek, to the Metropolitan Service District. The action of the Boundary Commission is attached to this Ordinance as Exhibit D, which is incorporated by this reference.

Section 3. The Council of the Metropolitan Service District hereby accepts and adopts as the Final Order in Contested Case No. 91-4 the Hearings Officer's Report and Recommendations in Exhibit B of this Ordinance, which is incorporated by this reference.

Section 4. The District Urban Growth Boundary, as adopted by Ordinance No. 79-77, is hereby amended as shown in Exhibit A of this Ordinance, which is incorporated by this reference.

Section 5. Parties to Contested Case No. 91-4 may appeal this Ordinance under Metro Code Section 205.05.050 and ORS Ch. 197.

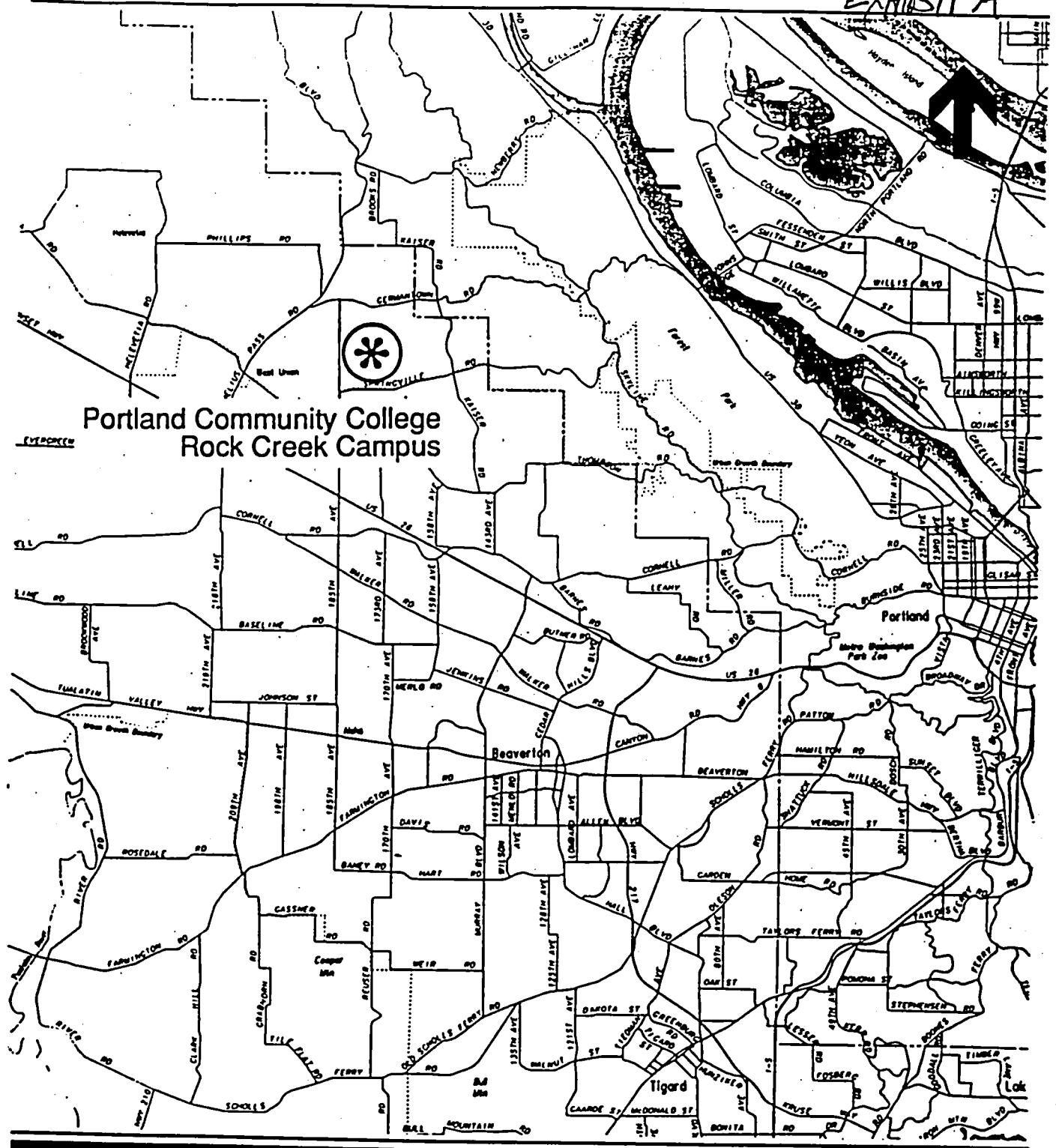
ADOPTED by the Council of the Metropolitan Service District this _____ day of _____, 1992.

Presiding Officer

ATTEST:

Clerk of the Council

ES/es
8/31/92



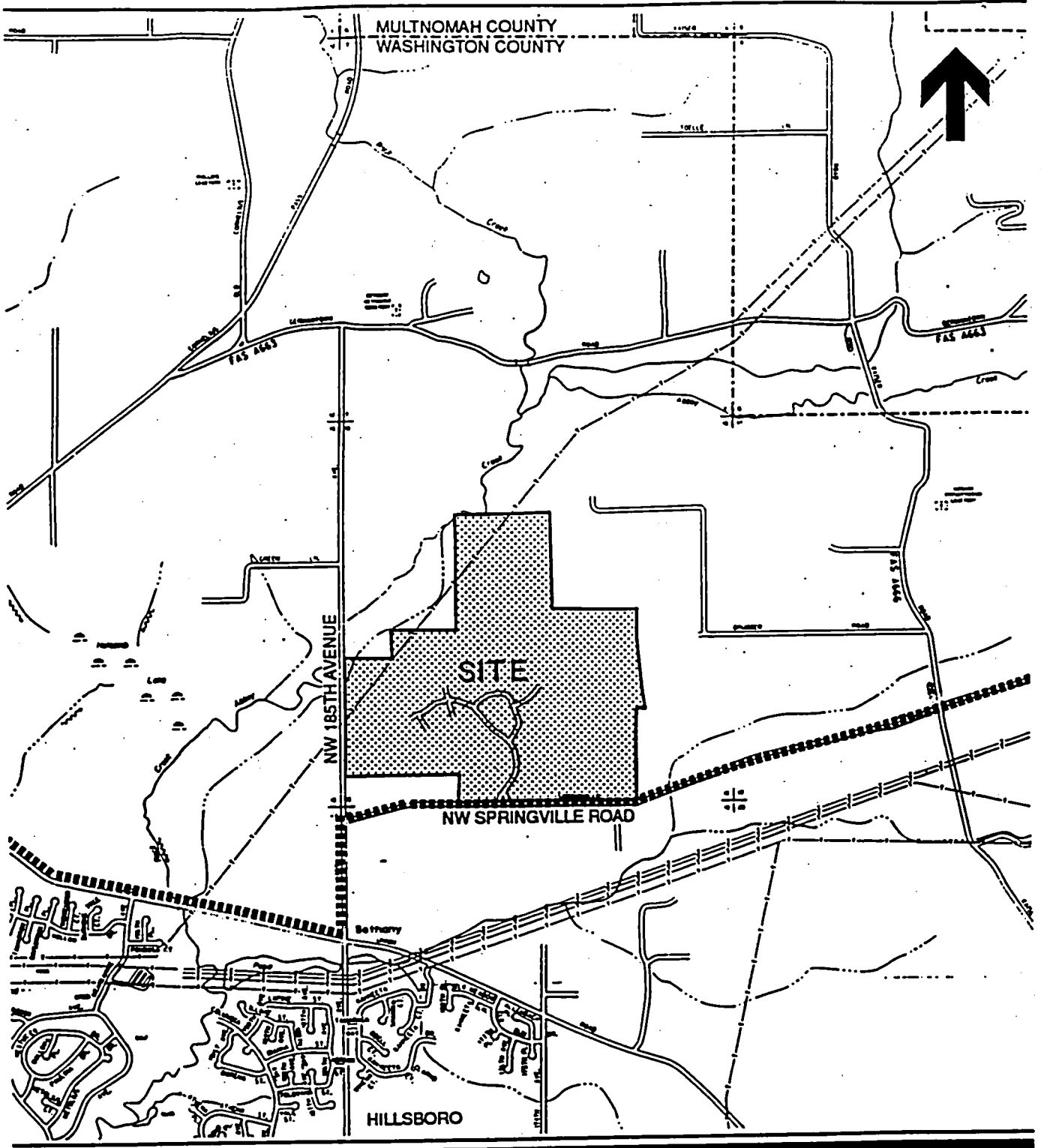
*
 Rock Creek Campus
 Portland Community College

Source: Metro Service District - 1990, Major Arterial Map. 1" = 2 miles.

EXHIBIT 1

VICINITY MAP

Portland Community College
Rock Creek Campus



Source: Metro Service District - 1988, map #18802. 1" = 2000'.

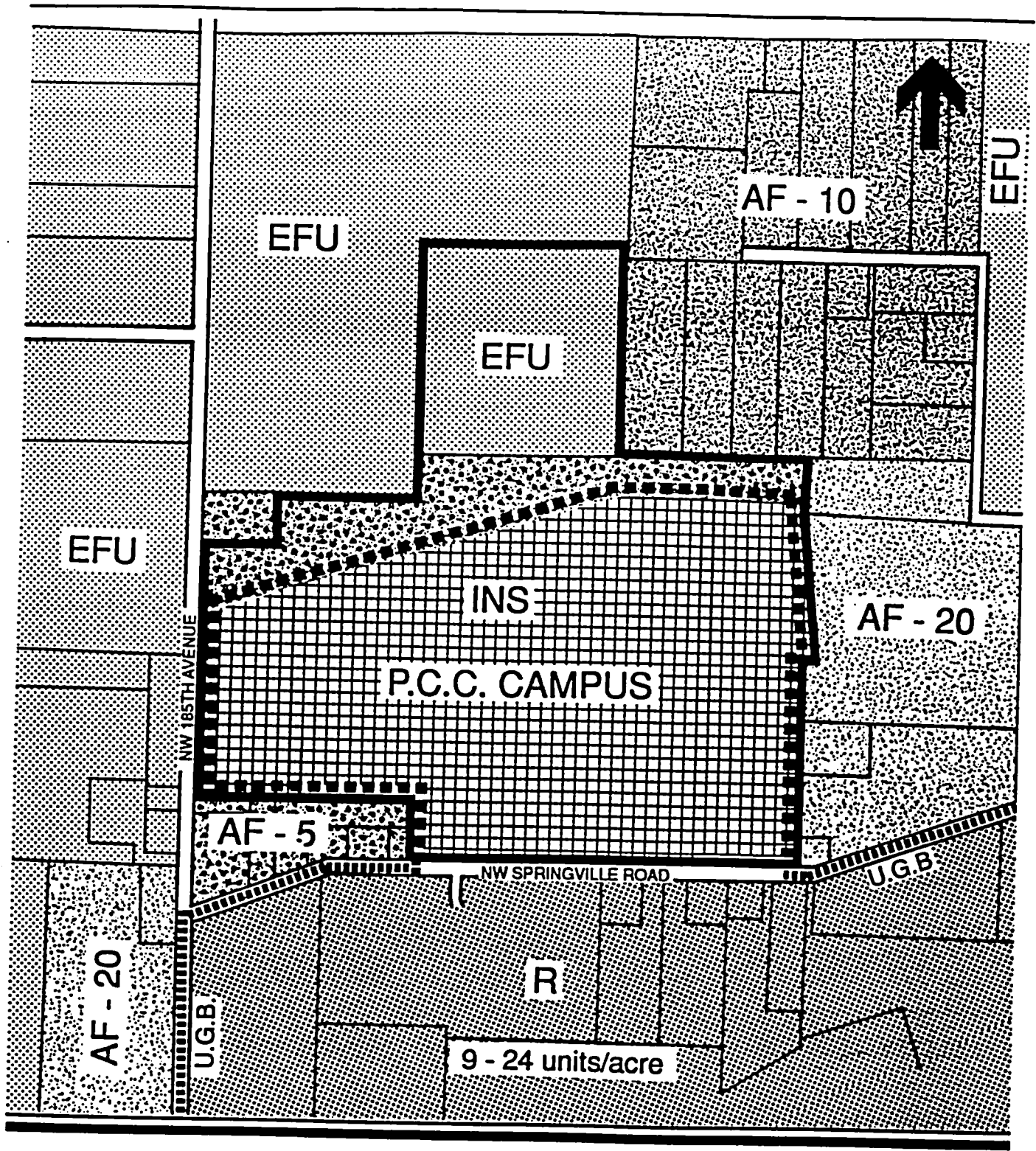
EXHIBIT 2

LOCATION MAP

LEGEND

-  Portland Community College Campus
-  Existing Urban Growth Boundary

Portland Community College
Rock Creek Campus



LEGEND








-  P. C. C. Site Boundary
-  Existing U.G.B.
-  Proposed U. G. B.
-  Exclusive Farm Use - EFU
-  Agriculture & Forest - AF -5, - 10, - 20
-  Residential - R
-  Institutional - INS

EXHIBIT 6

PROPOSED U.G.B. AND PLAN DESIGNATIONS

Portland Community College
Rock Creek Campus

September 10, 1991

PROJECT: PCC Rock Creek Campus
MASTER PLAN / URBAN GROWTH BOUNDARY

PROJECT NO. 9004.02

SUBJECT: DEFINITION OF AREA TO BE AMENDED TO UGB

To facilitate the draft petition, we have delineated a proposed UGB location, and calculated very roughly the dimensions and resulting area of the amendment. It must be made extremely clear that this is only a very rough definition, which must be made formal by a surveyor or civil engineer. The dimensions and azimuths used are derived from a 1972 survey by Walter Caswell, provided by PCC. There are some discrepancies between that survey and the county tax maps.

See the attached sheets for calculations and diagrams. The following is a rough meets and bounds description.

1. Initial Point is SE property corner of Lot 200, Section 18, T1N, R1W, Washington County, on the north line of Springville Road.
2. From I.P. proposed UGB turns (North) to $N02^{\circ}27'29''E$, for 1371.44';
3. then (East) $S88^{\circ}32'31''E$, for 64.5';
4. then (North) $S01^{\circ}33'49''E$, for 919.67';
5. then (West) $S88^{\circ}14'43''E$, for 1173.51';
5. then (Southwest) parallel with existing building E.-W. grid at $S71^{\circ}35'36''W$, for 2297'±, to a point 435.6' East of the East line of 185th avenue, approximately intersecting the south line of the power line easement;
6. then (Southwest) parallel with the south line of the power line easement at $S40^{\circ}13'29''W$, for approximately 700'± to the east line of NW 185th Avenue;
7. then (South) $S01^{\circ}25'59''W$, for 710'±, to the north line of Tax Lot 305;
8. then (East) following the North lines of Tax Lots 305, 306, 300;
9. then (South) following the East lines of Tax Lots 300, and 500 to intersect with the existing UGB at Springville Road;
10. the UGB then continues West in its existing location.

The PCC Rock Creek Campus area included within the adjusted UGB as described above is approximately 160 acres, which would then be converted by Washington County Comprehensive Plan Amendment from the rural AF-5 designation, to the urban INS (Institutional) designation. The designated EFU portion of Lot 200 is not affected.

BEFORE THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT

In the matter of the petition of Portland Community College to amend the Urban Growth Boundary to add 160 acres north of NW Springville Road and east of NW 185th Avenue in Washington County) Contested Case No. 91-04) HEARINGS OFFICER) REPORT &) RECOMMENDATION

I. Nature and Summary of the Issues

Petitioners propose to add about 160 acres (the "Subject Property") to the Urban Growth Boundary (UGB) in Washington County. The Subject Property is part of a 250-acre parcel owned by Portland Community College, the Petitioner, and is the site of the college's Rock Creek campus. The remaining 90 acres of the petitioner's parcel will remain outside of the UGB and zoned for Agriculture and Forest (AF-5) and Exclusive Farm Use (EFU).

Petitioner proposes to include the Subject Property in the UGB principally to recognize the urban nature of the community college campus and, once the petitioner applies for and receives approval of a comprehensive plan amendment and zone change from Washington County, to enable further development on the campus. Under existing plan and zone designations, Washington County land use regulations effectively prevent substantial development at the campus.

The issue in this case is whether the amendment complies with the 7 factors in Statewide Planning Goal 14 (Urbanization) for locating an urban growth boundary and other applicable Goals. The petitioner argued the amendment complies with applicable Goals.

There was considerable dispute regarding the amendment. Witnesses in support of the amendment generally stressed the importance of the college campus and its need to be able to expand at Rock Creek. Witnesses against the amendment generally stressed the availability of alternate sites in the UGB for college activities and the lack of adequate street services for the proposed expansion at the campus, among other concerns.

The Hearings Officer conducted two hearings to receive testimony regarding the petition. Based on the record, including the testimony received in this matter, the Hearings Officer concludes that the proposed UGB amendment complies with the applicable Statewide Planning Goals, and recommends that the Council approve the petition.

II. Procedures and Record

A. History, Proceedings, and Comments from Affected Jurisdictions.

1. On or about October 1, 1991, Bill McDonald, vice president for administrative services, filed a petition for a UGB amendment for tax lot 200 in Section 18, Township 1 North, Range 1 West, WM, Washington County (the "Subject Property") on behalf of the Portland Community College District. See Exhibit 8.

2. On February 5, 1992, Metro staff mailed notice of the petition to the Oregon Department of Land Conservation and Development. See Exhibit 17. On or about March 10, 1992, the Hearings Officer sent notices by certified mail to owners of land within 500 feet of the Subject Property that a hearing would be held March 30, 1992 regarding the petition. See Exhibit 21. A notice of the hearing also was published in The Oregonian on or before March 20.

3. On March 30, 1992, from 7:00 pm until about 10:00 p.m., the Hearings Officer held a public hearing at the Auditorium of the Washington County Public Services Building. Seventeen witnesses testified in person about the petition at that time, including Metro staff. Because the petitioner introduced new evidence at that hearing and a witness requested that the hearing be continued as a result, the Hearings Officer continued the hearing until April 27, 1992, when it reconvened at approximately 2:30 p.m. Five witnesses testified in person at that time. At the conclusion of the public hearing, the Hearings Officer closed the public record.

4. On May 28, 1992, the Hearings Officer filed with the Council this Report and Recommendation.

B. Written record. The following documents are part of the record in this matter.

| <u>Exhibit No.</u> | <u>Subject matter</u> |
|--------------------|---|
| 1. | July 10, 1991 draft Rock Creek Campus Master Plan (SRG) |
| 2. | September 13, 1991 letter from Steve Poland (SRG) to Ethan Seltzer |
| 3. | September 16, 1991 response form from Gene Birchill (Tualatin Valley Fire & Rescue) |
| 4. | September 17, 1991 response form from Gary Pippin (Tualatin Valley Water District) |
| 5. | September 19, 1991 letter and response form from Russell Lawrence (USA) to Metro |
| 6. | September 27, 1991 letter from Bonnie Hays (WashCo) to Ethan Seltzer |
| 7. | September 27, 1991 letter and response form from Douglas Capps (Tri-Met) to Ethan Seltzer |
| 8. | October 1, 1991 revision of Petition for UGB Amendment and PMALGBC forms 1A, 3, 5, and 6 |
| 9. | October 1, 1991 response form from John Rosenberger (WashCo DLUT) |
| 10. | October 3, 1991 letter from Ethan Seltzer to Betty Duvall |
| 11. | October 18, 1991 letter from Betty Duvall (PCC) to Ethan Seltzer |
| 12. | October 18, 1991 response form from James Hager (Bvtn. School District) |
| 13. | October 18, 1991 response form from James Tacchini (Hillsboro Union School District) |
| 14. | October 30, 1991 letter from Ethan Seltzer to Betty Duvall |
| 15. | December 13, 1991 letter from Betty Duvall to Ethan Seltzer |
| 16. | February 3, 1992 letter from Mary Dorman to Ethan Seltzer |
| 17. | February 5, 1992 notice to DLCD from Metro |
| 18. | February 24, 1992 Metro Staff Report |
| 19. | Metro Ordinance No. 85-189 as amended by Ordinance No. 86-204 |
| 20. | February 27, 1992 Memo from Ethan Seltzer to Larry Epstein with notice list |
| 21. | March 3, 1992 letter from Hal Bergsma (WashCo) to Ethan Seltzer |
| 22. | March 10, 1992 Postal Service form 3877 with list of names and address to whom notice of the hearing was sent and copy of notice |
| 23. | March 12, 1992 letter from Mary Dorman to Larry Epstein with attached January 21, 1992 letter from Marcy Jacobs (OEDC) to Mary Dorman |
| 24. | March 12, 1992 letter from Alan & Kyle-Jean John to Larry Epstein |
| 25. | March 18, 1992 letter from Lindsay Peters to Larry Epstein |
| 26. | March 19, 1992 letter from Charles Fischer to Larry Epstein |
| 27. | March 20, 1992 letter from Mary Tobias (TVEDC) to Larry Epstein |
| 28. | March 20, 1992 letter from Hal Bergsma to Ethan Seltzer |
| 29. | March 23, 1992 letter from Betty Atteberry to Larry Epstein |
| 30. | March 24, 1992 letter from Irv Nikolai to Larry Epstein |

31. March 24, 1992 letter from Mark J. Greenfield to Larry Epstein
32. March 25 letter John Breiling, CPO 7 Chair, to Ethan Seltzer and Larry Epstein
33. March 26 letter from Shirley Huffman, Mayor of Hillsboro, to Larry Epstein
34. March 27 letter from Jim Hager to Larry Epstein
35. March 30, 1992 letter from Glenn Hinton to Metro UGB planners
36. March 30, 1992 letter from George and Eugenia Geannopoulos to Larry Epstein
37. March 30, 1992 letter from Susan Nolte and Lee Grunes to hearing officer
38. April 2, 1992 letter from James L. Tacchini to Larry Epstein
39. April 6, 1992 letter from Frank L. Buehler to Ethan Seltzer
40. April 7, 1992 letter from Daniel F. Moriarty to Ethan Seltzer with a copy of the Board Resolution of April 20, 1987
41. April 24, 1992 letter from Debbie Pezzotti to Larry Epstein
42. April 27, 1992 letter from Jerry Arnold to Larry Epstein; includes goals 1, 2, 6, 12-14, Alternate Site Cost Analysis, three photographs of rural settings, two aerial photos of the PCC campus and vicinity
43. Non-dated bound volume entitled "Petition for a Major Amendment to the Metro Urban Growth Boundary"
44. 8 maps from Washington County Department of Assessment and Taxation.
45. 6 notices returned as undeliverable or unclaimed
46. Undated communication from Jerry Arnold
47. Undated testimony from Robert R. French
48. Diagrams of "typical road facility capacities"
49. Parties of record list

C. Responses from service providers and affected jurisdictions.

1. The Subject Property is in the Tualatin Valley Fire and Rescue District, Tualatin Valley Water District, Unified Sewerage Agency district, Tri-County Metropolitan Transportation District, Beaverton School District #48, and the Hillsboro Union High School District. Each district filed a written comment recommending approval of the petition. See Exhibits 3 through 5, 7, 12 and 13, respectively. The Beaverton School District 48 and Hillsboro Union High School District superintendents also filed letters in support of the petition. See Exhibits 35 and 39.

2. The Subject Property is in unincorporated Washington County. The County Commissioners adopted a Board Order stating no comment regarding the petition. The Department of Land Use and Transportation also filed a written response of no comment regarding the petition. See Exhibits 6 and 9, respectively.

3. The Subject Property is north of the City of Hillsboro. The Mayor filed a written recommendation in favor of the petition. See Exhibit 34. The Subject Property is north of Washington County School District 15. The district superintendent submitted a written recommendation in favor of the petition. See Exhibit 30.

III. Basic Findings About the Subject Property and the Surrounding Area

A. **Location.** The Subject Property is situated east of and adjoining NW 185th Avenue and north of and adjoining NW Springville Road. See Figures 4 and 7 in Exhibit 44.

B. **Legal description.** The Subject Property is a portion of tax lot 200 in Section 18, Township 1 North, Range 1 West, WM, Washington County.

C. Size and shape. The Subject Property is an irregularly-shaped area that contains about 160 acres, based on Exhibit 8.

D. Existing and proposed uses.

1. The Subject Property is the site of the Rock Creek campus of Portland Community College. Construction of the campus began in 1974.

a. Existing campus buildings are clustered in the center of the Subject Property. About 101 acres of the Subject Property area developed with buildings (7 acres), parking and landscaping (24 acres), and agriculture/landscape/carpentry program facilities (70 acres). The remainder of the Subject Property is forest and pasture land surrounding the buildings and other campus facilities. See page 15 and Figure 4 in Exhibit 44.

b. There are about 390,000 square feet of buildings and site improvements including pedestrian walkways, plazas and landscaping and 1155 parking spaces with associated internal circulation roads and maneuvering space. A total of 4532 full- or part-time students were enrolled at the Rock Creek campus during fall, 1991. On-campus faculty staff is estimated at 307. There are about 2000 to 2400 Full Time Equivalent (FTE) students averaged over the year.

c. The campus offers a mix of programs. That mix has changed somewhat since inception of the campus with decreasing interest in traditional agricultural programs. Lower division collegiate programs are the fastest growing segment of the campus curriculum. These programs prepare the undergraduate student for transfer to a more traditional 4-year college or university. Professional-technical programs include construction technology, aviation technology, business technology, veterinary technology, diesel technology, welding and landscape technology. Development and community education programs include a wide variety of subject matter, including English as a second language, adult basic education, and general equivalency diploma programs. The student body is distributed among these programs as follows:

| | |
|--|-----|
| Lower division collegiate programs | 53% |
| Professional-technical programs | 41% |
| Development/community education programs | 6% |

d. Since 1986/87, the student population has grown 3.1% per year (FTE). From 1986 to 1990, the student population (head count) grew 12.3%. See page 11 of Exhibit 44. Based on testimony by PCC Board member Marsha Atkinson and Executive Dean Duvall, student enrollment has grown 20 to 23% in the past year, and growth has averaged 7% in the last 3 to 4 years.

e. The replacement cost for the existing building at the campus is estimated to be about \$45 million in 1991 dollars. The replacement cost for the existing physical plant, including land and infrastructure costs, is estimated to be about \$60 million in 1991 dollars. See page 1 of Exhibit 8 and pages 1 through 4 and 22 through 24 of Exhibit 44.

f. The campus also contains offices for the Educational Service District and the Washington County Historical Society Museum.

2. If the UGB amendment is approved, the petitioner intends to apply to the Portland Metropolitan Area Local Government Boundary Commission to annex the Subject

Property to the Metropolitan Service District and to apply to Washington County for an Institutional Comprehensive Plan designation and zone.

3. If the plan amendment and zone change are approved, the petitioner plans to apply to Washington County for approval of a staged development program through the year 2010 consistent with the July, 1991 master plan for the campus.

a. The campus master plan assumes 100% growth in FTE enrollment and 80% enlargement in building area. The gross area of existing and proposed campus buildings will be about 610,000 square feet after completion of the master plan. See Exhibit 1.

b. The petitioner also plans to improve a new access point from the campus to NW 185th Avenue during implementation of the master plan.

4. The portion of the petitioner's property not planned for inclusion in the UGB will remain predominantly in open space and timber use. A Bonneville Power Administration powerline corridor crosses the portion of the site that will remain outside the UGB.

E. Comprehensive plan designations, zoning, and existing surrounding land uses.

1. Washington County approved a conditional use permit for the Rock Creek campus in 1974. However, since that time, the UGB was created and significant zone changes occurred. The Subject Property is designated Agriculture-Forestry on the Washington County Rural/Natural Resource Plan and is zoned AF-5. Land owned by the college immediately north of the Subject Property also is designated Agriculture-Forestry on the Washington County Rural/Natural Resource Plan and is zoned AF-5. Land owned by the college further north is designated and zoned Exclusive Farm Use (EFU). The campus and surrounding non-EFU-zoned land was approved as an exception to Statewide Planning Goal 3 (Agriculture), because it was already committed to non-resource use and served with public water and sewer (Exception Area #034). A community college is not listed as a permitted use in the AF-5 zone. The campus is recognized as a legal non-conforming use by the County. See Exhibits 21, 26 and 28.

2. Land north and west of the Subject Property is designated and zoned Exclusive Farm Use (EFU). Land to the northeast and east is outside the UGB and is designated Agriculture-Forest and is zoned AF-20 and AF-10, respectively. Land to the south across Springville Road is inside the UGB and is designated for medium to high density residential development and is zoned Residential (9 to 24 units per acre). Land to the southwest on the north side of Springville Road is outside the UGB and is designated Agriculture-Forest and zoned AF-5. Land southwest of the site across 185th Avenue is outside the UGB and is designated Agriculture-Forest and zoned AF-20.

3. Land north, east and west of the Subject Property is used principally for agriculture, animal husbandry, woodland, and open space. There is a small area of rural residential development in the northeast quadrant of the intersection of NW 185th Avenue and Springville Road. Land south of Springville Road east of 185th Avenue is rapidly urbanizing. Substantial single family housing developments have been built in that area. The County hearings officer recently approved a request for a dormitory in that area. Substantial additional residential development is planned or permitted by existing zoning. A new high school has been approved south of the new residential area east of 185th Avenue. Extensive low and medium density residential development has occurred between West Union Road and Highway 26.

F. Public facilities and services.

1. Water for the Subject Property is provided by the Tualatin Valley Water District. There is a 14-inch diameter main which forms a loop around major buildings on the campus and connects to a 16-inch diameter main in Springville Road. According to the campus master plan, this main is adequate to serve the campus through 2010. No pumping is required to serve the campus. To improve water service in the Bethany area, the Water District plans to extend a 25-inch diameter water main in Springville Road to connect with a main in Kaiser Road to loop and intertie the existing network of water lines, with construction scheduled to begin within two years. The source of water for the Water District is the Bull Run system. The District has long-term contracts to buy water from the City of Portland. See page 19 of Exhibit 1 and page 27 of Exhibit 43.

2. The Unified Sewerage Agency (USA) provides sanitary sewer service to the Subject Property pursuant to a contract with petitioner. A 12-inch diameter sewer lines extends south of the campus across Springville Road and southwest to the Bronson Creek trunk line near 185th Avenue and West Union Road. If the petition is granted, the petitioner would annex the Subject Property to the USA. The existing sewer infrastructure can continue to serve the campus if the site is developed consistent with the Master Plan. See page 19 of Exhibit 1 and page 28 of Exhibit 43.

3. Storm water from impervious areas of the Subject Property are collected and discharged on-site. Additional development on the site would be subject to USA requirements for storm water collection, detention, and enhancement. Given the permeable area of the site and the wetlands north of the site, ample room exists to accommodate storm water from design storm events. See page 19 of Exhibit 1 and page 28 of Exhibit 43.

4. The Subject Property is served by the Tualatin Valley Fire and Rescue District. The closest district facility is about one mile south of the site at the intersection of Highway 26 and 185th Avenue. Automatic fire protection systems are installed throughout buildings on the site and fire hydrants are located within 300 feet of buildings. The existing water supply is adequate to serve fire protection needs. See pages 28 and 29 of Exhibit 43.

5. The Washington County Sheriff provides police services to the Property. The petitioner supplements police services with on-site campus security staff. See page 29 of Exhibit 43.

6. Electrical, gas, telephone, cable, and solid waste services are provided to the site as noted on page 29 of Exhibit 43.

7. Roads and transit access. See generally pages 30-31 of Exhibit 1, Exhibit 21, and pages 21 and 26-27 of Exhibit 43.

a. The site adjoins and has direct vehicular access to NW Springville Road, a major collector street with a 2-lane paved section between gravel shoulders and drainage ditches. There is turn lane at the campus entry. There are not curbs, sidewalks, or bicycle lanes along this street.

(1) NW Springville Road now carries about 6000 average daily trips (ADT) east of 185th Avenue. County guidelines for a major collector recommend traffic volume of 1500 to 10,000 ADT.

b. The campus also adjoins NW 185th Avenue, which is a rural minor arterial street with a 2-lane paved section between gravel shoulders and drainage ditches north of Springville Road.

(1) The campus does not have direct vehicular access to this street at this time, except apparently for minor traffic associated with the farm activities in the dwelling at the west end of the campus. The college proposes to provide direct vehicular access to that street in the future; the location and nature of that access has not been determined and would be subject to access permit requirements of Washington County.

(2) NW 185th Avenue now carries about 3000 ADT north of Springville Road. County guidelines for a minor arterial recommend traffic volume of less than 10,000 ADT. A 90-foot right of way is required, whether the road is urban or rural. There are not curbs, sidewalks, or bicycle lanes along this street. Based on the County Transportation Plan, NW 185th Avenue north of Springville Road would not ultimately include a bicycle lane, sidewalk or curb. However, if the County grants access to the road for the college, the County may require the college to improve the road between the access point and Springville Road with such features (as well as requiring other improvements).

(3) NW 185th Avenue is programmed to be widened to 5 lanes between West Union Road and Highway 26. There is sufficient right of way to widen this segment of the road to 5 lanes. Funding has been dedicated to widen the road to 3 lanes from Highway 26 to Tammarack Lane, about 300 feet south of West Union Road. NW 185th Avenue is programmed to be widened to three lanes between West Union Road and Springville Road. Although funding for this widening is not allocated, it is expected to be provided by the County Traffic Impact Fee (TIF) program.

c. The intersection of Springville Road and 185th Avenue is controlled by stop signs that apply to north- and southbound traffic on 185th Avenue. Traffic turning east from 185th Avenue to Springville Road and traffic turning south from Springville Road to 185th Avenue is not required to stop. Traffic Engineer Bruce Haldors, on behalf of the petitioner, testified that signalization of the intersection will be needed by the time the campus build-out is complete. A traffic signal at the intersection of NW 185th Avenue and West Union Road is planned and eligible for TIF funding, based on testimony from Traffic Engineer Dan Seeman.

d. About 90 percent of campus-related traffic comes from the south on NW 185th Avenue to Springville Road. Only about 3 percent of students use Tri-Met bus service. The remaining 97 percent arrive by private automobile. Of that number 81 percent of the students drive to campus, 14 percent share rides as passengers, and 2 percent are dropped off by others who do not remain on campus. Most students are on campus only for a portion of the day. Peak traffic volumes occur between 9 am and 12 pm and between 7 pm and 10 pm, based on Exhibit 1. Traffic Engineer Bruce Haldors testified that peak traffic associated with the campus occurs between the hours of 2 to 3 pm and 9 to 10 pm.

e. The Subject Property is not within one-quarter mile of a transit corridor designated by Metro. Tri-Met bus route 52 serves the campus on half-hour intervals from 6:25 am until 10:33 pm. When the Westside light rail project is completed, bus route 52 will connect to the 185th Avenue LRT center and will serve the campus with a bus every 15 minutes.

f. Based on testimony by Bruce Haldors for the petitioner, the following trip generation and average daily traffic does and will occur.

| Year 1992 | All traffic | | College traffic | |
|---|-----------------------|------------------|-----------------------|------------------|
| | Peak hr. ¹ | ADT ¹ | Peak hr. ¹ | ADT ¹ |
| Springville Road | 700-800 | 7000-8000 | 500-600 | 5000-6000 |
| 185th Avenue ² | 200-300 | 2000-3000 | < 20 | <200 |
| <hr/> | | | | |
| Year 2010 | | | | |
| Springville Road | 800-900 | 8000-9000 | 560-750 | 5600-7500 |
| 185th Avenue ^{2,3} | 500-600 | 5000-6000 | 350-480 | 3500-4800 |
| <hr/> | | | | |
| ¹ Trips per hour or per day in both directions ² North of Springville Road ³ Assuming Washington County allows direct access to 185th Avenue | | | | |

G. Soil, slope and natural features.

1. The portion of the campus to be included in the UGB is situated at an elevation of about 250 feet above mean sea level and slopes gently to the southeast and northwest. Soils on the Subject Property are predominantly Helvetia and Cascade silt loams with slopes of less than 7 percent, based on the SCS Soil Survey for Washington County. See page 25 of Exhibit 43.

2. North of this area, the campus elevation drops about 70 feet to the Rock Creek floodplain and wetland. The lowland area north of the Subject Property contains Verbort and Huberly soils, which are poorly drained and hydric consistent with their wetland characteristics. The lowlands will remain outside the UGB. The proposed UGB boundary follows the change in topography. See page 25 of Exhibit 43.

3. The area around most buildings, drives and roads has been landscaped with a variety of deciduous and conifer shrubs and trees. Beyond these areas are expanses of pasture, which are grazed by sheep and cattle herds that are maintained as part of the veterinary technology program. There also is a field of clover on the east part of the uplands portion of the campus that is farmed by a private individual under contract with the college. North of the campus buildings is a 90-acre natural area. On the uplands portion of this area are second growth conifer trees that are used as part of the environmental education program. Further north are the wetlands on the lowland portion of the site. See pages 25-26 of Exhibit 43.

IV. Applicable Approval Criteria for Major Amendment

A. Regional Urban Growth Boundary Amendments by Metro.

1. The UGB is intended to accommodate urban growth through the year 2000. A change to the UGB involving more than 50 acres is called a Major Adjustment. Metro Ordinance No. 85-189, as amended by Ordinance No. 86-204, addresses various procedural matters regarding a Major Adjustment but, instead of creating new substantive criteria for such an amendment, specifies that a Major Amendment must comply with the Statewide Planning Goals adopted by the Oregon Land Conservation and Development Commission.

B. Statewide Planning Goals. The Statewide Planning Goals relevant to the proposed Major Amendment are limited to the following:

1. Statewide Planning Goal 1 (Citizen Involvement).

To develop a citizen involvement program that insures that the opportunity for citizens to be involved in all phases of the planning process...

2. Statewide Planning Goal 2 (Land Use Planning), Part II.

When, during the application of the statewide goals to plans, it appears that it is not possible to apply the appropriate goal to specific properties or situations, then each proposed exception to a goal shall be set forth during the plan preparation phases and also specifically noted on the notices of public hearing. The notices of hearing shall summarize the issues in an understandable and meaningful manner.

If the exception to the goal is adopted, then the compelling reasons and facts for that conclusion shall be completely set forth in the plan and shall include: (a) why these and other uses should be provided for; (b) what alternative locations within the area could be used for the proposed uses; (c) what the long term environmental, economic, social and energy consequences to the locality, the region or the state from not applying the goal or permitting the alternative use; and (d) a finding that the proposed uses will be compatible with other adjacent uses.

OAR 660-04-010 provides that compelling reasons for the exception can be provided by complying with the seven factors in Goal 14.

3. Statewide Planning Goal 3 (Agricultural Lands).

Goal: To preserve and maintain agricultural lands.

Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space. These lands shall be inventoried and preserved by adopting exclusive farm use zones pursuant to ORS Chapter 215. Such minimum lot sizes as are utilized for any farm use zones shall be appropriate for the continuation of the existing commercial agricultural enterprise with the area. Conversion of rural agricultural land to urbanizable land shall be based upon consideration of the following factors: (1) environmental, energy, social and economic consequences; (2) demonstrated need consistent with LCDC goals; (3) unavailability of an alternative suitable location for the requested use; (4) compatibility of the proposed use with related agricultural land; and (5) retention of Class I, II, III and IV soils in farm use. A governing body proposing to convert rural agricultural land to urbanizable land shall follow the procedures set forth in the Land Use Planning goal (Goal 2) for goal exceptions.

4. Statewide Planning Goal 5 (Open Spaces, Scenic and Historic Areas and Natural Resources).

Goal: To conserve open space and protect natural and scenic resources.

Programs shall be provided that will: (1) insure open space, (2) protect scenic and historic areas and natural resources for future generations, (3) promote healthy and visually attractive environments in harmony with the natural landscape character.

The goal goes on to list the resources that must be inventoried and considered in the preparation of plans and programs and describes how conflicts among resources and uses must be addressed.

5. Statewide Planning Goal 6 (Air, Water and Land Resources Quality).

Goal: To maintain and improve the quality of the air, water and land resources of the state.

All waste and process discharges from future development, when combined with such discharges from existing developments shall not threaten to violate, or violate applicable state or federal environmental quality statutes, rules and standards...

6. Statewide Planning Goal 9 (Economy of the State).

Goal: To diversify and improve the economy of the state.

Both state and federal economic plans and policies shall be coordinated by the state with local and regional needs. Plans and policies shall contribute to a stable and healthy economy in all regions of the state...

7. Statewide Planning Goal 11 (Public Facilities and Services).

Goal: To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Urban and rural development shall be guided and supported by types and levels of urban and rural public facilities and services appropriate for, but limited to, the needs and requirements of the urban, urbanizable, and rural areas to be served...

8. Statewide Planning Goal 12 (Transportation).

Goal: To provide and encourage a safe, convenient and economic transportation system.

A transportation plan shall (1) consider all modes of transportation ..., (2) be based upon an inventory of local, regional and state transportation needs, (3) consider the differences in social consequences that would result from utilizing differing combinations of transportation modes, (4) avoid principal reliance upon any one mode of transportation, (5) minimize adverse social, economic and environmental impacts and costs, (6) conserve energy, (7) meet the needs of the transportation disadvantaged ..., (8) facilitate the flow of goods and services so as to strengthen the local and regional economy, and (9) conform with local and regional comprehensive land use plans...

9. Statewide Planning Goal 13 (Energy Conservation).

Goal: To conserve energy.

Land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles.

10. Statewide Planning Goal 14 (Urbanization).

Goal: To provide for an orderly and efficient transition from rural to urban land use.

Urban growth boundaries shall be established to identify and separate urbanizable land from rural land. Establishment and change of the boundaries shall be based on the following factors.

- 1. Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals;**
- 2. Need for housing, employment opportunities, and livability;**
- 3. Orderly and economic provision for public facilities and services;**
- 4. Maximum efficiency of land uses within and on the fringe of the existing urban area;**
- 5. Environmental, energy, economic and social consequences;**
- 6. Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI the lowest priority; and**
- 7. Compatibility of the proposed urban uses with nearby agricultural activities.**

The results of the above considerations shall be included in the comprehensive plan. In the case of a change of boundary, a governing body proposing such change in the boundary separating urbanizable land from rural land, shall follow the procedures and requirements as set forth in the Land Use Planning Goal (Goal 2) for goal exceptions...

V. Summary of Arguments

A. Arguments in support of the petition. The petitioner presents the arguments in support of the petition principally at pages 30 - 62 of Exhibit 43 and in oral testimony at the hearings in this matter. Because the hearings officer recommends approval of the petition for many of the reasons advanced by the petitioner, those arguments are not summarized here. They are reflected in section VI of this recommendation.

B. Arguments against the petition. Arguments against the petition are included principally in Exhibits 24, 35 through 37, 39, 42 and 46 and in testimony offered by the authors of those exhibits and others residents of the vicinity. In summary, they offer the following arguments:

1. Roads are inadequate to serve the campus, particularly 185th Avenue. Allowing the UGB amendment will lead to expansion of the campus and its traffic impact on those roads.

2. It is inefficient to expand a campus location on the edge of the urban area, and results in higher travel costs, less mass transit accessibility and energy conservation, and, consequently, worse air quality impacts.

3. There is not a need to enlarge the UGB. PCC could establish a new satellite campus or otherwise increase the programs offered at other locations more centrally located to the urban area, particularly in locations along the Westside Light Rail corridor. The campus is not an urban use. Therefore, the petitioner should be required to show that a need exists to enlarge the UGB.

4. Enlarging the UGB in this case will lead to speculation in real estate in the non-urban area and adversely affect the stability of the agricultural area to the north and west.

5. There was a lack of citizen involvement in the development of the master plan for the campus. Therefore, it should not be relied on. There is no assurance the master plan can be implemented given access constraints and constraints on funding due to ballot measure 5.

6. Granting the petition will leave a wedge of land outside the UGB in the northeast quadrant of the intersection of 185th Avenue and Springville Road. Those properties will be adversely affected by more intense development of the campus, particularly the proposed access to 185th Avenue.

7. The campus originally had an agricultural emphasis and warranted a non-urban location. That emphasis is changing to a more urban/liberal education one. Therefore, there is no need for the campus to be situated at the edge of the urban area.

8. There is a lack of adequate drainage services to accommodate increased development that would follow from the UGB amendment.

VI. Findings Applying Approval Criteria to the Facts of the Case

A. Compliance with Goal 1. The proposed amendment complies with Goal 1, based on finding II.A, because:

1. The hearings officer mailed written notice of the March 30 hearing regarding the petition to owners of property within 500 feet of the Subject Property by certified mail, return receipt requested. Metro mailed notice of the hearing to the Oregon Department of Land Conservation and Development and published notice of the hearing in a newspaper with circulation in the area in question. See Exhibits 17, 20, and 22.

2. The petitioner solicited comments from affected jurisdictions. See finding II.C and exhibits cited therein.

3. Members of the general public and organizations representing public interests participated in the public hearings regarding the petition orally and in writing. See generally Exhibits 12, 13, 23 through 30, 32 through 42, 46, 47 and 49 and audio tapes of the hearings in this matter.

4. Whether the PCC Rock Creek master plan (Exhibit 1) was subject to public involvement is not relevant to the UGB decision. Goal 1 requires the land use decision under review, (i.e., the UGB amendment petition), to be subject to public involvement; not the exhibits cited in that land use decision. Moreover, the record reflects that PCC did meet with Citizen Planning Organizations #7 and #8 to review the plan. See Exhibit 32, page 50 of Exhibit 43 and testimony by Betty Duvall at the hearing on March 30. Although the plan could have been developed after a more substantial public involvement process, that does not warrant denying the petition. Additional public involvement opportunities will arise before any of the development envisioned in the master plan can be initiated, based on Chapter 205 of the Washington County Code.

B. Compliance with Goal 2, Part II. The petition complies with Goal 2, Part II (Exceptions), because:

1. The Subject Property is physically developed to the extent that it is no longer available for uses allowed by Goal 3, based on finding III.D.

2. The UGB should be amended to include the Subject Property, because the Rock Creek campus represents a substantial public investment and provides an important public education service which should be allowed to be continued as a permitted use, rather than as a nonconforming use.

a. If the UGB is not amended to include the Subject Property, then the campus will continue to be a nonconforming use. Based on Exhibits 28 and 31 and testimony by Mr. Greenfield at the March 30 hearing, that means that the facilities on the campus cannot be expanded significantly.

b. Increased educational services would have to be provided elsewhere, resulting in an inefficient duplication of educational facilities. Providing adequate educational services is critical to the social and economic well-being of the region. Those services cannot be provided to the same extent if more sites have to be developed to deliver those services than are needed for that purpose or if a critical mass of facilities is needed to deliver those facilities at one location. The petitioner demonstrated there is a need to develop such a critical mass at the Subject Property, because of the existing development at the campus and because of the opportunities such a setting provides for cross-disciplinary

interaction and for most efficient use of support services such as libraries, computers, counseling and administration. At a college campus serving such a diverse population as Rock Creek, the sum of the campus is greater than its parts. The parts cannot be broken apart into various satellite locations and venues without detracting from the merits of the institution as a whole. See Exhibit 40 and pages 40 through 42 and 45 through 49 of Exhibit 43 and testimony of Marsha Atkinson, Betty Duvall, Mary Dorman, and Daniel Moriarty at the hearing of March 30.

c. If the UGB is amended to include the Subject Property, then Washington County can amend the comprehensive land use plan to apply an Institutional designation to the property and can evaluate proposed expansion of the campus facilities and, if approved, impose appropriate conditions of approval addressing traffic, drainage, land use compatibility and other issues related to such an expansion. See Volumes IV through VI of the Washington County Community Development Plan.

3. The Subject Property is irrevocably committed to an urban use, based on the statewide planning goal exception adopted by Washington County for Exception Area #034, incorporated herein by reference, and the following:

a. The use is urban, because it is a key facility for community governmental services, i.e. for educational services, under Goal 11 (Public Facilities and Services); the site is intensely developed with substantial structures, parking, utilities, landscaping, and ancillary facilities not in keeping with a rural use; similar uses are situated entirely in the urban area; the use generates significant traffic volumes; and the use serves a population that resides predominantly in the urban area. *See, Shaffer v. Jackson County*, 17 Or LUBA 922 (1989). Although programs at the campus originally emphasized agricultural sciences, the campus also provided a wide range of other programs and serves a predominantly urban population. The change in emphasis at the campus from agricultural to other disciplines has increased the relationship of campus programs to the urban population.

b. Although not all of the site is covered with urban structures and related features, the Subject Property is configured to provide a rational and logical extension of the UGB. The inclusion of the Subject Property complies with the locational factors in Goal 14, based on the findings regarding that goal. *See also, City of Salem v. Families for Responsible Government*, 64 Or App 238, 668 P2d 395 (1983) and *Halvorson v. Lincoln County*, 82 Or App 302 (1986).

4. Because the Subject Property is irrevocably committed to an urban use, the petition is not required to comply with the four factors in OAR 660-040-020(2), based on OAR 660-14-030(1).

C. Compliance with Goal 3 (Agriculture). The petition is consistent with Goal 3, because the Subject Property is part of an Exception Area to Goal 3. Therefore, it is not subject to the Goal. That portion of the PCC ownership outside of the Exception Area is not proposed to be included in the UGB; it will remain designated and zoned for Exclusive Farm Use. The substantial change in topography between the Subject Property and the EFU area (see finding III.G) and the open space and woodland between the developed portion of the campus and the lowland area (see Figure 7 of Exhibit 43) buffer and protect the farmland from encroachment, significant adverse effects, significant increases in costs of production, or other conflicts with the urban use on the Subject Property.

D. Compliance with Goal 5 (Open Spaces, Scenic and Historic Areas and Natural Resources). The petition is consistent with Goal 5, because:

1. The Subject Property does not contain significant open spaces, scenic or historic areas or natural resources identified in the County Comprehensive Plan.

2. The lowland portion of the land owned by the college is identified as a significant natural resource by the County Comprehensive Plan. That land will remain outside the UGB and will continue to be used for agriculture and related educational purposes that preserve its open space character and protect the natural resources thereon.

E. Compliance with Goal 6 (Air, Water and Land Resources Quality). The petition complies with Goal 6, because:

1. Development of the Subject Property is subject to the use and development standards in Washington County Code, applicable solid waste regulations of the Metropolitan Service District, applicable storm water regulations of the Unified Sewerage Agency, and applicable air and water quality regulations of the Oregon Department of Environmental Quality and US Environmental Protection Agency. By complying with these regulations, the use of the site maintains and protects air, water and land resource quality.

2. Regional air quality problems result principally from automobile emissions. To the extent expansion of development at the Subject Property will increase those emissions, the petition does not improve air quality. However, development of any new uses anywhere in the regional airshed will increase automobile emissions. Maintaining and improving air quality depends not so much on the impacts of any one use as on the impacts of automobile use in the region as a whole. That is why the new administrative rule for Goal 12 requires a transportation demand management element in local and regional transportation plans rather than focusing on specific uses. The availability of the Westside Light Rail and implementation of programs to enhance mass transit service to the campus can minimize the air quality impacts of additional development on the Subject Property. Washington County, in conjunction with the petitioner, Tri-Met and other institutions in the area, can require and facilitate traffic demand management and mass transit measures to reduce air quality impacts from traffic associated with the campus. Requiring establishment of additional campuses will not reduce air quality impacts more and is likely to increase automobile trips between campuses and satellite facilities, producing no substantially different net effect than allowing expansion of the Rock Creek campus.

F. Compliance with Goal 9 (Economy of the State). The petition complies with Goal 9, because it enables use of the existing substantial development on the Subject Property for permitted uses rather than nonconforming uses. By continuing to treat the existing facilities as nonconforming uses, applicable land use designations and regulations unreasonably constrain the ability to modify the campus and, thereby, to fulfill the purposes of the college and serve the educational needs of the district's population. If the petition is denied, then, to serve those same purposes, the college would have to develop additional campuses, spend funds for facilities that duplicate what already is available at the Subject Property, and reduce funds available for teachers and other direct services. See Exhibit 28. This wastes valuable economic resources of the State and detracts from a stable and healthy economy. If the petition is granted and urban plan designations and zones are applied to the Subject Property, the campus can continue to be used and modified to keep pace with the need for educational services, increasing employment and improving the local economy.

G. Compliance with Goal 11 (Public Facilities and Services). The petition complies with Goal 11, because:

1. The Subject Property is served by public sanitary sewer, public water, public mass transit, storm water drainage, and electricity, natural gas, telephone and cable. These facilities enter the campus from Springville Road to the south and do not cross designated agricultural or natural resource lands to reach the campus. Therefore, they do not promote urban development of non-urban land. See finding III.F and exhibits cited therein.

2. The Subject Property is developed with an urban use, for the reasons noted in response to Goal 2. It is timely to recognize that situation by including the Subject Property in the UGB. It is orderly and efficient to allow the public facilities that serve the site to be used more intensely, and consequently more efficiently, by allowing the campus to be more intensely developed. As noted above regarding Goal 2, the only way to allow for more intense development of the campus, given Washington County regulations, is to include the campus in the UGB, so that urban designations can be applied to the site, subject to appropriate review procedures and conditions.

3. Including the Subject Property in the UGB will not lead to an untimely or disorderly arrangement of public facilities contrary to the existing land use framework for the area, because of different physical conditions that exist east, north and west of the Subject Property and the limitations of the public facilities that serve the site. Including the Subject Property in the UGB may make it more likely that the wedge of property in the northeast quadrant of the intersection of Springville Road and 185th Avenue will be included in the UGB in the future. However, if those properties can be served by existing public facilities in Springville Road, and their inclusion otherwise complies with standards for a locational adjustment, then such a UGB amendment does not result in untimely or disorderly development, given that wedge could be served by existing public facilities and is surrounded on three sides by land inside the UGB.

H. Compliance with Goal 12 (Transportation). The petition complies with Goal 12, because:

1. The site has access to a major collector road that can accommodate traffic volumes and peaks generated by the college campus at existing and proposed intensities. Access to an adjoining minor arterial also may be provided to the campus, subject to Washington County review and approval. The intersection of those roads appears to warrant additional improvements whether or not new access is provided to NW 185th Avenue. If the County finds that those roads and their intersection are improved to the extent warranted for access to the site and expansion of the use on the site, or the County imposes conditions to ensure that such improvements are made in a timely manner, then allowing the UGB amendment facilitates provision of a safe, convenient and economic transportation system.

2. The Hearings Officer accepts the arguments of opponents to the petition that NW 185th Avenue is not improved sufficient to accommodate expansion of the campus. The UGB amendment, if granted, does not dictate expansion of the campus and does not limit Washington County from requiring the petitioner to improve roads affected by development at the campus. The issue for purposes of the UGB amendment is not whether existing road conditions are adequate to provide a safe, convenient and economic transportation system; rather, the issue is whether that system can be provided. Volumes IV through VI of the Washington County Community Development Plan ensure traffic impacts of proposed development at the campus will be considered and appropriate improvements will be required before expansion of the campus will be permitted. That

ensures an adequate transportation system can be provided. It is the responsibility of the County to ensure that such a system is in fact provided. Metro does not have the authority to do so directly in the context of a UGB amendment proceeding.

3. Improvement of NW 185th Avenue and Springville Road can be made consistent with the Goal 12 rule even on the portions of 185th Avenue and Springville Road that remain outside the UGB. See pages 3 and 4 of Exhibit 31.

I. Compliance with Goal 13 (Energy Conservation). The petition complies with Goal 13, because it maximizes the use of the existing facilities on the site and facilitates energy economies of scale by promoting the most efficient and effective use of existing and potential future facilities at the campus without requiring wasteful duplication of facilities. Allowing expansion of the campus facilities makes it more likely that mass transit services can be provided more effectively to the site by increasing the pool of potential mass transit users and making campus-specific mass transit services more economical.

1. The Hearings Officer appreciates the arguments presented by opponents that allowing expansion of the campus, rather than denying the petition and implicitly requiring location of additional satellite campuses closer to the Westside Light Rail, may increase the number of vehicle miles that will be traveled by students. See Exhibits 35, 42 and 46.

2. However, the Hearings Officer is not convinced that it is more energy efficient to deny the petition for that reason alone. After all, if satellite campuses are established to substitute for proposed expansion at the Rock Creek campus, additional miles also will have to be traveled by students, faculty and staff to move between or among campuses. Moreover, even if a new campus is established in the light rail corridor, it does not ensure significantly more students will use that transit. Use of mass transit, even light rail, depends on the timeliness and convenience of connections. Given class schedules, mass transit may remain largely inconvenient and untimely, even with a more central campus location. The Hearings Officer believes that more effective use of mass transit can be achieved by allowing the college to develop a more intense Rock Creek campus, because that will allow the college to develop timely and convenient ties to the mass transit system tailored to the needs of its students, rather than the other way around.

J. Compliance with Goal 14 (Urbanization). The petition complies with the seven factors for a change in the regional urban growth boundary, based on the following findings.

1. There is a demonstrated need to include the Subject Property in the UGB to accommodate urban population growth requirements consistent with LCDC Goals, and to enhance housing, employment opportunities and liveability, (Factors 1 and 2), because Portland Community College (PCC) is the only provider of community college services in Washington County, and the Rock Creek campus is the only major PCC facility in the County. Educational services provided by the college are an important prerequisite to enhancing employment opportunities and liveability of the population of the region in general and Washington County in particular, given the significant reliance placed on an educated workforce by major employers in the County and the County's high population growth rate. College facilities must expand to accommodate increased demand for educational services in the County and to respond to changes in the nature of demand for such services. PCC cannot significantly expand or modify the Rock Creek campus unless the campus is included in the UGB. See finding VI.B.2. Therefore, the amendment is necessary to serve the educational needs of the growing urban population and to enhance employment opportunities and liveability served by such education. See Exhibits 6, 23, 27, 29, 30, 33, 34, 38, 41 and 47 and pages 32 through 36 of Exhibit 43.

2. Even if the preceding does not substantiate a need for the Subject Property to be included in the UGB, such a showing is not necessary, because the site already is committed to urban use. See OAR 660-14-030(5) and finding VI.B.3 and citations therein.

3. Including the Subject Property in the UGB facilitates the orderly and economic provision of educational services and water, sewer, drainage and transportation services necessary to support the campus and its expansion. See pages 36 and 37 of Exhibit 43.

a. The campus already is served by public water and sewer systems and energy and communications facilities. Those systems and facilities can accommodate existing and increased intensity of development on the Subject Property without expansion. See findings II.C.1 and III.F. Increased use of those facilities enhances their efficiency by increasing system revenue without increasing system costs or infrastructure requirements.

b. The campus already is served by roads. Although those roads appear to warrant improvement to accommodate development in the area generally and to accommodate expansion of the campus facilities specifically, procedures and standards exist to require such improvements, funds are being collected by the County to pay for those improvements, those improvements are programmed or planned, and those improvements can be required to be made in a timely manner. See finding VI.H.

4. Including the Subject Property in the UGB promotes the maximum efficiency of land uses within and on the fringe of the existing urban area, because urban housing development that extends to the edge of the Subject Property now and in the near future, a nearby high school, and existing firms and institutions in the vicinity will be served more effectively and efficiently by educational services on the Subject Property if the campus is allowed to evolve to meet the demand of the populations that live, learn and work in the area. It does not promote the efficiency of the educational system to require duplication of facilities and services where such duplication is not necessary to achieve the purposes of that system. In this case, such duplication is not necessary to achieve the purposes of the system, based on Exhibit 40. See also pages 39 and 40 of Exhibit 43. It also does not enhance the efficiency of land uses within the urban area to require institutional use of land designated for industrial, office or commercial purposes; it simply displaces or preempts potential industrial, office or commercial uses, contrary to the goal of maximizing use of lands so designated for the purposes for which they were intended.

5. The environmental, energy, economic and social consequences of including the Subject Property in the UGB have been considered in this recommendation. Adverse environmental effects are not reasonably likely to occur, because the Subject Property does not include lands subject to significant hazards, and because future development is subject to regulations noted in finding VI.E.1. Adverse energy effects will not occur for the reasons noted in finding VI.I. Adverse economic effects will not occur, because the campus will continue to be able to serve the demand for educational services without unnecessarily duplicating facilities without consummate economic benefits. See finding VI.F. Adverse social consequences will not occur, because the campus incorporates buffers and mitigation measures to protect the liveability of residents of adjoining properties, and because those residents have a right to participate in review of future development plans through the Washington County land use process. Beneficial environmental, energy, economic and social effects of including the Subject Property in the UGB are described above and at pages 40 through 42 of Exhibit 43.

6. Including the Subject Property in the UGB will not affect retention of agricultural land designated for that purpose, because the site is in an area for which an exception to Goal 3 was adopted and approved, and because the site already is substantially

developed with and is irrevocably committed to urban uses. Also, the petition includes only that portion of the contiguous PCC-owned land necessary for the existing facilities and other land that is unsuited for agricultural use due to steep slopes and its relation to the existing facilities. By minimizing the conversion of agricultural land to urban land, the petition is consistent with this factor.

7. Including the Subject Property in the UGB will be compatible with nearby agricultural activities, because the urban uses on the site are buffered from those uses by distance, topography and roads, and because the campus has not conflicted with agricultural activities in the vicinity during the 15-year history of the campus.


VII. Conclusions and Recommendation

A. Conclusion. The proposed UGB amendment complies with Metro Code Chapter 3.10, Metro Ordinance No. 85-189, and Metro Ordinance No. 86-204, because it complies with the applicable Statewide Planning Goals or Exceptions thereto.

B. Recommendation. For the foregoing reasons, the Hearings Officer recommends that the Metropolitan Service District Council grant the petition in Contested Case 91-04.

DATED this 28th day of May, 1992.

Respectfully submitted,



Larry Epstein, Esq., AICP
Hearings Officer

EXHIBIT C

Certified A True Copy of the Original Thereof
Clerk of

**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)(1) 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

25th day of June, 1991.



Jim Gardner, Presiding Officer

ES/es
6/15/92

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.

August 27, 1992 Hrg.

PROPOSAL NO. 3104 - UNIFIED SEWERAGE AGENCY - Annexation

Petitioner: Portland Community College

90th Day: September 25, 1992

Proposal No. 3104 was initiated by a petition of the property owner. The petition meets the requirement for initiation set forth in ORS 199.490(1)(c) (owners of at least 50% of land area annexation method). The proposal will be effective 45 days after the approval subject to the provisions in ORS 199.510 and 199.519.

The territory to be annexed is located on the north edge of the district, north of NW Springville Rd., east of NW 185th Ave. The territory contains 160 acres, six major college buildings, several smaller structures, and is tax exempt.

August 27, 1992 Hrg.

PROPOSAL NO. 3105 - METROPOLITAN SERVICE DISTRICT - Annexation

Petitioner: Portland Community College

90th Day: September 25, 1992

Proposal No. 3105 was initiated by a petition of the property owner. The petition meets the requirement for initiation set forth in ORS 199.490(1)(c) (owners of at least 50% of land area annexation method). The proposal will be effective 45 days after the approval subject to the provisions in ORS 199.510 and 199.519.

The territory to be annexed is located on the north edge of the district, north of NW Springville Rd., east of NW 185th Ave. The territory contains 160 acres, six major college buildings, several smaller structures, and is tax exempt.

Note: Proposal No 3104 and Proposal No. 3105 contain the same territory. Proposal No. 3104 is to annex to the Unified Sewerage Agency and Proposal No. 3105 is to annex to Metro. A single staff report has been prepared for both proposals.

REASON FOR ANNEXATION. The petitioners propose to add about 160 acres to the Urban Growth Boundary to facilitate expansion of the Rock Creek Campus of Portland Community College. The affected territory is 160 acres of the 250 acre parcel owned by PCC. The Metropolitan Service District has adopted a resolution stating its intent to amend the urban growth boundary upon annexation of the territory to the Metro boundary. The territory must be within the boundary of the Metropolitan Service District in order for Metro have authority to amend the UGB. The annexation to the Unified Sewerage Agency is proposed to allow urban sanitary services to be extended to the proposed new uses.

The petitioner plans to apply to Washington County for approval of a staged development program through the year 2010 consistent with the July, 1991 Master Plan for the campus. The Master Plan assumes 100% growth in full time enrollment (currently 2000 to 2400 averaged over the year) and 80% enlargement in building area. The portion of the petitioner's property not planned for inclusion in the UGB and proposed for annexation to USA will remain predominantly in open space and timber use.

The following information was provided by the petitioner:

"The existing campus is a legal non-conforming use under Washington County AF-5 District zoning. Expansion and more efficient use of the campus facilities is limited under this status. The Metro Council has passed a Resolution of Intent to include the 160 acre site within the Regional UGB, pending annexation of the subject property to the Metropolitan Service District and the Unified Sewerage Agency. Following the annexation and final UGB amendment, PCC will proceed with an application for a plan amendment to Institutional and seek Master Plan approval for phased expansion/improvements on the campus.

"Facility and program improvements at PCC Rock Creek are necessary to meet growing education and training needs of Washington County residents and employers. The community college is an important educational resource and institution for Washington County and the entire metropolitan area. Continued strong growth in population and employment is projected for the area served by the Rock Creek Campus. Further, enrollment caps and tuition increases at the state colleges and universities are placing increased pressures on the community colleges to meet needs for accessible and

affordable lower division college courses. Bringing the campus within the Regional UGB will provide the necessary planning and regulatory framework to improve the efficiency of the existing institution to respond to changing needs.

"Based on projected population growth and enrollment trends, PCC anticipates a doubling of the current enrollment at Rock Creek over the next twenty years. This western metropolitan area growth cannot be met through expansion of the Sylvania and Cascade Campuses. Further, students would have to travel substantially greater distances to reach the other campuses, in violation of efforts to reduce vehicle miles traveled.

"The campus Master Plan indicates that the 100% growth in FTE enrollment and desired facility improvements will require approximately 80% growth in building area. The projection increases the gross square footage from 341,000 gsf to 610,000 gsf.

"The immediate or short term need is for additional classroom, student activity and faculty office/conference space. Other short term needs include expansion of the alternative learning center and counseling/testing areas. If PCC proceeds with a bond measure for district-wide facility improvements [this bond measure was approved by voters in May], funds dedicated to the Rock Creek Campus will be issued for remodeling of existing buildings and construction of a new science lab/classroom building.

"Longer term requirements include library stack and study space expansion, additional classrooms and proportionate growth in most other facilities.

"The projected campus growth can be used to organize and clarify circulation, parking, and site development. As the campus grows, the opportunity exists to consolidate the campus components into a more consistent character."

LAND USE PLANNING

Site Characteristics. The Rock Creek Campus of PCC is located on the north side of Springville Road and to the east side of 185th Ave. The lands to the north are wetlands, a floodplain, agriculture and a BPA right-of-way. To the east and west the land uses are agriculture and rural dwellings. To the south, within the urban growth boundary, lands across Springville Road are designated for medium to high density residential development and are zoned Residential (9 to 24 units per acre). The County has approved a dormitory in that area. A new high school has been approved south of the new residential area east of 185th Ave. Extensive low and medium density residential development has occurred between West Union Road and Highway 26.

Existing campus buildings are clustered in the center of the site. About 101 acres of the site are developed with buildings (7 acres), parking and landscaping (24 acres), and agriculture/landscape/carpentry program facilities (70 acres). The remainder of the site is forest and pasture land surrounding the buildings and other campus facilities.

Regional Planning. The territory is currently outside the acknowledged regional urban growth boundary and outside the jurisdictional boundary of the Metropolitan Service District (Metro). Both boundaries are located along Springville Road.

Metro has land use authority over proposed amendments to the Regional UGB. Metro has established procedures for hearing petitions for Locational Adjustments (less than 50 acres) and for Major Amendments (more than 50 acres). The Metro Council recently adopted Regional Urban Growth Goals & Objectives (RUGGO) to provide a policy framework for management of the Regional UGB. Metro is also working to revise UGB amendment procedures and detail specific review criteria.

When proposed UGB amendments are located outside the boundary of Metro, a procedure has been established whereby Metro conducts its review process and adopts a resolution which supports the proposed amendment and states Metro's findings and conclusions and its intention to amend the boundary upon annexation of the territory to Metro. This procedure has been adopted in Metropolitan Service District Code Section 3.01.070(c)(i). Once the annexation to Metro is effective, Metro adopts an ordinance to finalize the UGB amendment within six months of the date of the Council approval.

The Metro Council considered the UGB amendment proposal on June 15, 1992. The Metro Council adopted Resolution No 92-1630 adopting its Hearings Officer's Report supporting the UGB amendment. In summary, the Hearings Officer 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.

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.

County Planning. The site is designated Agriculture-Forestry on the Washington County Rural/Natural Resource Plan and is zoned AF-5. The Rock Creek Campus of Portland Community College was located at this site after receiving Washington County approval for a conditional use permit in 1974 before adoption of the Washington County Framework Plan in 1983 and the Regional UGB in 1979. The campus and surrounding non-EFU-zoned land was approved as an exception to Statewide Planning Goal 3 (Agriculture), because it was already committed to non-resource use and served with public water and sewer.

The AF-5 zoning district is intended to respect rural character and conserve natural resources while providing for rural residential uses. The district is applied to recognized parcelization and diverse ownerships existing at the time of adoption of the Comprehensive Plan. A five (5) acre minimum lot size is normally required for creation of new parcels.

In applying designations for rural residential, commercial or industrial uses outside the Regional UGB, Washington County had to justify "exceptions" to the statewide agriculture and forest lands goals. Washington County took an exception for the PCC-Rock Creek Campus because the property was already built and committed to non-resource use and served with public sewer and water.

A community college is not listed as a permitted use under the AF-5 zone. The existing use is recognized as a legal, non-conforming use which predated the AF-5 zoning. The Community Development Code lists community colleges as a potential Type III use (subject to a public hearing and discretionary approval) in the Institutional zoning district and the R6 residential district. The Institutional and R6 zoning districts can only be applied within the Regional UGB.

UTILITIES AND SERVICES.

Sanitary Sewers. The Unified Sewerage Agency (USA) provides sanitary sewer service to the subject property pursuant to a contract with petitioner. A 12-inch diameter sewer line extends south of the campus across Springville Road and southwest to the Bronson Creek trunk line near 185th Avenue and West Union Road. The Bronson Creek trunk conveys wastewater by gravity flow to the Rock Creek sewage treatment plant.

According to the application, PCC recognizes that annexation to the USA service district will be required in conjunction with an amendment of the UGB to include the college campus. No changes in the existing sanitary sewer system are anticipated.

USA recently completed an upgrade of the segment of the sewer trunk which extends from the Sunset Highway north to West Union Road. The existing infrastructure can continue to serve the campus if the site is developed consistent with the Master Plan. When development of the Rock Creek Campus was approved in 1974, sanitary sewer service did not extend north of 185th/West Union. PCC paid for the sewer line extraterritorial extension.

Water. The territory is within the boundary of the Tualatin Valley Water District. When Washington County approved the conditional use permit for the community college in 1974, a condition was attached to the approval which mandated connection to urban water and sewer facilities. Annexation of the Rock Creek Campus to the Wolf Creek Highway Water District (now the Tualatin Valley Water District) was required for connection to urban water lines. The water district annexation was approved by the Boundary Commission on August 21, 1974 (Proposal No. 753).

There is a 14-inch diameter main which forms a loop around major buildings on the campus and connects to a 16-inch diameter main in Springville Road. According to the campus Master Plan, this main is adequate to serve the campus through 2010. No pumping is required to serve the campus. According to the campus Master Plan new construction will necessitate reconstruction of portions of the loop main.

To improve water service in the Bethany area, the Water District plans to extend a 25-inch diameter water main in Springville Road to connect with a main in Kaiser Road to loop and intertie the existing network of water lines, with construction scheduled to begin within two years.

The source of water for the Water District is the Bull Run system. The District has long-term contracts to buy water from the City of Portland.

Fire. The territory is within the boundary of the Tualatin Valley Fire and Rescue District. The closest district facility is about one mile south of the site at the intersection of Highway 26 and 185th Avenue. Automatic fire protection systems are installed throughout buildings on the site and fire hydrants are located within 300 feet of buildings. The existing water supply is adequate to serve fire protection needs.

Police. The territory is currently outside the UGB which is the boundary between the Washington County Enhanced Law Enforcement District and general rural level police protection services. The Washington County Sheriff currently provides police protection services to this site at the rural, county-wide base level of service of .5 officers per thousand population. The College supplements police services with on-site campus security staff.

The Washington County Enhanced Law Enforcement District was formed to serve all lands within the regional UGB. The Enhanced Law Enforcement District finances an added increment of police protection raising the urban level of service to 1 officer per thousand population. If the territory is within the UGB the territory should also be annexed to the law enforcement district to maintain the integrity of the principle upon which the district was formed.

Storm Sewer. The Unified Sewerage Agency (USA) has authority over surface water management within its boundaries. Upon annexation to USA the site will be subject to USA regulations.

Storm water from impervious areas of the site are collected and discharged on-site. The existing campus is served by a separate storm sewer system. Site drainage from existing campus buildings, parking areas and roadways is collected and dispersed on-site to a low area to the east of the primary entrance road. Additional development on the site would be subject to USA requirements for storm water collection, detention, and enhancement. USA requires bio-filtration for normal surface runoff, and detention of runoff from a 25 year storm event. The application indicates that PCC will explore options to pre-treat stormwater and direct it north of the campus to provide for enhancement of the wetland. Given the permeable area of the site and the wetlands north of the site, ample room exists to accommodate storm water from design storm events.

Transportation. The following information is from the Findings of the Metro Hearings Officer Report on the UGB amendment:

"The site has direct access to NW Springville Road, a major collector street with a 2-lane paved section between gravel shoulders and drainage ditches. There is a turn lane at the campus entry. There are no curbs, sidewalks, or bicycle lanes along this street. NW Springville Road now carries about 6000

average daily trips (ADT) east of 185th Avenue. County guidelines for a major collector recommend traffic volume of 1500 to 10,000 ADT.

"The site also adjoins NW 185th Avenue, which is a rural minor arterial street with a 2-lane paved section between gravel shoulders and drainage ditches north of Springville Road. The campus does not have direct vehicular access to this street at this time, except apparently for minor traffic associated with the farm activities in the dwelling at the west end of the campus. The college proposes to provide direct vehicular access to that street in the future; the location and nature of that access has not been determined and would be subject to access permit requirements of Washington County.

"NW 185th Avenue now carries about 2000 ADT north of Springville Road. County guidelines for a minor arterial recommend traffic volume of less than 10,000 ADT. A 90-foot right of way is required, whether the road is urban or rural. There are no curbs, sidewalks, or bicycle lanes along this street. Based on the County Transportation Plan, NW 185th Avenue north of Springville Road would not ultimately include a bicycle lane, sidewalk or curb. However, if the County grants access to the road for the college, the County may require the college to improve the road between the access point and Springville Road with such features (as well as requiring other improvements).

"NW 185th Avenue is programmed to be widened to 5 lanes between West Union Road and Highway 26. There is sufficient right of way to widen this segment of the road to 5 lanes. Funding has been dedicated to widen the road to 3 lanes from Highway 26 to Tamarack Lane, about 300 feet south of West Union Road. NW 185th Avenue is programmed to be widened to three lanes between West Union Road and Springville Road. Although funding for this widening is not allocated, it is expected to be provided by the County Traffic Impact Fee (TIF) program.

"The intersection of Springville Road and 185th Avenue is controlled by stop signs that apply to north- and southbound traffic on 185th Avenue. Traffic turning east from 185th Avenue to Springville Road and traffic turning south from Springville Road to 185th Avenue is not required to stop. . . Signalization of the intersection will be needed by the time the campus build-out is complete. A traffic signal at the intersection of NW 185th Avenue and West Union Road is planned and eligible for TIF funding. . .

"About 90 percent of campus-related traffic comes from the south on NW 185th Avenue to Springville Road. Only about 3 percent of students use Tri-met bus service. The remaining 97

percent arrive by private automobile. Of that number 81 percent of the students drive to campus, 14 percent share rides as passengers, and 2 percent are dropped off by others who do not remain on campus. Most students are on campus only for a portion of the day. Peak traffic volumes occur between 9 am and 12 pm and between 7 pm and 10 pm . . .

"The Subject Property is not within one-quarter mile of a transit corridor designated by Metro. Tri-Met bus route 52 serves the campus on half-hour intervals from 6:25 am until 10:33 pm. When the Westside light rail project is completed, bus route 52 will connect to the 185th Avenue LRT center and will serve the campus with a bus ever 15 minutes.

* * *

"The Hearings Officer accepts the arguments of opponents to the petition that NW 185th Avenue is not improved sufficiently to accommodate expansion of the campus. The UGB amendment, if granted, does not dictate expansion of the campus and does not limit Washington County from requiring the petitioner to improve roads affected by development at the campus. The issue for purposes of the UGB amendment is not whether existing road conditions are adequate to provide a safe, convenient and economic transportation system; rather, the issue is whether that system can be provided. Volumes IV through VI of the Washington County Community Development Plan ensure traffic impacts of proposed development at the campus will be considered and appropriate improvements will be required before expansion of the campus will be permitted. That ensures an adequate transportation system can be provided. It is the responsibility of the County to ensure that such a system is in fact provided. Metro does not have the authority to do so directly in the context of a UGB amendment proceeding.

"Improvement of NW 185th and Springville Road can be made consistent with the Goal 12 rule even on the portions of 185th Avenue and Springville Road that remain outside the UGB."

According to the application, the Master Plan recommends that PCC implement a traffic management program to encourage increased use of the existing transit service and other travel modes (carpools, bicycles) as a means to accommodate growth in student population without burdening the street network.

RECOMMENDATION. Based on the study and the proposed Findings and Reasons For Decision attached as Exhibit B the staff recommends that Proposals No. 3104 and 3105 be approved.

The staff recommends that the Commission adopt a resolution to initiate annexation of the subject territory to the Washington County Enhanced Law Enforcement District. A proposed resolution is attached as Exhibit A.

RESOLUTION NO. 69

RESOLUTION OF THE PORTLAND METROPOLITAN AREA LOCAL GOVERNMENT
BOUNDARY COMMISSION INITIATING THE ANNEXATION OF TERRITORY TO THE
WASHINGTON COUNTY ENHANCED LAW ENFORCEMENT DISTRICT.

It appearing that:

1. The Boundary Commission is authorized by ORS 199.490 to initiate proceedings for a minor boundary change.
2. Boundary Commission Proposals No. 3104 and 3105 were initiated by the board of directors of the Portland Community College to annex the Rock Creek campus to the Metropolitan Service District to facilitate an amendment to include the campus within the regional urban growth boundary (UGB) and to annex to the Unified Sewerage Agency (USA) to make the USA boundary consistent with the UGB.
3. During the staff study on the proposal it was determined that the territory is not included in the Washington County Enhanced Law Enforcement District. The Enhanced Law Enforcement District, like the USA, has district boundaries established at the regional UGB. The purpose of the Enhanced Law Enforcement District is to provide an additional increment of police protection above the base county-wide level to meet the added police service needs of urban areas.
4. The applicant was not informed in advance by the Boundary Commission staff that the boundary of the Enhanced Law Enforcement District should be amended as well as the boundaries of the Unified Sewerage Agency and Metro. The Community College is a governmental entity and does not pay property taxes. The District has no incentive to request inclusion within the Enhanced Law Enforcement District.
5. The Boundary Commission is charged with assuring that governmental boundaries are logical. The primary reason to annex the territory to the Enhanced Law Enforcement District is to maintain the consistency of the Urban Growth Boundary as the District's boundary. It is appropriate that the Boundary Commission initiate the annexation to maintain the logic of the district's boundary in relationship to the UGB.

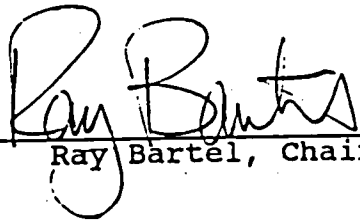
IT IS HEREBY RESOLVED BY THE BOUNDARY COMMISSION AS FOLLOWS:

1. That the Boundary Commission by this resolution initiates the proceedings for the annexation of territory to the Washington County Enhanced Law Enforcement District, the boundaries of said territory being described in Exhibit A and depicted in Figure 2 attached hereto.
2. That the Executive Officer be and is hereby instructed to file and enter this Resolution in the Boundary Commission records and file a certified copy with the Washington County Enhanced Law Enforcement District.

PRESENTED and passed this 27th day of August, 1992.

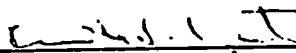
PORTLAND METROPOLITAN AREA LOCAL GOVERNMENT
BOUNDARY COMMISSION

BY:



Ray Bartel, Chairperson

Attest:



Kenneth S. Martin, Executive Officer



PACIFIC

8405 S.W. Nimbus Avenue
P.O. Box 30040
Portland, OR 97230

3105

ASSESSMENT AND TAXATION DEPT.
155 N. FIRST AVE., MAIL STOP # 9
HILLSBORO, OR 97124-3087

By James [Signature]

July 22, 1992

URBAN GROWTE BOUNDARY AMENDMENT

A parcel of land lying in the southwest 1/4 and the southeast 1/4 of Section 18, Township 1 North, Range 1 West of the Willamette Meridian and being a portion of property deeded to Portland Community College and being more particularly described as follows:

Beginning at the 1/4 corner common to Sections 18 and 19, said point also being on the centerline of Northwest Springville Road; thence along said centerline South 88°05'11" East 1,121.08 feet; thence leaving said centerline and along the easterly boundary of the Portland Community College parcel the following courses: North 02°27'29" East 1,391.58 feet; South 87°32'31" East 64.50 feet; and North 01°33'49" West 919.67 feet; thence leaving said easterly boundary North 88°14'43" West 1,173.51 feet; thence parallel with the existing Portland Community College building east-west grid South 71°35'36" West 2,510.97 feet to the easterly line of a Bonneville Power Administration easement; thence along said easement South 40°13'29" West 464.36 feet to the centerline of Northwest 185th Avenue; thence along said centerline South 01°25'59" West 683.09 feet; thence leaving said centerline and along the boundary of said Portland community College parcel South 88°15'11" East 1,339.74 feet; thence continuing along the boundary of said parcel south 01°35'36" West 388.99 feet to the centerline of Northwest Springville Road; thence along said centerline South 88°02'14" East 1,325.42 feet to the Point of Beginning.

Bearings and distances based on Washington County Survey Number 14,109.

The parcel of land to which this description applies contains 159.53 acres more or less.

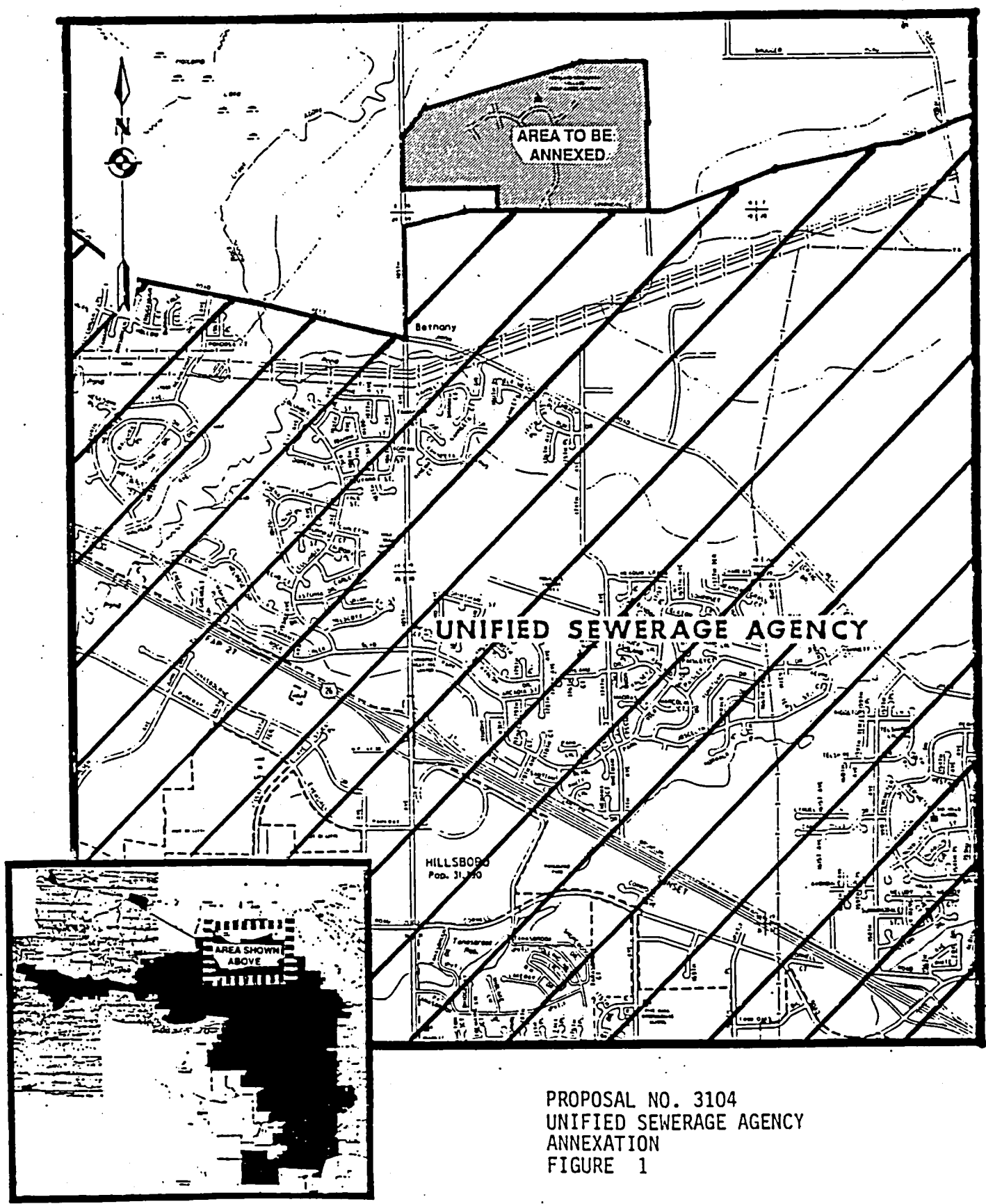
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ugd.lag

REGISTERED
PROFESSIONAL
LAND SURVEYOR

J. Stuart Hitchen

OREGON
J. STUART HITCHEN
2341

PROPOSAL NO. 3104



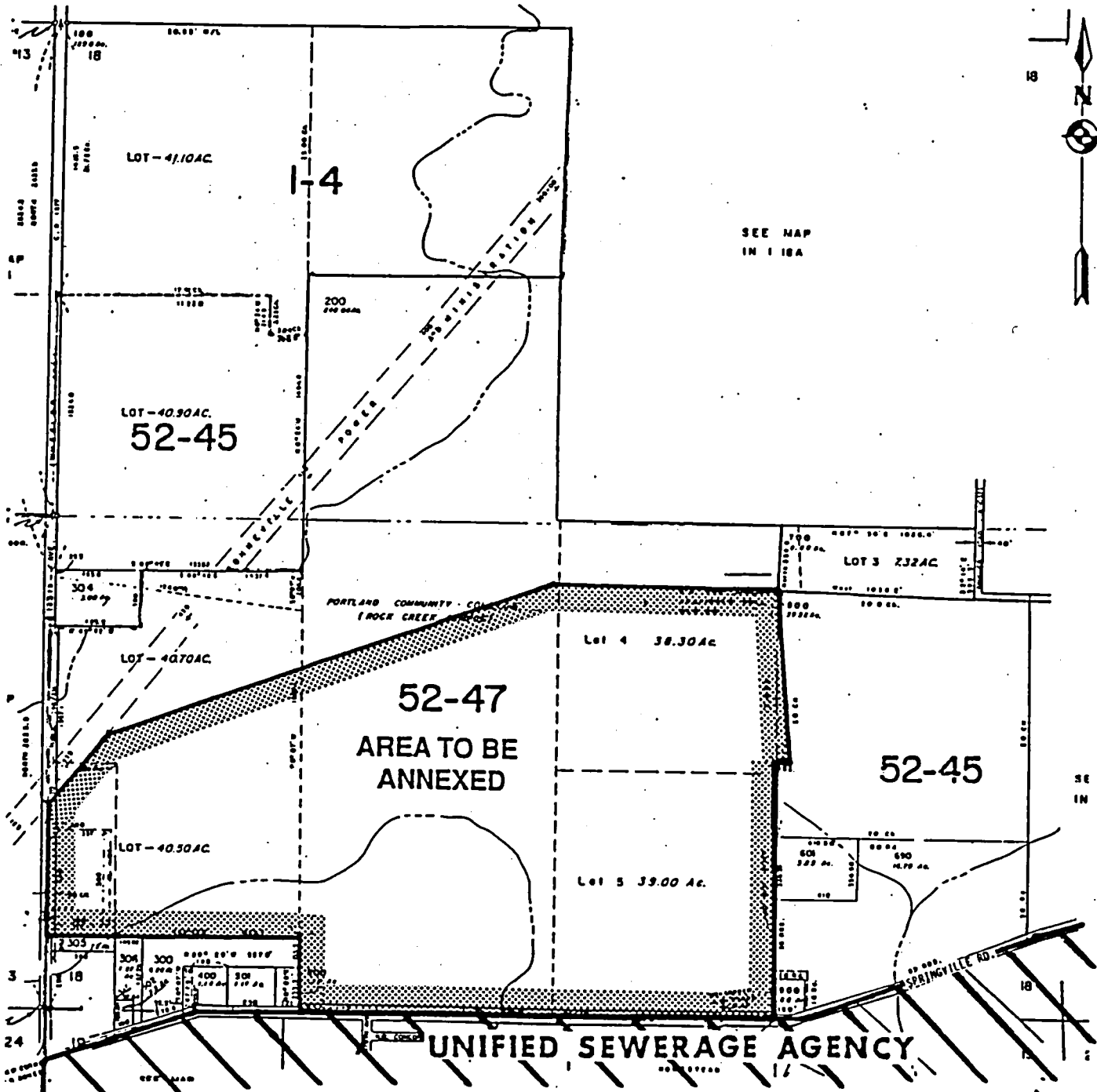
PROPOSAL NO. 3104
UNIFIED SEWERAGE AGENCY
ANNEXATION
FIGURE 1

PROPOSAL NO. 3104

SECTION 18 T1N R1W W.M.
Washington County, Oregon

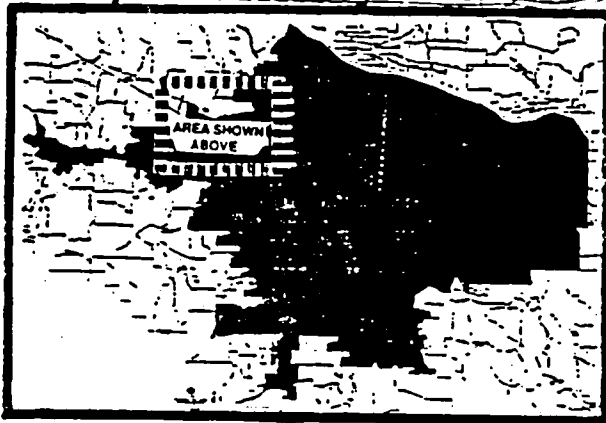
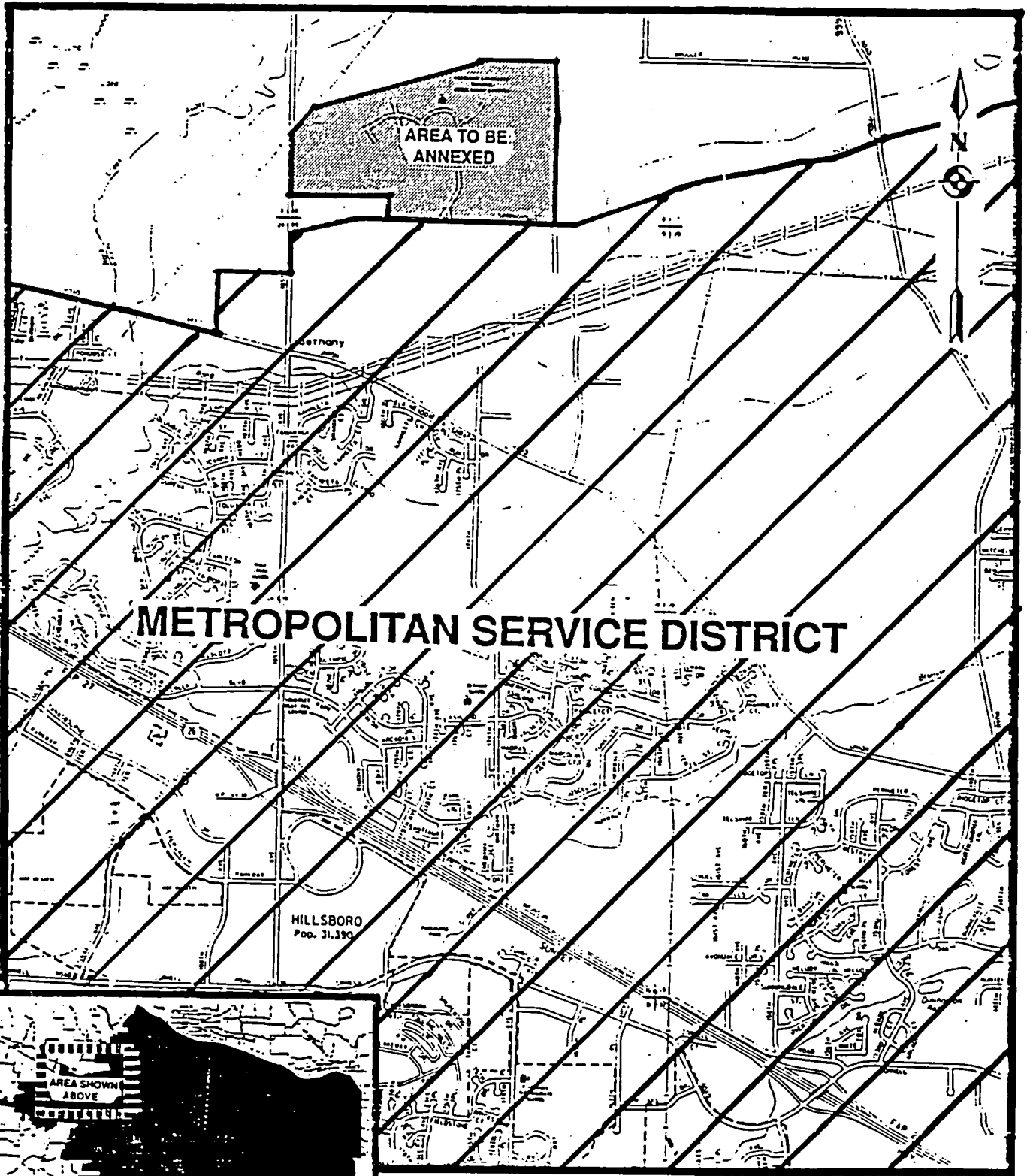
IN 1 18
& INDEX

Scale: - 1" = 800'



PROPOSAL NO. 3104
UNIFIED SEWERAGE AGENCY
ANNEXATION
FIGURE 2

PROPOSAL NO. 3105



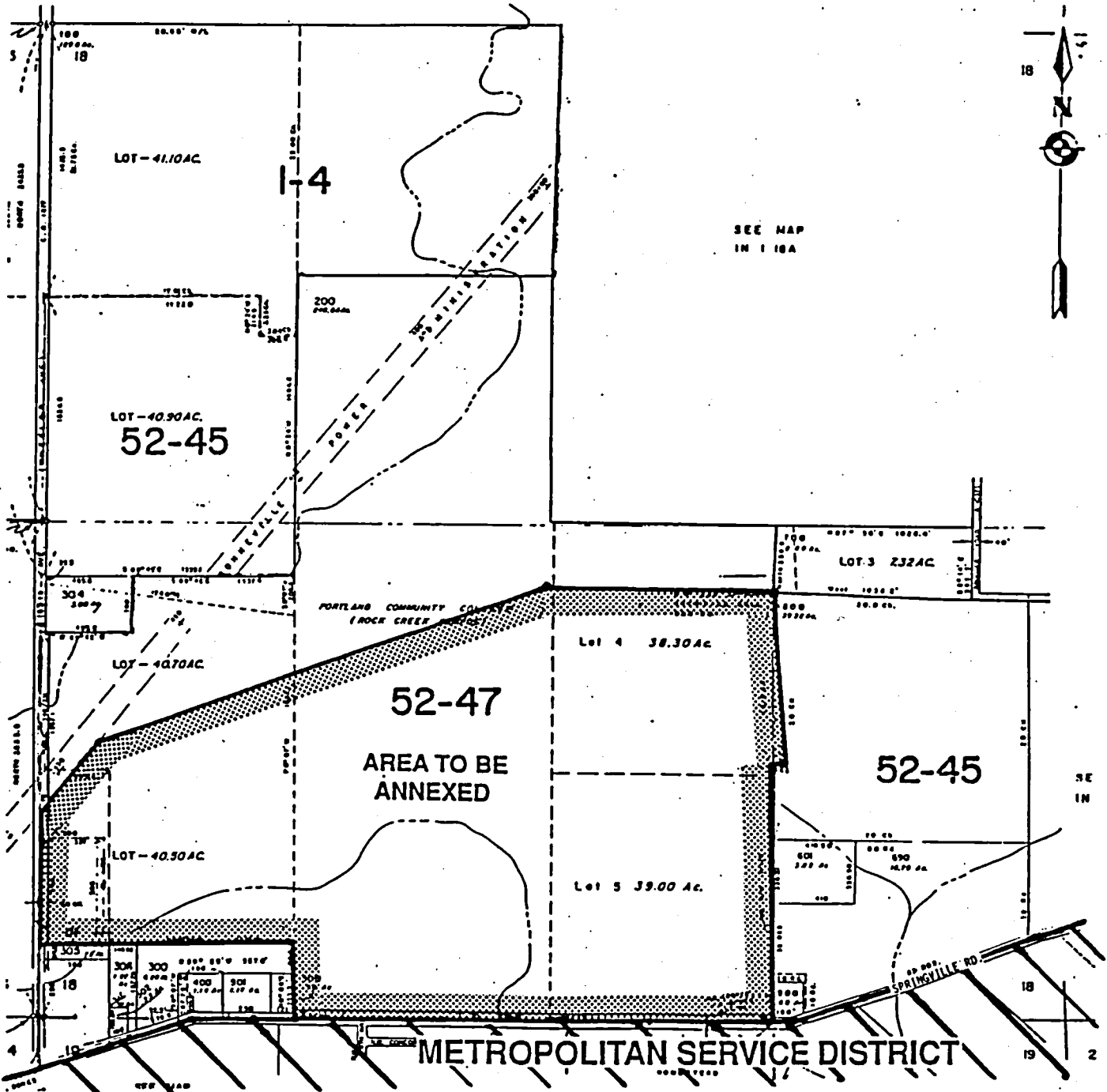
PROPOSAL NO. 3105
METROPOLITAN S.D.
ANNEXATION
FIGURE 1

PROPOSAL NO. 3105

SECTION 18 T1N R1W W.M.
Washington County, Oregon

IN 1 18
& INDEX

Scale: 1" = 800'



Revised. 8-3-92

PROPOSAL NO. 3105
METROPOLITAN S.D.
ANNEXATION
FIGURE 2

FINDINGS

Based on the study and the public hearing the Commission found:

1. The territory to be annexed contains 160 acres, six major college buildings, several smaller structures, and is tax exempt.
2. The petitioners propose to add about 160 acres to the Urban Growth Boundary to facilitate expansion of the Rock Creek Campus of Portland Community College. The affected territory is 160 acres of the 250 acre parcel owned by PCC. The Metropolitan Service District has adopted a resolution stating its intent to amend the urban growth boundary upon annexation of the territory to the Metro boundary. The annexation to the Unified Sewerage Agency is proposed to allow urban sanitary services to be extended to the proposed new uses.

The petitioner plans to apply to Washington County for approval of a staged development program through the year 2010 consistent with the July, 1991 master plan for the campus. The master plan assumes 100% growth in full time enrollment (currently 2000 to 2400 averaged over the year) and 80% enlargement in building area. The portion of the petitioner's property not planned for inclusion in the UGB and proposed for annexation to USA will remain predominantly in open space and timber use.

The following statement was provided by the petitioner:

"The existing campus is a legal non-conforming use under Washington County AF-5 District zoning. Expansion and more efficient use of the campus facilities is limited under this status. The Metro Council has passed a Resolution of Intent to include the 160 acre site within the Regional UGB, pending annexation of the subject property to the Metropolitan Service District and the Unified Sewerage Agency. Following the annexation and final UGB amendment, PCC will proceed with an application for a plan amendment to Institutional and seek master plan approval for phased expansion/improvements on the campus.

"The immediate or short term need is for additional classroom, student activity and faculty office/conference space. Other short term needs include expansion of the

alternative learning center and counseling/testing areas. If PCC proceeds with a bond measure for district-wide facility improvements [this bond measure was approved by voters in May], funds dedicated to the Rock Creek Campus will be issued for remodeling of existing buildings and construction of a new science lab/classroom building.

"Longer term requirements include library stack and study space expansion, additional classrooms and proportionate growth in most other facilities.

"The projected campus growth can be used to organize and clarify circulation, parking, and site development. As the campus grows, the opportunity exists to consolidate the campus components into a more consistent character."

3. The lands to the north of the proposed annexation are wetlands, a floodplain, agriculture and a BPA right of way. To the east and west the land uses are agriculture and rural dwellings. To the south, within the urban growth boundary, lands across Springville Road are designated for medium to high density residential development and are zoned Residential (9 to 24 units per acre). The County has approved a dormitory in that area. A new high school has been approved south of the new residential area east of 185th Ave. Extensive low and medium density residential development has occurred between West Union Road and Highway 26.

Existing campus buildings are clustered in the center of the site. About 101 acres of the site are developed with buildings (7 acres), parking and landscaping (24 acres), and agriculture/landscape/carpentry program facilities (70 acres). The remainder of the site is forest and pasture land surrounding the buildings and other campus facilities.

4. The territory is currently outside the acknowledged regional urban growth boundary and outside the jurisdictional boundary of the Metropolitan Service District (Metro). Both boundaries are located along Springville Road.

Metro has authority over proposed amendments to the Regional UGB. Metro has established procedures for hearing petitions for Locational Adjustments (less than 50 acres) and for Major Amendments (more than 50 acres). The Metro Council recently adopted Regional Urban Growth Goals & Objectives (RUGGO) to provide a policy framework for management of the Regional UGB. Metro is also working to revise UGB amendment procedures and

detail specific review criteria. Until those criteria are adopted UGB amendments are reviewed under LCDC Goal criteria.

When proposed UGB amendments are located outside the boundary of Metro, a procedure has been established whereby Metro conducts its review process and adopts a resolution supporting a proposed amendment and stating Metro's findings and conclusions and its intention to amend the boundary upon annexation of the territory to Metro. This procedure has been adopted in Metropolitan Service District Code Section 3.01.070(c)(i). Once the annexation to Metro is effective Metro adopts an ordinance to finalize the UGB amendment within six months of the date of the Council approval.

The Metro Council considered the UGB amendment proposal on June 15, 1992. The Metro Council adopted Resolution No. 92-1630 adopting its Hearings Officer's Report supporting the UGB amendment.

In summary, the Hearings Officer 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, there is a demonstrated need for additional community college capacity, and both the nature of the program and the cost of duplicating the entire campus in a new location requires that expansion occur at the current site.

The Hearings Officer determined that although a number of questions were raised about both the provision of transportation services to the site and 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.

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.

5. The site is designated Agriculture-Forestry on the Washington County Rural/Natural Resource Plan and is zoned AF-5. The Rock Creek Campus of Portland Community College was located at this site after receiving Washington County approval for a conditional use permit in 1974 before adoption of the Washington County Framework Plan in 1983 and the Regional UGB in 1979. The campus and surrounding non-EFU-zoned land was approved as an exception to Statewide Planning Goal 3 (Agriculture), because it was already committed to non-resource use and served with public water and sewer. A community college is not listed as a permitted use in the AF-5 zone. The community college is recognized as a legal nonconforming use by the County.

The AF-5 zoning district is intended to respect rural character and conserve natural resources while providing for rural residential uses. The district is applied to recognized parcelization and diverse ownerships existing at the time of adoption of the Comprehensive Plan. A five (5) acre minimum lot size is normally required for creation of new parcels.

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A community college is not listed as a permitted use under the AF-5 zone. The existing use is recognized as a legal, non-conforming use which predated the AF-5 zoning. The Community Development Code lists community colleges as a potential Type III use (subject to a public hearing and discretionary approval) in the Institutional Zoning District and the R6 residential district. The Institutional and R-6 zoning

districts can only be applied within the Regional UGB.

6. The Unified Sewerage Agency (USA) provides sanitary sewer service to the Subject Property pursuant to a contract with petitioner. A 12-inch diameter sewer line extends south of the campus across Springville Road and southwest to the Bronson Creek trunk line near 185th Avenue and West Union Road. The Bronson Creek trunk conveys wastewater by gravity flow to the Rock Creek sewage treatment plant.

According to the application, PCC recognizes that annexation to the USA service district will be required in conjunction with an amendment of the UGB to include the college campus. No changes in the existing sanitary sewer system are anticipated.

USA recently completed an upgrade of the segment of the sewer trunk which extends from the Sunset Highway north to West Union Road. The existing infrastructure can continue to serve the campus if the site is developed consistent with the Master Plan.

7. The territory is within the boundary of the Tualatin Valley Water District. When Washington County approved the conditional use permit for the community college in 1974, a condition was attached to the approval which mandated connection to urban water and sewer facilities. Annexation of the Rock Creek Campus to the Wolf Creek Highway Water District (now the Tualatin Valley Water District) was required for connection to urban water lines. The water district annexation was approved by the Boundary Commission on August 21, 1974 (Proposal No. 753).

There is a 14-inch diameter main which forms a loop around major buildings on the campus and connects to a 16-inch diameter main in Springville Road. According to the campus master plan, this main is adequate to serve the campus through 2010. No pumping is required to serve the campus. According to the campus Master Plan new construction will necessitate reconstruction of portions of the loop main.

To improve water service in the Bethany area, the Water District plans to extend a 25-inch diameter water main in Springville Road to connect with a main in Kaiser Road to loop and intertie the existing network of water lines, with construction scheduled to begin within two years.

The source of water for the Water District is the Bull Run system. The District has long-term contracts to buy water from the City of Portland.

8. The territory is within the boundary of the Tualatin Valley Fire and Rescue District. The closest district facility is about one mile south of the site at the intersection of Highway 26 and 185th Avenue. Automatic fire protection systems are installed throughout buildings on the site and fire hydrants are located within 300 feet of buildings. The existing water supply is adequate to serve fire protection needs.
9. The territory is currently outside the UGB which is the boundary between the Washington County Enhanced Law Enforcement District and general rural level police protection services. The Washington County Sheriff currently provides police protection services to this site at the rural, county-wide base level of service of .5 officers per thousand population. The College supplements police services with on-site campus security staff.

The Washington County Enhanced Law Enforcement District was formed to serve all lands within the regional UGB. The Enhanced Law Enforcement District finances an added increment of police protection raising the urban level of service to 1 officer per thousand population. If the territory is within the UGB the territory should also be annexed to the Enhanced Law Enforcement District to maintain the integrity of the principle upon which the district was formed.

10. The Unified Sewerage Agency (USA) has authority over surface water management within its boundaries. Upon annexation to USA the site will be subject to USA regulations.

Storm water from impervious areas of the site are collected and discharged on-site. The existing campus is served by a separate storm sewer system. Site drainage from existing campus buildings, parking areas and roadways is collected and dispersed on-site to a low area to the east of the primary entrance road. Additional development on the site would be subject to USA requirements for storm water collection, detention, and enhancement. USA requires bio-filtration for normal surface runoff, and detention of runoff from a 25 year storm event. The application indicates that PCC will explore options to pre-treat stormwater and direct it north of the campus to provide for enhancement of the wetland.

11. Approximately 90% of the traffic to the campus comes from the south on 185th Avenue to Springville Road. The following information is from the Findings of the Metro Hearings Officer Report on the UGB amendment:

"The site has direct access to NW Springville Road, a major collector street with a 2-lane paved section between gravel shoulders and drainage ditches. There is a turn lane at the campus entry. There are no curbs, sidewalks, or bicycle lanes along this street. NW Springville Road now carries about 6000 average daily trips (ADT) east of 185th Avenue. County guidelines for a major collector recommend traffic volume of 1500 to 10,000 ADT.

"The site also adjoins NW 185th Avenue, which is a rural minor arterial street with a 2-lane paved section between gravel shoulders and drainage ditches north of Springville Road. The campus does not have direct vehicular access to this street at this time, except apparently for minor traffic associated with the farm activities in the dwelling at the west end of the campus. The college proposes to provide direct vehicular access to that street in the future; the location and nature of that access has not been determined and would be subject to access permit requirements of Washington County.

"NW 185th Avenue now carries about 2000 ADT north of Springville Road. County guidelines for a minor arterial recommend traffic volume of less than 10,000 ADT. A 90-foot right of way is required, whether the road is urban or rural. Based on the County Transportation Plan, NW 185th Avenue north of Springville Road would not ultimately include a bicycle lane, sidewalk or curb. However, if the County grants access to the road for the college, the County may require the college to improve the road between the access point and Springville Road with such features (as well as requiring other improvements).

"NW 185th Avenue is programmed to be widened to 5 lanes between West Union Road and Highway 26. There is sufficient right of way to widen this segment of the road to 5 lanes. Funding has been dedicated to widen the road to 3 lanes from Highway 26 to Tamarack Lane, about 300 feet south of West Union Road. NW 185th Avenue is programmed to be widened to three lanes between West

Union Road and Springville Road. Although funding for this widening is not allocated, it is expected to be provided by the County Traffic Impact Fee (TIF) program.

"The intersection of Springville Road and 185th Avenue is controlled by stop signs that apply to north- and southbound traffic on 185th Avenue. Traffic turning east from 185th Avenue to Springville Road and traffic turning south from Springville Road to 185th Avenue is not required to stop. . . Signalization of the intersection will be needed by the time the campus build-out is complete. A traffic signal at the intersection of NW 185th Avenue and West Union Road is planned and eligible for TIF funding. . .

"About 90 percent of campus-related traffic comes from the south on NW 185th Avenue to Springville Road. Only about 3 percent of students use Tri-met bus service. The remaining 97 percent arrive by private automobile. Of that number 81 percent of the students drive to campus, 14 percent share rides as passengers, and 2 percent are dropped off by others who do not remain on campus. Most students are on campus only for a portion of the day. Peak traffic volumes occur between 9 am and 12 pm and between 7 pm and 10 pm . . .

"The Subject Property is not within one-quarter mile of a transit corridor designated by Metro. Tri-Met bus route 52 serves the campus on half-hour intervals from 6:25 am until 10:33 pm. When the Westside light rail project is completed, bus route 52 will connect to the 185th Avenue LRT center and will serve the campus with a bus ever 15 minutes.

* * *

"The Hearings Officer accepts the arguments of opponents to the petition that NW 185th Avenue is not improved sufficiently to accommodate expansion of the campus. The UGB amendment, if granted, does not dictate expansion of the campus and does not limit Washington County from requiring the petitioner to improve roads affected by development at the campus. The issue for purposes of the UGB amendment is not whether existing road conditions are adequate to provide a safe, convenient and economic transportation system; rather, the issue is whether that system can be provided. Volumes IV through VI of the

Washington County Community Development Plan ensure traffic impacts of proposed development at the campus will be considered and appropriate improvements will be required before expansion of the campus will be permitted. That ensures an adequate transportation system can be provided. It is the responsibility of the County to ensure that such a system is in fact provided. Metro does not have the authority to do so directly in the context of a UGB amendment proceeding.

"Improvement of NW 185th and Springville Road can be made consistent with the Goal 12 rule even on the portions of 185th Avenue and Springville Road that remain outside the UGB."

According to the application, the Master Plan recommends that PCC implement a traffic management program to encourage increased use of the existing transit service and other travel modes (carpools, bicycles) as a means to accommodate growth in student population without burdening the street network.

REASONS FOR DECISION

Based on the Findings the Commission determined:

1. The proposal is consistent with County and Regional planning.
2. There is an adequate quantity and quality of services available to serve the site.

FINAL ORDER

RE: BOUNDARY CHANGE PROPOSAL NO: 3105 - Annexation of territory to the Metropolitan Service District, organized under ORS 268.

Proceedings on Proposal No. 3105 commenced upon receipt by the Boundary Commission of a petition from the property owner on July 27, 1992, requesting that certain property be annexed to the District. The petition meets the requirements for initiating a proposal set forth in ORS 199.490, particularly paragraph (c) of Section (1)

Upon receipt of the petition the Boundary Commission published and posted notice of the public hearing in accordance with ORS 199.463 and conducted a public hearing on the proposal on August 27, 1992. The Commission also caused a study to be made on this proposal which considered economic, demographic and sociological trends and projections and physical development of the land.

The Commission reviewed this proposal in light of the following statutory guidance:

"199.410 Policy. (1) The Legislative Assembly find that:

(a) A fragmented approach has developed to public services provided by local government. Fragmentation results in duplications ins services, unequal tax bases and resistance to cooperation and is a barrier to planning implementation. Such an approach has limited the orderly development and growth of Oregon's urban areas to the detriment of the citizens of this state.

(b) The programs and growth of each unit of local government affect not only that particular unit but also activities and programs of a variety of other units within each urban area.

(c) As local program become increasingly intergovernmental, the state has a responsibility to insure orderly determination nd adjustment of local government boundaries to best meet the needs of the people.

(d) Local comprehensive plans define local land uses but may not specify which units of local government are to provide public services when those services are required.

(e) Urban population densities and intensive development require a broad spectrum and high level of community services and controls. When areas become urbanized and require the full range of community services, priorities are required regarding the type and levels of services that the residents need and desire. Community service priorities need to be established by weighing the total service needs against the total financial resources available for securing services. Those service priorities are required to reflect local circumstances, conditions and limited financial resources. A single governmental agency, rather than several governmental agencies is in most cases better able to assess the financial resources and therefore is the best mechanism for establishing community service priorities.

(2) It is the intent of the Legislative Assembly that each boundary commission establish policies and exercise its powers under this chapter in order to create a governmental structure that promotes efficiency and economy in providing the widest range of necessary services in a manner that encourages and provides planned, well-ordered and efficient development patterns.

(3) The purposes of ORS 199.410 to 199.519 are to:

(a) Provide a method for guiding the creation and growth of cities and special service districts in Oregon in order to prevent illogical extensions of local government boundaries and to encourage the reorganization of overlapping governmental agencies;

(b) Assure adequate quality and quantity of public services and the financial integrity of each unit of local government;

(c) Provide an impartial forum for the resolution of local government jurisdictional questions;

(d) Provide that boundary determinations are consistent with local comprehensive plans and are in conformance with state-wide planning goals. In making boundary determinations the commission shall first consider the acknowledged comprehensive plan for consistency of its action. Only when the acknowledged local comprehensive plan provides inadequate policy direction shall the commission consider the timing, phasing and availability of services in making a boundary determination; and

(e) Reduce the fragmented approach to service delivery by encouraging single agency service delivery over services delivery by several agencies.

199.462 Standards for review of changes; territory which may not be included in certain changes. (1) In order to carry out the purposes described by ORS 199.410 when reviewing petition for a boundary change or application under ORS 199.454, a boundary

commission shall consider local comprehensive planning for the area, economic, demographic and sociological trends and projection pertinent to the proposal, past and prospective physical development of land that would directly or indirectly be affected by the proposed boundary change or application under ORS 199.464 and the goals adopted under ORS 197.225."

(2) Subject to any provision to the contrary in the principal Act of the affected district or city and subject to the process of transfer of territory:

(a) Territory within a city may not be included within or annexed to a district without the consent of the city council;

(b) Territory within a city may not be included within or annexed to another city; and

(c) Territory within a district may not be included within or annexed to another district subject to the same principal Act.

The Commission also considered its policies adopted under Administrative Procedures Act (specifically 193-05-000 to 193-05-015), historical trends of boundary commission operations and decisions, and past direct and indirect instructions of the State Legislature in arriving at its decision.

FINDINGS

(See Findings in Exhibit "A" attached hereto).

REASONS FOR DECISION

(See Reasons for Decision in Exhibit "A" attached hereto.)

ORDER

On the basis of the Findings and Reasons for Decision lasted in Exhibit "A", the Boundary Commission approved Boundary Change Proposal No. 3105 on August 27, 1992.

NOW THEREFORE IT IS ORDERED THAT the territory described in Exhibit "B" and depicted on the attached map, be annexed to the Metropolitan Service District as of October 11, 1992.*

PORTLAND METROPOLITAN AREA LOCAL GOVERNMENT
BOUNDARY COMMISSION

DATE:

AUG. 27, 1992

BY:

Raymond Bentes
Chair

ATTEST:

[Signature]

* The area to be annexed contains no registered voters so the effective date is not altered by the upcoming election. See ORS 199.519(3).

FINDINGS

Based on the study and the public hearing the Commission found:

1. The territory to be annexed contains 160 acres, six major college buildings, several smaller structures, and is tax exempt.
2. The petitioners propose to add about 160 acres to the Urban Growth Boundary and the Unified Sewerage Agency (USA) to facilitate expansion of the Rock Creek Campus of Portland Community College. The affected territory is 160 acres of the 250 acre parcel owned by PCC. The Metropolitan Service District has adopted a resolution stating its intent to amend the urban growth boundary upon annexation of the territory to the Metro boundary. The annexation to the Unified Sewerage Agency is proposed to allow urban sanitary services to be extended to the proposed new uses.

The petitioner plans to apply to Washington County for approval of a staged development program through the year 2010 consistent with the July, 1991 master plan for the campus. The master plan assumes 100% growth in full time enrollment (currently 2000 to 2400 averaged over the year) and 80% enlargement in building area. The portion of the petitioner's property not planned for inclusion in the UGB and proposed for annexation to USA will remain predominantly in open space and timber use.

The following statement was provided by the petitioner:

"The existing campus is a legal non-conforming use under Washington County AF-5 District zoning. Expansion and more efficient use of the campus facilities is limited under this status. The Metro Council has passed a Resolution of Intent to include the 160 acre site within the Regional UGB, pending annexation of the subject property to the Metropolitan Service District and the Unified Sewerage Agency. Following the annexation and final UGB amendment, PCC will proceed with an application for a plan amendment to Institutional and seek master plan approval for phased expansion/improvements on the campus.

"The immediate or short term need is for additional classroom, student activity and faculty office/conference

space. Other short term needs include expansion of the alternative learning center and counseling/testing areas. If PCC proceeds with a bond measure for district-wide facility improvements [this bond measure was approved by voters in May], funds dedicated to the Rock Creek Campus will be issued for remodeling of existing buildings and construction of a new science lab/classroom building.

"Longer term requirements include library stack and study space expansion, additional classrooms and proportionate growth in most other facilities.

"The projected campus growth can be used to organize and clarify circulation, parking, and site development. As the campus grows, the opportunity exists to consolidate the campus components into a more consistent character."

3. The lands to the north of the proposed annexation are wetlands, a floodplain, agriculture and a BPA right of way. To the east and west the land uses are agriculture and rural dwellings. To the south, within the urban growth boundary, lands across Springville Road are designated for medium to high density residential development and are zoned Residential (9 to 24 units per acre). The County has approved a dormitory in that area. A new high school has been approved south of the new residential area east of 185th Ave. Extensive low and medium density residential development has occurred between West Union Road and Highway 26.

Existing campus buildings are clustered in the center of the site. About 101 acres of the site are developed with buildings (7 acres), parking and landscaping (24 acres), and agriculture/landscape/carpentry program facilities (70 acres). The remainder of the site is forest and pasture land surrounding the buildings and other campus facilities.

4. The territory is currently outside the acknowledged regional urban growth boundary and outside the jurisdictional boundary of the Metropolitan Service District (Metro). Both boundaries are located along Springville Road.

Metro has authority over proposed amendments to the Regional UGB. Metro has established procedures for hearing petitions for Locational Adjustments (less than 50 acres) and for Major Amendments (more than 50 acres). The Metro Council recently adopted Regional Urban Growth Goals & Objectives (RUGGO) to provide a policy framework for management of the Regional UGB.

Metro is also working to revise UGB amendment procedures and detail specific review criteria. Until those criteria are adopted UGB amendments are reviewed under LCDC Goal criteria.

When proposed UGB amendments are located outside the boundary of Metro, a procedure has been established whereby Metro conducts its review process and adopts a resolution supporting a proposed amendment and stating Metro's findings and conclusions and its intention to amend the boundary upon annexation of the territory to Metro. This procedure has been adopted in Metropolitan Service District Code Section 3.01.070(c)(i). Once the annexation to Metro is effective Metro adopts an ordinance to finalize the UGB amendment within six months of the date of the Council approval.

The Metro Council considered the UGB amendment proposal on June 15, 1992. The Metro Council adopted Resolution No. 92-1630 adopting its Hearings Officer's Report supporting the UGB amendment.

In summary, the Hearings Officer 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-Beck Creek, multiple, satellite locations were not a viable alternative to the continued growth and development of the program at the current site. Hence, there is a demonstrated need for additional community college capacity, and both the nature of the program and the cost of duplicating the entire campus in a new location requires that expansion occur at the current site.

The Hearings Officer determined that although a number of questions were raised about both the provision of transportation services to the site and 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.

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.

5. The site is designated Agriculture-Forestry on the Washington County Rural/Natural Resource Plan and is zoned AF-5. The Rock Creek Campus of Portland Community College was located at this site after receiving Washington County approval for a conditional use permit in 1974 before adoption of the Washington County Framework Plan in 1983 and the Regional UGB in 1979. The campus and surrounding non-EFU-zoned land was approved as an exception to Statewide Planning Goal 3 (Agriculture), because it was already committed to non-resource use and served with public water and sewer.

The AF-5 zoning district is intended to respect rural character and conserve natural resources while providing for rural residential uses. The district is applied to recognized parcelization and diverse ownerships existing at the time of adoption of the Comprehensive Plan. A five (5) acre minimum lot size is normally required for creation of new parcels.

In applying designations for rural residential, commercial or industrial uses outside the Regional UGB, Washington County had to justify "exceptions" to the statewide agriculture and forest lands goals. Washington County took an exception for the PCC-Rock Creek Campus because the property was already built and committed to non-resource use and served with public sewer and water.

A community college is not listed as a permitted use under the AF-5 zone. The existing use is recognized as a legal, non-conforming use which predated the AF-5 zoning. The Community Development Code lists community colleges as a potential Type III use (subject to a public hearing and discretionary approval) in the Institutional Zoning District and the R6 residential district. The Institutional and R-6 zoning districts can only be applied within the Regional UGB.

6. The Unified Sewerage Agency (USA) provides sanitary sewer service to the Subject Property pursuant to a contract with petitioner. A 12-inch diameter sewer line extends south of the campus across Springville Road and southwest to the Bronson Creek trunk line near 185th Avenue and West Union Road. The Bronson Creek trunk conveys wastewater by gravity flow to the Rock Creek sewage treatment plant.

According to the application, PCC recognizes that annexation to the USA service district is required in conjunction with an amendment of the UGB to include the college campus. No changes in the existing sanitary sewer system are anticipated.

USA recently completed an upgrade of the segment of the sewer trunk which extends from the Sunset Highway north to West Union Road. The existing infrastructure can continue to serve the campus if the site is developed consistent with the Master Plan.

7. The territory is within the boundary of the Tualatin Valley Water District. When Washington County approved the conditional use permit for the community college in 1974, a condition was attached to the approval which mandated connection to urban water and sewer facilities. Annexation of the Rock Creek Campus to the Wolf Creek Highway Water District (now the Tualatin Valley Water District) was required for connection to urban water lines. The water district annexation was approved by the Boundary Commission on August 21, 1974 (Proposal No. 753).

There is a 14-inch diameter main which forms a loop around major buildings on the campus and connects to a 16-inch diameter main in Springville Road. According to the campus master plan, this main is adequate to serve the campus through 2010. No pumping is required to serve the campus. According to the campus Master Plan new construction will necessitate reconstruction of portions of the loop main.

To improve water service in the Bethany area, the Water District plans to extend a 25-inch diameter water main in Springville Road to connect with a main in Kaiser Road to loop and intertie the existing network of water lines, with construction scheduled to begin within two years.

The source of water for the Water District is the Bull Run system. The District has long-term contracts to buy water from the City of Portland.

8. The territory is within the boundary of the Tualatin Valley Fire and Rescue District. The closest district facility is about one mile south of the site at the intersection of Highway 26 and 185th Avenue. Automatic fire protection systems are installed throughout buildings on the site and fire hydrants are located within 300 feet of buildings. The existing water supply is adequate to serve fire protection needs.

9. The territory is currently outside the UGB which is the boundary between the Washington County Enhanced Law Enforcement District and general rural level police protection services. The Washington County Sheriff currently provides police protection services to this site at the rural, county-wide base level of service of .5 officers per thousand population. The College supplements police services with on-site campus security staff.

The Washington County Enhanced Law Enforcement District was formed to serve all lands within the regional UGB. The Enhanced Law Enforcement District finances an added increment of police protection raising the urban level of service to 1 officer per thousand population. If the territory is within the UGB the territory should also be annexed to the Enhanced Law Enforcement District to maintain the integrity of the principle upon which the district was formed.

10. The Unified Sewerage Agency (USA) has authority over surface water management within its boundaries. Upon annexation to USA the site will be subject to USA regulations.

Storm water from impervious areas of the site are collected and discharged on-site. The existing campus is served by a separate storm sewer system. Site drainage from existing campus buildings, parking areas and roadways is collected and dispersed on-site to a low area to the east of the primary entrance road. Additional development on the site would be subject to USA requirements for storm water collection, detention, and enhancement. USA requires bio-filtration for normal surface runoff, and detention of runoff from a 25 year storm event. The application indicates that PCC will explore options to pre-treat stormwater and direct it north of the campus to provide for enhancement of the wetland.

11. Approximately 90% of the traffic to the campus comes from the south on 185th Avenue to Springville Road. The following information is from the Findings of the Metro Hearings Officer

Report on the UGB amendment:

"The site has direct access to NW Springville Road, a major collector street with a 2-lane paved section between gravel shoulders and drainage ditches. There is a turn lane at the campus entry. There are no curbs, sidewalks, or bicycle lanes along this street. NW Springville Road now carries about 6000 average daily trips (ADT) east of 185th Avenue. County guidelines for a major collector recommend traffic volume of 1500 to 10,000 ADT.

"The site also adjoins NW 185th Avenue, which is a rural minor arterial street with a 2-lane paved section between gravel shoulders and drainage ditches north of Springville Road. The campus does not have direct vehicular access to this street at this time, except apparently for minor traffic associated with the farm activities in the dwelling at the west end of the campus. The college proposes to provide direct vehicular access to that street in the future; the location and nature of that access has not been determined and would be subject to access permit requirements of Washington County.

"NW 185th Avenue now carries about 2000 ADT north of Springville Road. County guidelines for a minor arterial recommend traffic volume of less than 10,000 ADT. A 90-foot right of way is required, whether the road is urban or rural. Based on the County Transportation Plan, NW 185th Avenue north of Springville Road would not ultimately include a bicycle lane, sidewalk or curb. However, if the County grants access to the road for the college, the County may require the college to improve the road between the access point and Springville Road with such features (as well as requiring other improvements).

"NW 185th Avenue is programmed to be widened to 5 lanes between West Union Road and Highway 26. There is sufficient right of way to widen this segment of the road to 5 lanes. Funding has been dedicated to widen the road to 3 lanes from Highway 26 to Tamarack Lane, about 300 feet south of West Union Road. NW 185th Avenue is programmed to be widened to three lanes between West Union Road and Springville Road. Although funding for this widening is not allocated, it is expected to be provided by the County Traffic Impact Fee (TIF) program.

"The intersection of Springville Road and 185th Avenue is controlled by stop signs that apply to north and southbound traffic on 185th Avenue. Traffic turning east from 185th Avenue to Springville Road and traffic turning south from Springville Road to 185th Avenue is not required to stop. . . . Signalization of the intersection will be needed by the time the campus build-out is complete. A traffic signal at the intersection of NW 185th Avenue and West Union Road is planned and eligible for TIF funding. . . .

"About 90 percent of campus-related traffic comes from the south on NW 185th Avenue to Springville Road. Only about 3 percent of students use Tri-met bus service. The remaining 97 percent arrive by private automobile. Of that number 81 percent of the students drive to campus, 14 percent share rides as passengers, and 2 percent are dropped off by others who do not remain on campus. Most students are on campus only for a portion of the day. Peak traffic volumes occur between 9 am and 12 pm and between 7 pm and 10 pm

"The Subject Property is not within one-quarter mile of a transit corridor designated by Metro. Tri-Met bus route 52 serves the campus on half-hour intervals from 6:25 am until 10:33 pm. When the Westside light rail project is completed, bus route 52 will connect to the 185th Avenue LRT center and will serve the campus with a bus ever 15 minutes.

* * *

"The Hearings Officer accepts the arguments of opponents to the petition that NW 185th Avenue is not improved sufficiently to accommodate expansion of the campus. The UGB amendment, if granted, does not dictate expansion of the campus and does not limit Washington County from requiring the petitioner to improve roads affected by development at the campus. The issue for purposes of the UGB amendment is not whether existing road conditions are adequate to provide a safe, convenient and economic transportation system; rather, the issue is whether that system can be provided. Volumes IV through VI of the Washington County Community Development Plan ensure traffic impacts of proposed development at the campus will be considered and appropriate improvements will be required before expansion of the campus will be

permitted. That ensures an adequate transportation system can be provided. It is the responsibility of the County to ensure that such a system is in fact provided. Metro does not have the authority to do so directly in the context of a UGB amendment proceeding.

"Improvement of NW 185th and Springville Road can be made consistent with the Goal 12 rule even on the portions of 185th Avenue and Springville Road that remain outside the UGB."

According to the application, the Master Plan recommends that PCC implement a traffic management program to encourage increased use of the existing transit service and other travel modes (carpools, bicycles) as a means to accommodate growth in student population without burdening the street network.

REASONS FOR DECISION

Based on the Findings the Commission determined:

1. The proposal is consistent with County and Regional planning.
2. The Boundary Commission adopted Resolution No. 769 initiating annexation of the territory to the Washington County Enhanced Law Enforcement District.
3. There is an adequate quantity and quality of services available to serve the site.

Meeting Date: October 22, 1992
Agenda Item No. 7.1

RESOLUTION NO. 92-1699



METRO

Memorandum

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

DATE: October 15, 1992

TO: Metro Council
Executive Officer
Interested Parties

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

RE: AGENDA ITEM NO. 7.1; RESOLUTION NO. 92-1699

The Solid Waste Committee will meet on October 20 to consider Resolution No. 92-1699. The committee report will be distributed in Councilors' mailboxes and available at the Council meeting October 22.

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

| | | |
|---------------------------------------|---|----------------------------------|
| FOR THE PURPOSE OF APPROVING |) | RESOLUTION NO. 92-1699 |
| THE ONE PERCENT FOR RECYCLING |) | |
| PROGRAM CRITERIA, APPLICATION |) | Introduced by Rena Cusma, |
| AND PROJECT LIST FOR FY1992-93 |) | Executive Officer |

WHEREAS, the Metropolitan Service District established the 1% For Recycling Program in the 1988-89 fiscal year, and it is now in the fifth year of funding; and

WHEREAS, the 1% For Recycling Advisory Committee was created to develop project Criteria for the program and to make recommendations regarding projects for funding; and

WHEREAS, the Committee has developed recommendations for Criteria for the 1992-93 funding cycle, and conducted a public meeting on September 30, 1992 to solicit input from potential proposers responding to the program, and has finalized these recommendations for approval; and

WHEREAS, the Committee has prepared an application form and instruction booklet for use by proposers that the Executive Officer has submitted to the Council Solid Waste Committee for review, concurrence and recommendation to the Metro Council to approve; and

WHEREAS, the Council Solid Waste Committee has reviewed and concurs with the Executive Officer's recommendations to approve the Committee's recommendations for the Criteria, Application and Project List; now, therefore,

BE IT RESOLVED, that

1) The Metro Council approves the 1% For Recycling Criteria, Application and Project List for the 1992-93 fiscal year included in Attachments A and B to the staff report and incorporated herein by reference; and

2) Approves proceeding with soliciting proposals from the public for this program to implement innovative projects for reuse, recycling, and materials recovery from municipal solid waste generated in the Metropolitan region.

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

Jim Gardner, Presiding Officer

JM:ay
October 9, 1991
1%SW921699.RES

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 92-1699 FOR THE PURPOSE OF THE ONE PERCENT FOR RECYCLING PROGRAM CRITERIA, APPLICATION AND PROJECT LIST FOR FY 1992-93

Date: October 9, 1992

Presented by: Judith Mandt

FACTUAL BACKGROUND AND ANALYSIS

The 1% For Recycling Program was established by Metro in FY 1988-89 to provide grants for innovative recycling projects. Over the four years since the program began, 34 projects have been funded totaling \$1.2 million. For FY 1992-93, year five of the program, \$200,000 is allocated for expenditure.

An advisory committee chaired by Councilor Roger Buchanan and comprised of two members each from each of the three counties, conducts public meetings, solicits proposals, and makes recommendations about the program. The 1% For Recycling Committee met in August and September to review and develop program criteria for the next funding cycle. The application was updated and remains relatively the same as last year's, except that two new criteria were added for a total of eight. The two new criteria are listed below (all criteria are shown in Attachment B, 1% Project List).

- Model: The concept can serve as a model for other jurisdictions to further the efforts of waste reduction.
- Public relations: The concept will attract and generate publicity and positive media attention.

The advisory committee held a public workshop on the 1992-93 program criteria and application on September 30. Notices were mailed to about 800 individuals, businesses and organizations and meeting advertisements were placed in the Oregonian, Daily Journal of Commerce and Scanner newspapers. Approximately 40 people attended the workshop, where a history of the program was given, the application form and program criteria were reviewed, and evaluation and schedule information were disbursed. Most questions were procedural in nature, however the concept of precycling was raised and the committee was asked to consider this a priority this year. Additionally, there was some discussion of hazardous waste, and information about Metro's current programs was given.

The committee met again after the information workshop. At this meeting, members discussed the need for precycling programs and agreed that it should have important emphasis this year. Therefore, while all types of innovative waste reduction and recycling projects will be considered for funding, this year the committee recommends that special emphasis again be placed on developing or expanding markets for recycled materials *and* on precycling, or programs that

reduce the amount of waste produced. They further recommend that projects that achieve either objective will be *favored* over projects that do not.

As specified in Metro Code, 5.04.050 Administration, the 1% For Recycling Advisory Committee submits the following project list and criteria for approval:

Eligible Projects

All waste reduction and recycling projects that meet program criteria as shown in Attachment A. Special emphasis on market development for:

- * Plastics
- * Construction and demolition materials
- * Mixed wastepaper
- * Composted material
- * Used motor oil
- * Colored glass

Evaluation Criteria (all criteria are given equal weight)

1. Impact on the wastestream
2. Long-term viability
3. Manageability
4. Cost-benefit
5. Public acceptance
6. Innovation/creativity
7. Model for waste reduction
8. Public relations

Upon approval of Resolution No. 91-1520, the 1% For Recycling Committee will release the applications to interested parties who will have 45 days to prepare them. Application submittal deadline is 5:00 p.m. on Friday, December 11, 1992.

The Committee will review and evaluate proposals during December and January; presentation of recommendations to the Executive Officer and Council is scheduled for February 1993.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 92-1699 to approve the 1% For Recycling grant criteria, application and project list for FY 1992-93.

JM:ay
STAF1009.RPT
October 9, 1992

DRAFT

APPLICATION FOR FUNDING

1% FOR RECYCLING GRANT PROGRAM

YEAR 5
1993

* * * * *

Metropolitan Service District
Solid Waste Department
2000 S.W. First Avenue
Portland, Oregon 97201-5398
(503) 221-1646

September 1992

Printed on Recycled Paper

LIST OF REFERENCE MATERIALS AVAILABLE UPON REQUEST

1% FOR RECYCLING APPLICATION

1. Regional Solid Waste Management Plan, Waste Reduction Chapter, November 1989
2. 1989-90 Waste Characterization Study, Final Report*
3. 1991 Recycling Level Survey
4. Solid Waste Information System Report, August 1992
5. Map of Metro Region
6. Metro's 1% For Recycling contract form
7. Summary of projects previously funded by 1% program
8. Recycling Markets Information
9. Recycled Products Index

JMIPCTM1%.APP
September 4, 1992

* The next study will be conducted this year, 1992-93.

**1% For Recycling Program
Fiscal Year 1992-93**

PROJECT LIST

All innovative recycling projects will be considered. Projects that increase the demand for recycled materials in products and that reduce the amount of waste produced (pre-cycling), will be favored. The project list for 1992-93 includes the following:

- Plastics
- Construction/demolition materials
- Mixed wastepaper
- Composted material
- Used motor oil
- Colored glass

Evaluation Criteria for projects is as shown below. All criteria are given equal weight.

1. Impact on wastestream
2. Long-term viability
3. Manageability
4. Cost-benefit
5. Public acceptance
6. Innovation/creativity
7. Model for other waste reduction efforts
8. Public relations

1% FOR RECYCLING GRANT PROGRAM**BACKGROUND AND INSTRUCTIONS FOR COMPLETING APPLICATION FORM****I. PURPOSE OF THE PROGRAM**

The 1% For Recycling Program is part of Metro's overall Regional Waste Reduction Program. Its purpose is to reduce waste within the Portland metropolitan region and to benefit the area within the Metropolitan Service District which includes the urban portions of Clackamas, Multnomah and Washington Counties.

The 1% For Recycling Program sets aside funds from Metro's Solid Waste budget to provide grants for innovative recycling projects. The objectives of the 1% program are to 1) reduce the amount of waste generated, 2) reduce the amount of waste disposed in landfills, and 3) encourage the development of products made from recovered materials and the markets for those products. The expected benefits are extension of the life of the landfill, protection of the environment, and conservation of natural resources.

II. FUNDS AVAILABLE AND ELIGIBILITY

In FY 1992-93, \$200,000 is available for 1% grants. Individuals, companies, governments and non-profit organizations with creative ideas for waste reduction are eligible to apply. The program is intended to provide financial support for experimental projects and new technologies that are small-scale and may not yet be tested or commercially viable. It is not intended to provide funding for tested recycling programs and technologies, or projects that can receive private financing or other types of government funding.

Listed below are types of projects that will NOT be considered under the 1% program.

- Programs currently receiving funding through other Metro Solid Waste Department sources.
- Research projects or feasibility studies, unless they are part of a phased project and are accompanied by an implementation plan and estimated costs of implementation.
- Projects that will use grant funds to subsidize ongoing operations or to pay for prior expenditures.
- Enforcement programs that are the responsibility of other governmental jurisdictions.
- Neighborhood cleanup events.

III. PROJECT TYPES AND LENGTH OF CONTRACTS

Two general categories of proposals will be considered: 1) Waste Reduction projects that directly reduce the amount of waste going to landfills, and 2) Promotion and Education programs. Market development projects may be in either category.

Funding is generally for one-year from the start date to final implementation; however, the time period may be less depending on the proposal. The Committee may also recommend funding for multi-year proposals if a budget and implementation schedule are included.

IV. EVALUATION CRITERIA

Projects will be evaluated using the following criteria (all criteria are of equal value):

1. Impact on wastestream: Results in measurable waste reduction with little residue, and targets materials that are a significant part of the wastestream. If project focuses on promotion/education, it targets a specific audience and promotes behavior resulting in waste reduction.
2. Long-term viability: Can become financially viable and self-sustaining without continued subsidies.
3. Manageability: Has a sound approach, rationale and design and is manageable based on the experience of the applicant.
4. Cost benefit: The project is cost effective or has the potential for cost savings. The potential benefits to the Metro region justify the proposed costs.
5. Public acceptance: Is environmentally sound, non-polluting and publicly acceptable.
6. Creativity: The concept is creative and innovative. However, the project is also technically feasible with a reasonable level of risk.
7. Model: The concept can serve as a model for other jurisdictions to further the efforts of waste reduction.
8. Public relations: The concept will attract and generate publicity and positive media attention.

In addition to these criteria, the clarity and effectiveness of the response to the questions and ability to follow instructions will be considered in evaluating proposals.

V. DECISION PROCESS

A seven-member advisory committee reviews applications for 1% grants. The committee is made up of two citizens from each of the three counties in the district (Clackamas, Multnomah and Washington), who have an interest in waste reduction and preserving the environment. The chair of the committee is a Metro Councilor. The committee is assisted by staff members from Metro's Solid Waste and Public Affairs Departments.

The 1% For Recycling Advisory Committee ranks proposals based on the criteria described above. They conduct an initial screening of applications and eliminate proposals that are not complete, are not innovative, duplicate existing programs/facilities or do not serve the Metro area.

The committee interviews applicants receiving the highest ranking. They may request additional information at this time, such as a business or marketing plan. They reserve the right to reconsider proposals after the interviews are held. Following the oral interviews, the committee recommends projects to Metro's Executive Officer and the Metro Council. The Metro Council gives final approval to the committee's recommendations.

VI. APPLICATION/CONTRACT CONDITIONS

Objectivity During Proposal Review. So that the advisory committee can remain objective during the proposal evaluation and selection process, applicants may not make reference to their individual, corporate, business, or organizational identity in the text of their application. **APPLICATIONS THAT DO NOT COMPLY WITH THIS REQUIREMENT WILL BE ELIMINATED.** Applicants must complete the application transmittal sheet. The transmittal sheet will be withheld until the initial review of the proposals has been completed by the committee. The identification of applicants will be made known to the committee prior to interviews and following completion of the final list of potential grant recipients.

Coordination with Public Affairs Department: All projects that receive grants will be required to recognize the 1% Well Spent! program in promotional materials and signage. The Metro Public Affairs department will assist selected applicants with design aspects of this requirement. However, the project budget must include estimated dollar amounts for this component. Applicants for Promotion and Education projects must also consult with Metro's Public Affairs Department to present their idea prior to submitting their application.

Validity Period and Authority. The application shall be considered valid for a period of at least one hundred twenty (120) days and shall contain a statement to that effect. The application shall contain the name, title, address, and telephone number of an individual or individuals with authority to bind the company contacted during the period in which Metro is evaluating the proposal.

Limitation and Award. This application does not commit Metro to award a contract, or to pay any costs incurred in the preparation and submission of applications in anticipation of the contract. Metro reserves the right to accept or reject any or all proposals received as the result of this request, to negotiate with all qualified sources, or to cancel all or part of this application.

Performance Bonds. Performance bonds are not required for projects. However, proposals must contain a list of references of individuals and/or organizations who may be contacted by the committee for experience verification. If this is not possible because the newness of the project precludes applicant's performance record, references may be supplied which speak to applicant's performance in similar areas.

Contract Type. Metro will enter into a public contract with the selected grantees. A copy of the standard contract which the successful applicants will be required to execute is available to applicants upon request.

Billing Procedures. Applicants are informed that the billing procedures of the selected firm may be subject to review and prior approval by Metro before reimbursement of services can occur. The terms of payment will be negotiated between the contractor and Metro during development of the contract for services and will be specified in the contract scope of work.

Subconsultants; Disadvantaged Business Program. A subconsultant is any person or firm proposed to work for the prime consultant on this project. Metro does not wish any subconsultant selection to be finalized prior to contract award. For any task or portion of a task to be undertaken by a subconsultant, the prime consultant shall not sign up a subconsultant on an exclusive basis.

In the event that any subconsultants are to be used in the performance of this agreement, the consultant agrees to make a good faith effort, as that term is defined in Metro's Disadvantaged Business Program (Section 2.04.160 of the Metro Code) to reach the goals of subcontracting 5 percent of the contract amount to Disadvantaged Businesses and 5 percent to Women Owned Businesses. The consultant shall contact Metro prior to negotiating any subcontract. Metro reserves the right, at all times during the period of this agreement, to monitor compliance with the terms of this paragraph and Metro's Disadvantaged Business Program.

References and credit rating. Applicants must submit three business and/or personal references as part of the application form. Metro reserves the right to conduct a credit reference check on both companies and individuals who are finalists for grant awards.

Confidentiality. Information in this application will be treated as confidential, as permitted in ORS 192.501(2), if the information constitutes a trade secret as recognized by the Oregon Public Records Act and if requested by the proposer in the application form.

DRAFT

**1992-93
APPLICATION FOR 1% FOR RECYCLING GRANT
TRANSMITTAL SHEET**

NAME OF INDIVIDUAL, ORGANIZATION OR COMPANY:

PROJECT MANAGER/CONTACT PERSON:

ADDRESS:

TELEPHONE:

Describe your business or organization:

Project Title:

Do you wish to have the information contained in this application treated as confidential?

Yes **No (check one)**

If yes, list page(s) where confidential information appears _____.

Amount of 1% Well Spent! funds requested: \$ _____.

Applicant's Signature

This transmittal sheet must be signed by an individual or individuals with authority to bind the company during the period in which Metro is evaluating the application.

REFERENCES

Please include at least three business and/or personal references. Include addresses and phone numbers and the relationship of the reference to you or your firm/organization.

1.

2.

3.

1% FOR RECYCLING APPLICATION FORM

Respond to every question on the application. If a question is not relevant to your project, state "not applicable." All applications must be typed. If you choose to use a personal computer, please use the same format as the application form and do not exceed the 18 PAGES in the application. Supplemental materials may be submitted as an attachment, but they will not be reviewed by the committee members until the oral interview stage of the evaluation process.

The 1% Committee requires applicant anonymity to ensure that proposals are judged solely on merit. **DO NOT REFERENCE YOUR INDIVIDUAL OR COMPANY NAME EXCEPT WHEN SPECIFICALLY REQUESTED.** Rather use general terms, such as the "company," "organization" or "applicant." Applicants that use individual or company names in their proposal will be eliminated.

Make 10 COPIES of your completed application and applicable supplemental materials. Copies must be printed **DOUBLE-SIDED** on **RECYCLED PAPER**. Submit your application to the Metro Solid Waste Department by Friday, December 11 1992, 5:00 P.M. Late applications submitted after the 5:00 p.m. deadline will not be accepted.

PROJECT ABSTRACT

Summarize the key elements of your project below. Include the objective and scope of work. Indicate whether the project focuses on waste reduction, markets for recycling and/or promotion and education.

GEOGRAPHIC AREA SERVED
(entire Metro area or subarea)

AMOUNT OF 1% FUNDS REQUESTED: \$ _____.

The information contained in this application shall be considered valid for 120 days.

I. PROJECT DESCRIPTION

In the space provided below describe your proposal in detail. Please include the following information:

- The objective of the project
- The problem you are addressing
- How your project contributes to solving that problem

If the project can be reduced in scale to a lesser amount of funds than requested, please specify the amount and the way in which it can be cut back.

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PROJECT DESCRIPTION (continued)

PROJECT DESCRIPTION (continued)

II. WORKPLAN AND SCHEDULE

Describe below the specific work tasks required to carry out your project and a schedule with estimated timelines. Assume that funds will be available for project start-up in April 1993.

| <u>Task</u> | <u>Estimated time</u> | |
|-------------|-----------------------|-----|
| | <u>Required</u> | |
| | Start | End |

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WORKPLAN AND SCHEDULE (continued if appropriate)

III. BUDGET

Please provide the following budget information. Items that do not apply to your proposal should be left blank. Try to estimate costs at the time funds will be available (about April 1993). Contingency is included to account for unexpected costs and emergencies. If you want to provide additional budget information or present it in a different way, use the reverse side of this form.

| <u>REVENUES</u> | <u>METRO GRANT</u> | <u>OTHER FUNDS</u> (if applicable) | <u>TOTAL</u> |
|-------------------------------------|--------------------|---------------------------------------|--------------|
| EXPENSES | _____ | _____ | _____ |
| Salaries, Wages, Benefits | _____ | _____ | _____ |
| Materials and Services | | | |
| Office supplies | _____ | _____ | _____ |
| Promotion and education (detail) | _____ | _____ | _____ |
| Maintenance & repair | _____ | _____ | _____ |
| Training | _____ | _____ | _____ |
| Outside consulting | _____ | _____ | _____ |
| Overhead | _____ | _____ | _____ |
| Miscellaneous (list items) | _____ | _____ | _____ |
| Total Materials & Services | _____ | _____ | _____ |
| Capital Outlay | | | |
| Office equipment | _____ | _____ | _____ |
| Machinery | _____ | _____ | _____ |
| Buildings | _____ | _____ | _____ |
| Leasehold improvements | _____ | _____ | _____ |
| Total Capital Outlay | _____ | _____ | _____ |
| CONTINGENCY | | | _____ |
| TOTAL EXPENSES | _____ | _____ | _____ |

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ADDITIONAL BUDGET INFORMATION IF APPROPRIATE

IV. PROJECT FOCUS

Please indicate the primary focus of your project. You may check more than one box.

- a. Waste Reduction
 - Collection of recyclables _____
 - Processing of recyclables _____
 - Uses recycled materials in new products or manufacturing process, or produces product that minimizes waste generated _____
 - Other (Describe)

- b. Promotion and Education
 - Source reduction (precycling) _____
 - Market development (buying recycled) _____
 - Other (Describe)

V. EVALUATION CRITERIA

Please answer the following questions as they relate to your project. Indicate if a question is not applicable and explain why not.

- 1. Impact on the wastestream
 - a. Explain how the project reduces waste going to the landfill through source reduction, reuse, recycling, marketing or promotion and education. What type or types of material will your project target? If possible, describe the generators of the waste (e.g., residential, retail, manufacturing)?

b. What method or technology will your project use to recover and recycle this material?

c. If possible, estimate the amount of material your project will collect, process or reuse in a product. What percentage of the material will require disposal after recycling? (The standard measurements used are tons, pounds, or cubic yards for yard debris.)

DRAFT

d. Who will provide the supply of materials? Is there an adequate supply available?

e. Identify the specific audience or customers you plan to reach and the size of that group.

f. Describe the techniques you will use to implement the promotion and education program.

g. Describe the methods you will use to measure and evaluate the effectiveness of your project.

2. Long-term viability

a. How will your project continue after grant funds are spent? What is the potential for the project to become self-sustaining? Describe your long-term financing plan.

b. What will be the "end use" for the recovered material? Do you have agreements with individuals or companies who will use or purchase the recycled materials or products?

3. Manageability

a. Describe your experience in solid waste management, business or other areas and explain how this experience or knowledge will help you manage this project.

b. Have other funding sources besides the 1% grant been sought? If matching funds or in-kind services have been identified, please describe the amount and source of funds, or kinds of services. (Identify these funds in your budget.)

- c. If your project develops a product from recycled materials, explain why it is an economically feasible project. Discuss competitive products, cost of production and distribution, and your marketing strategy. (A more detailed business plan may be requested by the 1% Committee.

4. **Cost-benefit**

- a. **What is the estimated cost/benefit ratio of the project? If your project focuses on waste reduction you may be able to project the cost by dividing the total cost of the project by the amount that you estimate will be recycled.**

Total cost of project = cost per unit (\$)

Amount recycled (in tons, pounds, cubic yards, etc.)

- b. **If this is a start-up project, estimate and explain how it will be cost effective once the program is fully operational. If you cannot determine actual figures, describe in a narrative the proposed project and how it will result in long-term benefits for the Metro region.**

5. **Public Acceptance**

Describe why your project is environmentally-sound and non-polluting. Explain why the project would be acceptable to the community. What impacts would there be on existing recycling activities, neighborhoods, or land uses in the Metro region?

6. **Creativity**

Explain why your project is creative and innovative. Describe the risks associated with implementing the project.

7. Model for Waste Reduction

Explain how this concept can serve as a model for other jurisdictions to use in order to further their waste reduction efforts.

8. Public relations potential

Describe how this concept will attract and generate publicity and positive media attention.

Meeting Date: October 22, 1992
Agenda Item No. 7.2

RESOLUTION NO. 92-1686



METRO

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

Memorandum

DATE: October 15, 1992

TO: Metro Council
Executive Officer
Interested Parties

FROM: Paulette Allen, Clerk of the Council

RE: AGENDA ITEM NO. 7.2; RESOLUTION NO. 92-1686

The Solid Waste Committee will meet October 20 to consider Resolution No. 92-1686. Committee reports will be distributed in Councilors' mailboxes and available at the Council meeting October 22.

Exhibit A to Resolution No. 92-1686, "Request for Proposals for a Comprehensive Waste Stream Characterization Study (RFP #92-33-SW)" will be published separately from this agenda in a supplemental packet and will be distributed in advance of the Council meeting to Councilors and available at the October 22 meeting.



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: October 13, 1992

Re: Resolution No. 92-1686, For the Purpose of Entering Into a Multi-Year Contract with the Most Qualified Proposer by Authorizing Issuance of a Request for Proposals for a Comprehensive Waste Stream Characterization Study

Background

Since 1986, Metro has conducted a comprehensive waste characterization study every three years. This resolution would authorize issuance of an RFP for the next study. The study will extend throughout calendar year 1993. Because it extends through two fiscal years, council approval is required. The total estimated cost is \$250,000, with a total of \$125,000 this fiscal year and \$125,000 during the next fiscal year.

Issues and Questions

The committee may wish to consider the following issues and questions during its consideration of this resolution:

- 1) A total of \$190,000 is budgetted for this contract during the current fiscal year. It is now anticipated that only \$125,000 will be spent this year. Will the remaining \$65,000 in budgetary authority be used for any other purpose?
- 2) The staff report indicates that \$60,000 was added to the total cost of the study "to accommodate interests of local governments" not previously identified. What are these interests and how will they be addressed in the study? Was any consideration given to having the affected local governments pay for a portion or all of these additional costs?
- 3) Will the information obtained from the study be available for use in the FY 94-95 budgetting and rate-setting processes?
- 4) The staff report indicates that there will be an expanded waste stream sort list. What types of new material will be included and why are they being included?
- 5) The staff report indicates that generator-specific sorts will be done? What is the purpose and potential use of this information?

6) The staff report indicates that the material collected during this study has a wide range of uses with the department? What are some of these uses? Specifically, what uses will be applicable to the new tonnage forecasting model?

7) As currently worded, the resolution would provide for entering into the contract without further Council review. In light of the size of the contract, does the committee wish to review the actual contract documents prior to signing?

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

| | | |
|--|---|----------------------------------|
| FOR THE PURPOSE OF ENTERING |) | RESOLUTION NO. 92-1686 |
| INTO A MULTI-YEAR CONTRACT WITH |) | |
| THE MOST QUALIFIED PROPOSER BY |) | Introduced by Rena Cusma, |
| AUTHORIZING ISSUANCE OF A |) | Executive Officer |
| REQUEST FOR PROPOSALS FOR A |) | |
| COMPREHENSIVE WASTE STREAM |) | |
| CHARACTERIZATION STUDY |) | |

WHEREAS, Information on the type and amount of waste materials being disposed is required for effective solid waste management; and

WHEREAS, The Waste Characterization Study approved in the FY 1992-93 budget needs to be conducted during a full year and needs to follow a consistent methodology that can best be ensured by contracting with a single consultant; and

WHEREAS, The study will not begin until January 1993 and pursuant to Metro Code Section 2.04.033(a)(1) Council approval is required because the agreement will commit the District to expenditures for continuation of the Project in the next fiscal year; 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 council of the Metropolitan Service District approves issuance of the Request for Proposals for a Comprehensive Waste Stream Characterization Study (RFP # 92R-33-SW), for the purpose of entering into a multi-year contract with the most qualified proposer.

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

James Gardner, Presiding Officer

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 92-1686 FOR THE PURPOSE OF ENTERING INTO A MULTI-YEAR CONTRACT WITH THE MOST QUALIFIED PROPOSER BY AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS FOR A WASTE CHARACTERIZATION STUDY

Date: September 24, 1992

Presented by: Terry Petersen
Bill Metzler

PROPOSED ACTION

Pursuant to Metro Code Section 2.04.033(a)(1), Council adoption of this resolution is required because the anticipated contract will commit Metro to expenditures for the next fiscal year (FY 1993-94) in order to complete the waste characterization project with a single contractor.

BACKGROUND

The adopted FY 1992-93 budget includes a project to comprehensively characterize municipal solid waste within the Metro area. Metro conducted similar studies during 1986 and 1989. The information has been extremely useful in a wide variety of activities including waste reduction, planning, facility design, and forecasting the demand for disposal service. Waste characterization studies require waste sorting to occur over a number of seasons. The study can best be conducted with a single contractor. Because the study will not begin until January 1993, multi-year contract will need to be approved.

Methodologies and objectives of previous waste sorts have been reviewed to more fully accommodate the needs of the entire Solid Waste Department. With the addition of an expanded waste stream sort list and inclusion of generator-specific sorts, Metro will have more comprehensive data than previously available. The data will be more useful to a variety of solid waste management programs and activities, including compliance with SB 66 requirements.

The study is being coordinated and integrated with other Metro programs, local governments, and haulers. The DEQ is currently conducting a statewide waste characterization study as directed by SB 66. Metro is responsible for the characterization of waste in the tri-county region.

BUDGET IMPACT

The study is identified in the FY 1992-93 budget as "Labor to conduct field work on waste characterization study" with a contract amount of \$190,000. Approximately \$125,000 will be spent in the current fiscal year. FY 1993-94 will require approximately \$125,000. The \$60,000 addition is to accommodate the interests of local governments that were not identified earlier.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 92-1686 and release of RFP # 92R-33-SW.

Meeting Date: October 22, 1992
Agenda Item No. 7.3

RESOLUTION NO. 92-1683A

SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 91-1683A, FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION FROM THE COMPETITIVE PROCUREMENT PROCEDURES OF METRO CODE SECTION 2.04.053 TO PERMIT THE EXECUTIVE OFFICER TO EXECUTE CONTRACT AMENDMENT NO. 16 WITH SCS ENGINEERS

Date: October 14, 1992

Presented by: Councilor Wyers

Committee Recommendation: At the October 6 meeting, the Committee voted unanimously to recommend Council adoption of Resolution No. 92-1683A. Voting in favor: Councilors Buchanan, Hansen, McFarland, Van Bergen and Wyers.

Committee Issues/Discussion: Neil Saling, Director of Regional Facilities, explained that this resolution is the result of protracted and ongoing negotiations with SCS Engineers concerning payment for construction design and management services provided by SCS for certain renovations and improvements at Metro South Station. Working from the attached outline, Saling outlined the history of the contract, noting that prior amendments had more than doubled the value of the contract (\$198,162 to \$424,648).

The current dispute involves a claim by SCS for an additional \$228,887 in compensation. Negotiations concerning the claim have been ongoing since last year. A review of the documentation submitted by SCS by Metro's regional facility, solid waste, and legal staffs has found little evidence to support the claim, particularly those elements related to contract administration services.

A complete analysis of each element of the SCS claim is contained in an executive officer's decision (see attached). This analysis found that an additional payment to SCS totalling \$36,695 was justifiable. Resolution No. 92-1683A authorizes the payment of this amount as defined in Amendment No. 16 to the SCS contract. A prior settlement offer of \$30,305 was rejected. Staff is awaiting a response to the offer proposed in the resolution.

Councilor Buchanan questioned Mr. Saling concerning the potential for using mediation or arbitration to resolve the dispute. Saling expressed concern that use of either mediation or arbitration could result in Metro having to pay a higher amount to SCS.

Councilor Van Bergen expressed concern that the amendment did not contain a provision that Metro's offer would only remain valid for a specified period or until a specific date. Councilor Wyers asked if acceptance of the offer would officially complete all negotiations and claims under the contract. Saling noted that SCS would still be free to litigate its claim even if it accepted the Metro offer contained in the resolution. But he agreed with

Councilors Van Bergen and Wyers that the wording of the contract amendment could be changed to provide that acceptance of the offer in the resolution would represent a final disposition of all claims under the contract. Committee members agreed that they could support the resolution if such language could be drafted. Legal counsel has drafted such language which is shown in bold on the attached "Amendment No. 16."

AMENDMENT NO. 16

Contract No. 900971

To the Design Services Agreement
for
Modifications to Metro South Station

This Agreement amends the above-titled Design Services Contract between the Metropolitan Service District, referred to herein as "Metro", and SCS Engineers, Inc., referred to herein as the "Contractor". This Amendment is an expansion of the Contractor's original Scope of Work.

It is acknowledged by Metro and Contractor that the services provided herein are additional services that could not have been anticipated at the time of contract award.

The parties set forth below agree to the following additions to the Contract as specifically provided for herein.

This Amendment provides compensation to the Contractor for work performed beyond the original scope of work as described in SCS letter of October 28, 1991. The level of compensation is based upon the analysis contained in the Executive Officer's Decision dated September 1, 1992 which is attached.

Metro agrees to pay to Contractor additional compensation of thirty six thousand six hundred and ninety-five dollars (\$36,695.00) for the claimed additional work.

Contractor acknowledges that with the above specified payment, it has received all compensation owed to it by Metro under, or in any way related to, the above referenced contract.

Upon receipt of the payment specified in this change order, Contractor fully discharges and covenants not to sue Metro, its successors, employees, agents, elected or appointed officials, from and for any liability, claim, or demand of whatever nature, known or unknown, arising, having arisen, or in any way related to payments due under the above referenced agreement.

All terms of the original Agreement and previous Amendments, except as modified herein, shall remain in full force and effect.

SCS Engineers, Inc.

Metropolitan Service District

By: _____

By: _____

Date: _____

Date: _____

SCS CONTRACT DISPUTE

- Dispute/claim centers on an allegation of additional services during construction
- Original Agreement August 22, 1989
 - * Original construction schedule slipped by 7 months due to revisions in design
 - * Final schedule for completion also slipped
- Original contract value was \$198,162
 - * Amendments through #15 total \$226,486
 - * Total value now \$424,648
- Project divided into phases including a Construction Administration Phase
 - * Construction Administration Phase included an on-site Construction Manager
 - * Cost of Construction Administration Phase: \$43,000
 - * Final cost of Construction Administration Phase: \$151,070 primarily for increased Construction Management
- Claim for additional services during Construction Administration Phase received October 28, 1991
 - * Total claim value: \$228,887
 - * Four key parts
 - Group of seven known technical claims: \$38,012
 - Construction Contract Administration Services: \$143,856
 - Construction Management Services Markup: \$7,082
 - Pass through of Elcon Engineering Claim: \$39,938
- Discussions with SCS since last year
 - * Previous offer to settle for \$30,305 rejected by SCS
 - * Determined formal analysis required
 - * Analysis in the form of Executive Officer's Decision similar to Corps Contracting Officer's Decision
 - * Analysis prepared by Todd Sadlo, Jim Watkins, Rob Smoot and myself
- Seven known technical claims
 - * Can be related to specific events or requests
 - * Some merit; worth \$6,900 (18%)

- **Contract Administration Claim**
 - * SCS based claim on four factors
 - Protracted construction duration
 - Added construction complexity
 - Construction acceleration
 - Defense of Contract Documents
 - * Claim based on allegation that work charged was beneficial to Metro
 - * Sheets showing charges submitted to Metro
 - * Claim not related to specific Metro requests or inputs
 - * No notice of excessive costs given prior to October 28, 1991
 - * Only protracted duration has merit: \$19,991.14 (14%)
- **Construction Management Services Markup**
 - * Metro paid Construction Manager directly with no markup to SCS
 - * Computation of payments show total compensation to SCS for Construction Management is adequate to include the markup; therefore, no added compensation
- **Elcon Engineering**
 - * Alleges work done to benefit Metro but no ties to Metro requests or initiatives
 - * Previous analysis showed \$8,055 (20%) was due to Metro requested work
- Total due based on EOD: \$34,946.98 (15%); interest at 5% on amount due raises total to \$36,695.00
- Letter to SCS on 9 September 1992 provided EOD and requested factual rebuttal, if any
 - * Deadline for response 10 October 1992
 - * Metro will pay amount determined to be due in any event
- Change Order #16 provides vehicle to pay SCS amount due

BEFORE THE CONTRACT REVIEW BOARD OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING AN) Resolution No. 92-1683A
EXEMPTION FROM THE COMPETITIVE)
PROCUREMENT PROCEDURES OF METRO) Introduced by Rena Cusma,
CODE SECTION 2.04.053 TO PERMIT) Executive Officer
THE EXECUTIVE OFFICER TO EXECUTE)
CONTRACT AMENDMENT NO. 16 WITH)
SCS ENGINEERS)

WHEREAS, Metro and SCS Engineers entered into a Design Services Agreement on August 22, 1989 for engineering services during the design and modification of the Metro South Transfer Station; and

WHEREAS, the contract amount for SCS services of \$198,162.00 was expanded to \$424,647.98 through fifteen (15) contract amendments; and

WHEREAS, SCS has submitted claims which SCS values at \$228,887.29; and

WHEREAS, Metro analysis of SCS claims prepared in the format of an Executive Officer's Decision finds the SCS claims compensable in the amount of \$34,946.98 plus interest and the remainder of the SCS claims are without merit; and

WHEREAS, it is desirable to pay these recognized amounts to SCS at this time; and

WHEREAS, an amendment to the SCS contract for the purpose of making such a payment requires approval by the Metro Contract Review Board in accordance with Metro Code Section 2.04.054(a)(3);
NOW THEREFORE,

BE IT RESOLVED, that

The Contract Review Board of the Metropolitan Service District authorizes the Executive Officer to execute an amendment to the personal services contract with SCS Engineers to make payment of \$36,695.00 for services rendered beyond the scope of the original contract.

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

Jim Gardner, Presiding Officer

Staff Report

Consideration of Resolution No. 92-1683, for the purpose of authorizing an exemption from competitive procurement procedures of Metro Code Section 2.04.053 to permit execution of Amendment No. 16 to the contract with SCS Engineers.

Date: September 17, 1992

Presented by: Neil Saling

Background

A design services agreement between Metro and SCS Engineers was executed on August 22, 1989. The scope of work was divided into phases to include a Construction Administration Phase during which SCS was to provide construction management services. The face value of the contract was \$198,162.00 which increased to \$424,647.98 through subsequent amendments. The cost allocated to the Construction Administration Phase was \$43,000. Subsequent amendments for additional construction management support raised the cost for this phase to \$151,069.98 (basic lump sum cost plus Amendments No. 8, 10, 12 and 15 plus \$31,050.00 of Amendment No. 9).

The original project schedule envisioned the Construction Administration Phase to begin on December 6, 1989 and to be concluded on June 30, 1990. Work actually began on July 10, 1990 and concluded on April 25, 1991, 78 days after the revised completion date of February 6, 1991.

SCS submitted a number of claims during the project for a variety of added engineering services. The requested compensation for the unresolved portion of these claims was \$38,011.63. On October 28, 1991, SCS submitted an omnibus claim for \$228,807.29. The majority of the SCS claim dealt with construction contract administration services but also included the seven unresolved claims. No previous notice of intent to claim was provided by SCS.

Analysis

The underlying premise of the SCS claim is that SCS performed additional services which benefitted Metro which were beyond the project scope of work as amended. (SCS also indicated that approximately \$350,000 in additional design services during other construction phases were rendered but would not be claimed.) The claim did not relate specific added effort to Metro requests for support but rather attempted to allocate the added costs to four categories: protracted construction duration, additional

construction complexity, construction contract acceleration, and extraordinary defense of contract documents.

Metro representatives have met with SCS staff to attempt to achieve a settlement of these claims. On July 21, 1992, Metro offered a settlement sum of \$30,305.00 which was rejected by SCS. To establish a supportable level of compensation due SCS based upon the information available, staff has prepared an analysis of the SCS claims in the form of an Executive Officer's Decision (EOD), a copy of which is attached. The EOD was executed by the Executive Officer on September 8, 1992.

The EOD finds partial merit in the SCS claims and recommends a settlement of \$34,946.98 plus 5% interest. This amount (\$36,695.00) is proposed to be paid immediately to SCS. This will be considered a final settlement unless (1) SCS produces factual and logical evidence which refutes the EOD findings, or (2) SCS is awarded additional compensation as a result of litigation.

Financial Impact

Since this settlement was not budgeted in FY 92-93, funds will be allocated from the Solid Waste General Account where anticipated savings from the irrigation system repairs are available.

Policy Impact

1. Contract Review Board action is required by Metro Code Section 2.04.054(a)(3).
2. Based upon the staff analysis, a payment to SCS in the above amount is supportable and the remainder of the SCS claims are without merit. As this is considerably less than claimed, SCS could choose to ~~litigate~~ litigate the disputed costs and attempt to also recoup alleged design expenditures incurred prior to the Construction Administration Phase.

Recommendation

The Executive Officer recommends Contract Review Board approval of Resolution No. 92-1683.

Executive Officer's Decision

Contract: No. 900971 Design Services for Metro South Station Modifications
Contractor: SCS Engineers
Date: September 1, 1992

Purpose

The following analysis provides the rational basis for decisions by the Metropolitan Service District ("Metro") regarding all outstanding claims made by SCS Engineers ("SCS") against the Metro South Transfer Station Modifications Project. This document discusses the original Agreement and the amendments thereto, the arguments that SCS has made in support of its claims, the key factors impacting the merit of the claims, and Metro's decision.

Background - SCS Agreement

The Design Services Agreement ("Agreement") between Metro and SCS was executed on August 22, 1989. Services were to commence on July 19, 1989 and to "expire upon the completion of Contractor's services as set forth in this Agreement...". (Article I) SCS was required to "provide leadership to Metro on all matters relating to programming, concept/schematic documents, design development, construction documents, bid phase, and construction administration." (Article II C.) A scope of services was included in Exhibit A to the Agreement and a schedule of activities was included in Exhibit B. Exhibit B anticipated construction beginning on December 6, 1989, and ending on June 30, 1990. A post-construction period was to extend from June 15, to July 31, 1990.

Section B of Exhibit C to the Agreement states that "The total cost of the services provided under this Agreement during all phases shall not exceed \$198,162.00." Section C of Exhibit C breaks down the "Lump Sum Fee for Basic Services" into the categories listed in the schedule. Subsection 6 of Exhibit C lists a cost of \$43,000 for completion of the Construction Administration Phase. Section D of Exhibit C discusses the manner and time of payment, and required monthly invoices "supported by a general description of the work progress or such other evidence of Contractor's right to payment as Metro may direct." This section also sets up a process for SCS and Metro to follow if there is a disagreement over an amount alleged to be owing for that month. The invoice form included in the Agreement states: "NOTE: Fees for services or reimbursable expenses not covered under the project contract should be invoiced separately."

The following contract amendments were executed, allowing for additional payments under the Agreement totalling \$226,485.98 bringing the total contractual cost of the services to \$424,647.98.

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| <u>No.</u> | <u>Amount</u> | <u>Date</u> | <u>Purpose</u> |
|------------|----------------------------|-------------|---|
| 1. | \$6,485.00 | 11/17/89 | Design Services - Landscaping and Wetlands Restoration |
| 2. | \$5,795.00 | 12/07/89 | Survey of Wetlands at South Station |
| 3. | \$6,270.00 | 01/24/90 | Authority to Subcontract with Paul Morris and Larry Epstein Regarding Entry Sign Approval and Planning Approval |
| 4. | \$8,500.00 | 05/03/90 | Revisions to Bid Package (Rate Schedule Included) |
| 5. | \$44,299.00 | 06/21/90 | Additional Design Services: Nine Specified Tasks |
| 6. | -0- | 06/21/90 | Contract Extension |
| 7. | \$5,000.00 | 08/28/90 | Development of Walking Floor Specifications and Review of Structural Requirements |
| 8. | \$9,936.00 | 09/28/90 | Additional Construction Management to November 8, 1990 (24 days) |
| 9. | \$60,0000.00 | 11/08/90 | Additional Construction Management, November 8 to December 20, 1990, then Half-time December 21, 1990, to March 1, 1991; Additional Design; Visits by Design Engineer, as necessary |
| 10. | \$9,936.00 | 01/18/92 | Additional Full-time Construction Management for through March 14, 1991 (24 days) |
| 11. | VOID - Not Executed by SCS | | Electrical Redesign to Accommodate SSI Compactor, Walking Floor Loading System, etc. |
| 12. | \$9,936.00 | 04/08/91 | Additional Full-time Construction Management through April 17, 1991 (Equivalent of 24 Days) |

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|-----|-------------|----------|--|
| 13. | \$5,903.00 | 07/31/91 | Additional Design Services, Three Specified Tasks |
| 14. | \$7,214.00 | 07/31/91 | Additional Design Services, Two Specified Tasks |
| 15. | \$47,211.98 | 11/22/91 | Additional Construction Management Services, October through December 1991 (direct payment to W.R. Gamble Engineering) |

Background - Construction Contract

The project consisted of modifications to Metro South Station, a solid waste transfer station. The modifications included a parking lot for transfer trailers, an employee parking lot, control room, building addition (extension of pit), walking floor, and other improvements. The prime contractor was Emerick Construction ("Emerick"), and the amount of the construction contract was \$2,784,000. Change orders relating to the construction increased the contract amount to \$3,304,706.21. Construction began on July 10, 1990.

Several problems were encountered in the course of the work. These problems included pile delivery delays, difficulty in driving the piles, orientation of existing piles, weather delays, higher than anticipated groundwater, and unscheduled departure of Emerick's excavating subcontractor. Errors and omissions in the design and construction documents were also encountered throughout the life of the project.

The scheduled project completion date was ultimately set as February 6, 1991. SCS certified that substantial completion actually occurred on May 16, 1991. Metro and Emerick concluded that substantial completion occurred on April 25, 1991, for purposes of closing out the construction contract. By mid-July 1991, only punch list items were left to complete, although Emerick remained on-site to construct a household hazardous waste facility for Metro under an amendment to the original construction contract. SCS had no involvement in the design and construction of this latter facility. Notwithstanding, Metro required the services of an on-site construction manager through September 1991 to supervise completion of punch list work. Those services were provided by W.R. Gamble Engineering ("Gamble"), who was paid in full for his services by Change Order No. 15.

Summary of Claims

In its letter to Metro dated October 28, 1991, SCS provided a summary of the several claims previously filed for additional compensation under the Agreement between the parties. Additionally, SCS claimed \$143,856 for

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"construction contract administration services (No. 505)." SCS also claimed the amount of \$39,937.86 for electrical engineering, accomplished by its subconsultant, Elcon Engineering ("Elcon").

A summary of the SCS claims appears below:

| | | |
|---------|---|---------------------|
| No. 501 | Employee Parking Retaining Wall | \$ 9,072.99 |
| No. 504 | Area Drain at Intersection | \$ 3,239.31 |
| No. 505 | Construction Contract Administration Services | \$143,856.00 |
| No. 508 | Repair of Damaged H-pile | \$ 4,479.71 |
| No. 509 | Review Type 9 Light Under Bridge | \$ 565.29 |
| No. 511 | SCS Site Visits | \$ 6,756.89 |
| No. 513 | Review of Delay Claim | \$ 467.85 |
| No. 515 | Column Investigation | \$ 13,429.59 |
| | Construction Management Services Markup | \$ 7,081.80 |
| | Elcon Engineering Claim | <u>\$ 39,937.86</u> |
| | TOTAL | \$228,887.29 |

In their letter of October 28, 1991, SCS alleges that, prior to completion of the Design Phase, their firm incurred additional expenses totaling \$394,567. This expense is alleged to have been incurred by SCS prior to initiation of the Construction Phase of the Agreement. Although this amount is not claimed by SCS at this time, SCS indicated in its October 28, 1991, letter that its willingness to absorb these alleged design expenses is dependent on Metro's willingness to pay all other pending claims. Attachment 1 includes a brief outline of SCS's allegations related to the Design Phase, and Metro's position regarding those allegations.

Format for Analysis

The SCS claim has essentially four parts. The first is the group of numbered claims related to specific tasks or events (Nos. 501, 504, 508, 509, 511, 513 and 515). The second is the large claim for added compensation for administrative services. The third is a claim by Elcon Engineering also asking compensation for alleged added work. The fourth is the SCS markup on Change Order No. 15 which directly compensated Gamble for construction management services. Unfortunately, these four parts are not mutually exclusive.

Metro requested and received from SCS Project Detail Reports which display for this project direct labor costs, overhead allocations, and reimbursable expenses to include subcontractor expenses. The time period covered by the reports includes the Construction and Post-construction phases. As the work categories listed in the reports are not keyed to the numbered claims nor to formal Metro requests for assistance or Exchange Orders, the potential for overlap exists.

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The discussion which appears below addresses these four major components of the SCS claim:

No. 501 Employee Parking Retaining Wall

SCS claims that it is entitled to an additional \$9,072.99 for design work that it performed related to construction of the employee parking retaining wall. SCS construction drawings portrayed the wall with the footing incorrectly oriented to the north. Shop drawings for the reinforcing steel in the wall were submitted by Emerick to SCS on September 4 and September 24, 1990, reflecting SCS's erroneous design. SCS failed to note a problem in its design or the shop drawings, and approved Emerick's September 24 submittal. Emerick proceeded to form and pour the footing in accordance with the SCS plans.

On October 31, 1990, Emerick submitted DCVR #60 (Design Clarification Verification Request), pointing out a problem with the retaining wall footing. On December 11, 1990, Emerick submitted DCVR #72 requesting redesign of the retaining wall. Both of these DCVRs were answered on January 10, 1991, indicating an alternative design. At this point, the pour of the footing was complete.

The evidence is clear that the only reason SCS was required to redesign the employee parking retaining wall is that it failed to portray it properly in the first instance. Metro was required to pay to Emerick an additional \$30,282.00 for adding deadman anchors to the wall, the alternative elected as opposed to demolishing the incorrect footing. That expense, as well as the additional expenses incurred by SCS in redesign, are properly the responsibility of SCS. The SCS claim is without merit, and no compensation is appropriate. Metro reserves its right to demand compensation from SCS for remediation costs.

No. 504 Area Drain at Intersection

On December 12, 1990, Metro received a letter from Oregon City recommending that a manhole be raised and an area drain be added near the eastern-most catch basin along Washington Street. Metro asked SCS to review the city's recommendation. Rather than review the recommendation, SCS redesigned the catch basin, and submitted a billing to Metro for \$3,239.31.

The billing included 24 hours of engineering time even though the recommendation of the city was not changed. The billing also included 24 hours of drafting, even though the final drawing consisted of a small number of added contour lines that appear to have been freehanded, and the addition of the manhole, a catch basin, and landscaping. SCS's claim for compensation for this work is clearly unreasonable, made more unreasonable considering that the

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manhole should have been incorporated into the original design drawings, and its omission was an error committed by SCS or its surveyor. One-half of the amount claimed is more than adequate compensation for the work performed in redesigning the area drain, or \$1,619.66.

No. 508 Repair of Damaged H-pile

In early January of 1991, the construction contractor damaged the existing H-pile during excavation. Metro subsequently asked the engineer's advice as to whether this damage impaired the structural integrity of the pile. The engineer prepared a sketch and memo describing the recommended repair, and SCS has claimed \$4,479.71 for these efforts. This claim includes \$2,166.38 for a site visit made by Pat Lawrence on December 12, 1990, a date that preceded damage to the H-pile. The claim has merit; however, the amount claimed for the site visit should be deducted resulting in compensation to SCS of \$2313.33.

No. 509 Review Type 9 Light Under Bridge

SCS claims that it should be paid \$565.29 for determining how to attach a Type 9 light to the bridge. The omission of detail relating to the light from the design drawings was the fault of SCS. Since the detail should have been provided in the first instance, the claim is without merit.

No. 511 SCS Site Visits

SCS claims an additional \$6,756.89 for site visits by the engineer, which it alleges were outside of the scope of the Agreement or amendments. Amendment No. 9 included funds for more than eight site visits (see Attachment 2). As part of amendment No. 9, SCS was to make the engineer available to the construction contractor on an as-needed basis, for the purpose of facilitating better communication between the engineer and the contractor. In addition, Metro expected that within the scope of the original Agreement with SCS, the engineer would be visiting the site once every four to eight weeks, depending on the progress of the work.

SCS has failed to demonstrate that it was not compensated for the visits claimed under amendment No. 9. At the time of the visits, there was no indication by SCS that it understood the visits to be outside the scope of work. It is also not clear why SCS believes it was necessary to send both Jim Kenniston and Lance Wadkins, or what benefit Metro obtained. The claimed meetings include routine administration meetings, and at least one meeting to review the status of the work, during which a report was requested from SCS and never provided. This claim is without merit.

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No. 513 Review of Delay Claim

At Metro's request, SCS reviewed and prepared written comments on a delay claim made by Emerick. This review and report were ultimately not useful to Metro, and were self-serving to SCS. However, since Metro requested the work and it was outside the scope of the original Agreement, the claim has merit. SCS should be compensated in the amount of \$467.85.

No. 515 Column Investigation

SCS claims \$13,429.59 for investigation of voids experienced in pouring key structural columns. A force work order was issued to SCS on May 3, 1991, for \$2,500 to investigate the problem. No further authorization for expenditures was given.

The amount now claimed by SCS is not supported by a product. At the time of this incident, SCS proposed an elaborate plan for testing the columns, an analysis to prove whether or not they were structurally acceptable, and a determination of the necessary repairs, at a cost of \$35,000. Metro considered the proposal to be unacceptable and rejected it. SCS clearly did not provide a product worth \$13,429.59 for Metro with regard to the column investigation. Metro's maximum exposure for this claim is the amount that it authorized SCS to expend at the time of the investigation, \$2,500.

Construction Management Services

SCS claims entitlement to \$7,081.80, which is 15 percent of the \$47,211.98 that was paid directly to W.R. Gamble Engineering under amendment No. 15. Metro paid Gamble directly, pursuant to state law, because he was suffering financially. Gamble had performed the work for which he sought compensation, and he had not been paid by SCS.

Metro requested on-site construction management during the construction period, because Metro could not provide such services with in-house staff. Construction management services were provided beyond the anticipated seven month construction period. The cost of these additional services was \$93,773.48 (or \$107,839.50 with the 15% SCS markup).

Additional on-site construction services began in October 1990, following the initial three months of service provided under the original Agreement. These services continued through September 1991; however, after mid-July construction management was essentially limited to review of record drawings, construction claims and punch list activities. Construction management services continued until September 1991.

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Attachment 2 contains a summary of the additional services provided by Gamble. Comparing the Gamble costs listed in Attachment 2 with the amounts paid SCS for construction management (\$108,069.98) demonstrates that SCS has been paid in full for all construction management, including its 15% markup, and has in fact been overpaid in the amount of \$230.48. (It should also be noted that the original SCS proposal showed a 10% SCS administration markup on subconsultant services.)

Electrical Engineering Claims

SCS previously submitted claims for approximately \$17,000 for electrical engineering of which Metro had offered payment of \$8,055 (see Attachment 3 for analysis of previous claim). SCS rejected the Metro offer. Metro has not previously been informed of any additional charges by Elcon nor has it been previously notified of a claim for any added amount. Neither has Metro been given any analysis or justification to support the validity of such a claim. Regarding the validity of the existing \$17,000 claim, Metro will not pay for the time that SCS's subcontractor spent answering questions that were necessitated by the poor quality of design documents prepared under SCS supervision. Metro will pay the reasonable value of work performed to review substitutions.

It is also inappropriate for SCS to have given its electrical subconsultant authority to bill Metro for hours spent in responding to requests for information unless previously approved by Metro as an addition to the SCS scope of work. Metro had no control over the requests for information, or the subconsultant's willingness to provide answers. That control should have been exercised by SCS in its contract with its subconsultant. \$8,055 is a reasonable payment for the work performed under the claim submitted.

Administrative Services

SCS's "administrative services" claim is for \$143,856. SCS argues essentially that it has "provided substantial and extensive construction administration services, most of which exceeds [sic] originally-anticipated scope of work as set forth in the (agreement between the parties)." (Page 2, letter of October 28, 1991) SCS states that these services directly benefitted Metro, and were essential to the completion of the project.

The root of SCS's claim is its calculation that it expended 3,140 uncompensated staff hours, at a value of \$181,871, during the construction administration phase of the contract. SCS subtracted from this total claim the amount of \$38,015, which is included in previously submitted claims (Nos. 501, 504, 508, 509, 511, 513 and 515 evaluated above). SCS has then "itemized" the claim into the following four categories:

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| | |
|---|----------|
| A. Protracted Construction Duration and Inflation | \$45,490 |
| B. Additional Construction Complexity | \$43,805 |
| C. Construction Contract Acceleration | \$36,374 |
| D. Extraordinary Defense of Contract Documents | \$18,187 |

The "itemized" list is in fact a generalized breakdown of the influences on expenses allegedly incurred by SCS, which sheds very little light on the specific omissions or commissions on the part of Metro leading to SCS effort.

In examining the SCS calculation, the base figure of 3,140 hours alleged by SCS to be uncompensated, actually includes all hours expended by SCS during the Construction Phase. (See Exhibit C, page 1, SCS letter of October 28, 1991.) Further, the figures provided demonstrate that the entire calculation of this claim, as well as the allegations of losses suffered by SCS in the Design Phase, is flawed by the very general nature of its presentation. According to the information provided by SCS, the total cost of all phases of the contract, including subconsultants, was \$953,874 (letter of October 28, 1991, Exhibit C, page 1). On Exhibit B, page 3, SCS states that the total cost of its subconsultants was \$334,638.36. SCS's project costs, excluding subconsultants, therefore appear to total \$619,235.64.

Using figures provided by SCS in its original proposal, Metro has calculated that SCS anticipated that "other direct costs" related to the work (including air fare, telephones/faxes, postage, etc.) would amount to approximately nine percent of total costs. Using this percentage, SCS's cost related to the Agreement, less "other direct costs" and the cost of subconsultants, approximates \$533,387. SCS claims that it spent 5,069 total hours working on all phases of this project, not including the work of subconsultants (letter of October 28, 1991, Exhibit C, page 1). Dividing \$533,387 by 5,069 results in an average SCS billing rate of \$105/ hour, over the life of the contract.

Based upon the 3,140 hours said to have been expended without compensation during the Construction Phase of the contract and an average billing rate of \$105/hour, the SCS billing would be \$329,700, a figure very similar to SCS's claimed total cost for the Construction Phase, (\$349,457.51) including the cost of all subconsultants (letter of October 28, 1991, Exhibit C, page 1). Further, the average rate of \$105/hour derived from SCS's claim does not conform to the average rate of \$63/hour in SCS's proposal. Even the inflation-adjusted figure provided by SCS in its letter of October 28, 1991, is only \$77/hour (letter of October 28, 1991, Exhibit E, page 1). Thus, Metro finds it impossible to correlate hours expended during the Construction Phase with requested compensation.

The overall presentation of this claim is very simplistic and no attempt has been made to associate the alleged expenses with specific tasks or services, to segregate the claim from payments made or earlier rejected claims, or to demonstrate that the expenses were for tasks not included in the original or amended scope of work. It is impossible to establish a direct correlation between the SCS claims and the numeric information furnished. No attempt has been made to show how Metro benefitted from the expenditures, or the reasonableness of the expenditures. Based on the materials submitted, Metro has no reason to believe that the extra work claimed was actually performed; that SCS has not already been compensated for the hours claimed; that the expenses were incurred for tasks performed outside of the scope of work; that the claimed expenditures were reasonable, or that they benefitted Metro.

To the extent that SCS's claims of entitlement to additional construction administration payments can have validity given the unstructured nature of its basic calculations, the four categories of added effort defined by SCS to support the claims are discussed below:

A. Additional Construction Complexity

SCS states that \$43,805 of its construction administration claim can be attributed to an increase in the complexity of the work, requiring a higher level of involvement by SCS and subconsultants. SCS apparently believes that the increased complexity of the project required it to perform additional services outside the scope of work. Rather than describe what those services were and how they benefitted Metro, SCS describes why it believes the work became more complex, requiring it to expend additional resources. In addition, SCS denies any responsibility for the increased complexity of the work.

SCS states that "Metro and the Construction Contractor established informal agreements about construction matters...which diminished the authority of the SCS team as Construction Manager." (Page 6, letter of October 28, 1991) After discussing this claim with SCS's construction manager, Metro concludes that this allegation is false. The role of W.R. Gamble was established at the preconstruction meeting in conformance with the Agreement, and never changed.

Next, SCS argues that significant design changes were initiated by Metro during construction, or initiated by the construction contractor. Although the construction contractor did make substitutions and request changes, such actions are common in construction projects. SCS was compensated for design changes through contract amendments. If a design change occurred during construction that was not due to an inadequacy in the design documents, SCS should have

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submitted an invoice for the work in conformance with the contract documents, or negotiated payment in advance. In those instances in which SCS received compensation for a design change under a contract amendment, it cannot now claim that it failed to request adequate compensation, and that it is entitled to administrative reimbursement above the 15 percent included in the lump sum payment made, and overhead and profit included in billable hours.

Finally, SCS argues that, along with its subconsultants, it was required to commit more experienced and costly professionals to the project due to the increased complexity, the "higher liability associated with administration of a construction project that markedly deviates from the design," and the need to enforce and defend the construction contract documents. The project did not "markedly deviate from the design." The "complexity" allegation deserves special attention, because it illustrates SCS's failure to accept the shortcomings of the design it provided for the Metro South Station modifications.

The original construction documents issued by SCS on July 6, 1990, were so inadequate that they were retracted and reissued on July 30, 1990. Changes continued to be necessary throughout construction due to a failure to integrate the various elements of the design, as well as numerous omissions and ambiguities. (See discussion of Employee Parking Retaining Wall.)

Metro continues to discover major inadequacies in the facility design that could have been avoided by more thoughtful engineering. These include the pit slab, which has already been damaged due to what appears to be under-design. The irrigation system does not adequately provide water to the grassy areas, in what appears clearly to be a design error. The sanitary lift station designed by SCS continues to flood the facility's main lift station because SCS did not consider the capacity of the existing system when it developed its design. Finally, the dozer ramp required redesign and reconstruction to prevent repeated equipment shippage.

The frustration resulting from poorly developed construction plans was exacerbated when SCS provided four different project managers over the life of the project. The project manager is responsible for the design and must have knowledge of the current progress of the work as it relates to the design. The frequent change in project managers caused major disruption, and undoubtedly resulted in an increase in the time commitment and costs incurred by SCS. Those costs, however, are clearly not Metro's responsibility. Any increased complexity of the work perceived by SCS was, for the most part, created by SCS to Metro's detriment.

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B. Construction Contract Acceleration

Construction acceleration was agreed to be necessary by Metro and Emerick and began on October 23, 1990, and ended on December 15, 1990. During that time, Emerick worked ten hours per day, six days per week. This did not impact the Engineer, who was not required to match this schedule. Contrary to SCS's claim narrative, contract amendments Nos. 8 and 9 provided \$69,936 in additional payments for construction management services during a period that included the acceleration. Even though it signed amendments which provided payments for this period, SCS would now like to receive an additional \$36,374, or \$1,000 more per day for the period of acceleration.

SCS has failed to provide any documentation to support its claim that it performed services during acceleration that were outside of the scope of work and for which it did not receive compensation under the contract or an amendment. SCS has made no effort to show how Metro received any benefit for the \$36,374 claimed under this category. SCS has also failed to explain why Metro was not notified of the cost of the alleged additional services on a monthly basis. Contrary to its assertions, SCS was not directed to make a claim for additional "contract administration" payments for this period at a later date. Metro nevertheless considered the documented claim of W.R. Gamble that included time spent during this period for construction management, and satisfied that claim in full under amendment No. 15.

C. Extraordinary Defense of Contract Documents

SCS claims that it provided \$18,187 worth of services to Metro, outside of the scope of services in the Agreement, defending the contract documents. The quality of the contract documents being defended was discussed above. SCS states that Emerick ignored the contractual process for submission of shop drawings; that Emerick failed to implement SCS's proposed solution to siltation problems leading to SCS expenditures; that deliberate issuance of superfluous paperwork by Emerick and its subcontractors "significantly compounded the communication process;" and that SCS found it necessary to defend its subconsultant in antagonistic relations with Emerick.

As for the claim that the contractor ignored procedures for submission of shop drawings, Metro does not agree that this occurred on a regular basis or that it created serious problems. Notwithstanding procedural variances in the submission of shop drawings, it was the responsibility of SCS's construction manager to track compliance with provisions of the contract, not Metro's. This responsibility was not outside the agreed scope of work, and Metro did not obtain any additional benefit from the alleged additional expenditures.

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SCS's example of the storm drain system to demonstrate defense of contract documents is confused, at best. (Letter of October 28, 1991, page 7) Emerick did fail to take adequate steps to control surface water. However, SCS was asked to validate its design due to the failure of the sanitary system to handle the overflow. This incident provided early evidence that SCS had improperly designed the lift station by failing to consider the capacity of the existing system. As mentioned above, the sanitary lift station designed by SCS continues to flood the facility's main lift station.

Comparison of contractor requests for design clarifications on this job against other large construction projects does not show an excessive level of requests. It is Metro's opinion that the time SCS took to answer clarification requests was routinely excessive. If the requests were simple and superfluous, they should have been answerable with minimal effort. Design clarifications are an integral part of the Engineer's responsibility on any construction project and should have been anticipated by SCS.

SCS is correct that an antagonistic relationship developed between the construction contractor on one hand and the construction manager and Engineer on the other. Although the narrative suggests that the engineer was required to protect W.R. Gamble from an abusive contractor for the life of the project, this was hardly the case. Both parties involved in the antagonistic relationship contributed to its maintenance by refusing to yield, including Jim Kenniston of SCS. Dealing with personal relations on the job site can hardly be considered an expansion of the scope of work requiring additional compensation for SCS. Metro obviously did not benefit from SCS's handling of personal relations on the site. The eventual departure of the Emerick party to the problem was negotiated by Metro, not SCS.

D. Protracted Construction Duration & Inflation

SCS computed this portion of its claim by stating that the original Construction Administration Phase was to last for seven months, and that its bid price for construction administration was \$43,000. SCS then states that since, in its estimation, the actual Construction Administration Phase lasted for 14 months, SCS is entitled to an additional \$43,000, plus \$2,490 for inflation.

This calculation ignores the terms of, and amounts paid under, the contract and amendments. Both the original Agreement and the amendments clearly established lump sum payments for construction management services through April 17, 1991. Additionally, the contract contained procedures for submitting invoices on a monthly basis for additional work. No such invoices were submitted. Billings for SCS work accomplished during the period 6/01/90

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through 8/31/91 total \$157,590 against a contractual basis of \$167,587. These billings include design work directed through contract amendment as well as post-construction effort. During this same period, Metro made payments to SCS of \$157,795 leaving SCS apparently uncompensated by only \$9,792 against the contractual value.

The corresponding reported cost to SCS during the same period (from the 0.00, 0.01 and 0.-- project detail reports provided to Metro by SCS in April 1992) totals \$301,397. Thus, from these records, SCS appears to have expended additional effort which it values at approximately \$133,810 on the Metro South Station Project beyond the contractual basis and \$143,602 beyond the Metro payments. Metro was not routinely invoiced or billed or otherwise notified of these alleged cost overruns.

Notwithstanding the confusing and non-specific nature of the SCS claim, Metro believes that some additional support was provided during a seven month period following the originally scheduled project completion date of February 6, 1991.

According to the project detail records submitted by SCS to Metro, SCS expended a total of \$125,424.73 for labor, overhead, direct and reimbursable expenses during the period from February 1, 1991 to August 31, 1991. These records also show that \$51,322.42 were Gamble expenses for on-site construction management and \$1,809.53 were McKeever/Morris expenses for landscape architecture during this period. As these two expenses were compensated through subsequent amendments, the actual administrative expense to SCS for this period was \$72,292.78.

Detailed review of the project documentation provided by SCS suggest the following further reductions in direct labor and overhead costs during this period:

- **Quality Assurance Review:** This category of charges does not appear in the SCS project records until December 1990. Such an activity routinely takes place at a uniform rate throughout the life of a project and is more appropriately an overhead function. Wadkins and Kenniston charged 116 hours of direct labor to this category in January and 45 hours in March 1991. No other charges to this category are recorded. These direct labor costs are not supportable without added justification. The direct labor costs for March were \$919.48.

Executive Officer's Decision

Page 15

September 1, 1992

- Expert Witness/Litigation: This category of charges begins to appear in May 1991. Wadkins charged 218 direct labor hours to this category during the period May through August 1991 at a direct labor cost of \$6272.75. Metro is unaware of the requirements for an expert witness or support of litigation during this period.
- Task 19: The charges in this category appear to be for supporting clerical assistance which should be a part of overhead. Direct labor charges amount to \$514.85.
- O&M Manual Preparation: Harrington and Wadkins have charged 56 direct labor hours to the General category which is O&M manual preparation at a direct labor cost of \$1045.94. This is a Post-Construction function to be paid from the \$16,662 allocated to pay expenses of this phase.
- Shop Drawing Review: There were 12 direct labor hours charged to this category at a cost of \$315.74. This is a Post-Construction function to be paid from the \$16,662 allocated to pay the expenses of this phase.
- Planning and Administration: This appears to be an overhead item and/or time spent in claim preparation. The direct labor cost of this time is \$755.19.

Expanding the above direct labor charges of \$9823.90 by the derived SCS overhead rate of 216.5%, produces overhead charges of \$21,268.85 or a total rejected cost of \$31,092.80. This reduces the valid project charges during the extended project duration to \$41,199.98.

Additionally:

- During this period SCS also charged \$1005 in micro-computer time and \$238.25 in subscriptions/publications to the project. These are overhead items.
- Contract amendments No. 13 and No. 14 contain reimbursements of \$1,440 and \$5,096 for design effort expended during this period, further reducing the valid charges for administrative support.
- As SCS claimed expenditure of \$13,429.59 for column investigation during this period, this amount must be also deducted. Compensation for work accomplished at Metro direction has been previously addressed.

The algebraic sum of these evaluations of the added SCS effort produce a compensation to SCS of \$19,991.14.

Executive Officer's Decision

Page 16

September 1, 1992

Summary of Findings

The SCS claim for \$228,887.29 suffers from a lack of specificity. Even with the submission by SCS to Metro of its own computer generated project detail reports, the direct correlation of costs to benefits to Metro, much less specifically directed Metro tasks and/or requests, is impossible.

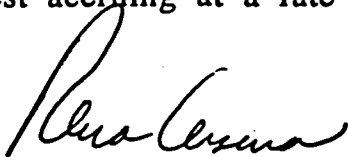
Metro does, however, find that merit exists in some of the individual claims as well as recognizing that some of the effort expended beyond the scheduled project completion date is compensable. The compensation to SCS deemed appropriate from the preceding analysis is \$34,946.98.

By SCS claim, the findings on compensation are shown below:

| <u>Description</u> | <u>Requested Amount</u> | <u>Recommended Settlement</u> |
|--|-----------------------------|-----------------------------------|
| No. 501 Employee Parking Retaining Wall | \$ 9,072.00 | \$ -0- |
| No. 504 Area Drain at Intersection | \$ 3,239.31 | \$ 1,619.66 |
| No. 505 Contract Administration | \$ 143,856.00 | \$ 19,991.14 |
| No. 508 Repair of Damaged H-pile | \$ 4,479.71 | \$ 2,313.33 |
| No. 509 Review Type 9 Lights Under Bridge | \$ 565.29 | \$ -0- |
| No. 511 SCS Site Visits | \$ 6,756.89 | \$ -0- |
| No. 513 Review of Delay Claim | \$ 467.85 | \$ 467.85 |
| No. 515 Column Investigation | \$ 13,429.59 | \$ 2,500.00 |
| Construction Management Services Markup (Unnumbered Claim) | \$ 7,081.80 | \$ -0- |
| Electrical Engineering Claims | \$ 39,937.86 | \$ 8,055.00 |
| TOTAL | \$ 228,887.29 | \$ 34,946.98 |

Decision

SCS should be immediately compensated in the amount of \$34,946.98 plus interest accruing at a rate of 5% from September 1, 1991.



Rena Cusma
Executive Officer

Sept 8, 1992

ATTACHMENT 1

Additional Design Costs Alleged to Have Been Incurred by SCS

As stated above, SCS has indicated that it incurred \$395,000 in unreimbursed expenses designing the Metro South modifications. Although this figure was not presented as a claim, it was clearly presented as a threat, and is addressed here for that reason.

SCS's allegations regarding hours worked and expenses incurred during the pre-construction phases are erroneous. As discussed in the text of this document, the figures supplied for the entire project hours and expenses result in an average rate of \$111/hour being charged by SCS. Even at this rate, adding nine percent for "other direct costs," SCS's total expenses for this period would be \$233,450.21. At the \$63/hour average rate in its proposal, plus nine percent, SCS's total expenses would have been \$121,558.50. Considering these facts, the \$209,000 that Metro paid to SCS during the pre-construction phases of the contract appears to be very reasonable.

The allegations being made by SCS regarding its expenses during the pre-construction phases of the agreement, if true, would demonstrate that SCS ^{suffered increased} ~~made numerous irrational business~~ ^{cost overruns} judgments during this period. The chart on page 3 of SCS's letter to Metro dated October 28, 1991, alleges that SCS suffered cost overruns of 348 percent during the "Preliminary Concepts and Schematic Design" phase of the agreement. The chart alleges a whopping 678 percent cost overrun in the "Design Development" phase, a 197 percent cost overrun in the "Construction Documents" phase, and a 134 percent cost overrun in the "Bidding Phase." SCS did not mention the alleged cost overruns to Metro at the time they

ATTACHMENT 1

Page 2

occurred or when it executed amendment No. 5 at the completion of all pre-construction phases.

Considering amendment no. 5, it is perplexing that SCS would now assert that it incurred \$395,000 in uncompensated expenses for pre-construction phase work. That amendment, dated June 21, 1990, listed specific tasks to be addressed by SCS in completing the design, and provided an additional lump sum payment of \$44,299.00. Now, over one year later, SCS suggests that it forgot to mention in amendment no. 5 the \$395,000 in additional payments to which it is entitled, but will forego if Metro pays a host of other undocumented or unjustified claims. The threat is not well taken, and evidences a lack of good faith on the part of SCS. If made, it is clear that such a claim would have no basis in fact, in law, in the contract, nor in basic principals of fair dealing.

ATTACHMENT 2

| <u>Gamble Invoice No. and Date</u> | | <u>Amount</u> | <u>Hours Worked Beyond Contract</u> | |
|------------------------------------|---------------|--------------------|-------------------------------------|--------------------|
| | | | <u>Tim Grace</u> | <u>Walt Gamble</u> |
| 4301.06 | October | N/A | 160.0 | |
| 4301.07 | October | N/A | 42.0 | |
| 4301.08 | October | N/A | 55.0 | |
| 4301.09 | November | N/A | 133.0 | |
| 4301.10 | November | N/A | 22.0 | |
| 4301.11 | November | N/A | 35.5 | |
| 4301.12 | December | N/A | 90.5 | |
| 4301.13 | December | N/A | 53.5 | |
| 4301.14 | December | N/A | 13.0 | |
| 4301.15 | January | N/A | 147.0 | |
| 4301.16 | January | N/A | 29.0 | |
| 4301.17 | January | N/A | <u>12.0</u> | |
| Total Hours Extra | | | 792.5 | |
| Subtotal Cost | | \$35,662.50 | \$45/hr. | \$95/hr. |
| 4301.18 | March | \$ 9,246.42 | 156.0 | 20.5 |
| 4301.19 | April | \$10,055.75 | 176.0 | 21.0 |
| 4301.20 | March & April | \$ 1,305.00 | 29.0 | 0 |
| 4301.21 | February | \$10,572.50 | 160.0 | 35.5 |
| 4301.22 | February | \$ 540.00 | 12.0 | 0 |
| 4301.23 | May | \$ 7,599.36 | 143.0 | 12.0 |
| 4301.24 | June | \$ 8,052.50 | 161.0 | 8.5 |
| 4301.25 | July | \$ 5,005.00 | 107.0 | 2.0 |
| 4301.26 | August | \$ 5,459.45 | 112.0 | 4.0 |
| | September | <u>\$ 275.00</u> | | |
| Subtotal Cost | | <u>\$58,110.98</u> | | |
| TOTAL | | \$93,773.48 | plus 15% | \$107,839.50 |

ATTACHMENT 2

Page 2

Metro issued five amendments that included additional on-site construction services (totaling \$108,069.98 for additional on-site construction services) as summarized below.

Amendment No. 8 - \$9,936.00 for additional on-site construction services.

Amendment No. 9 - \$31,050.00 for additional on-site construction services.

The total for Amendment #9 was actually \$60,000.

Amendment No. 10 - \$9,936.00 for additional on-site construction services.

Amendment No. 12 - \$9,936.00 for additional on-site construction services.

Amendment No. 15 - \$47,211.98 for the balance of services being claimed by W.R. Gamble Engineering.



METRO

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

| | | |
|------------------------------|------------------------|----------------|
| FAX Memo | | Pages 5 |
| Date: 22 MAY 91 | Time: 1:45 | |
| To: LANCE WADKINS | | |
| Location: S.C.S. | | |
| FAX #: | | |
| From: ROB SMOOT | | |
| Location: METRO SOUTH | | |
| FAX #: | Phone: 657-0915 | |

May 22, 1991

Mr. Lance Wadkins
Project Manager - Metro South Station
SCS Engineers, Inc.
2950 Northrup Way
Bellevue WA 98004

Dear Lance:

I have completed my review of your letters dated March 4, 5, 6 and 7, 1991 regarding additional electrical design services from Elcon. I have considered each item addressed on the attachments to the above letters and include my comments below. Amendment #11, attached, includes those items which Metro considers to be an expansion of SCS's scope of work.

Item #1 of the attachment to your letter of March 4, 1991 is regarding Elcon's review of the transformer cutover sequence. I am disturbed that Elcon spent so much time on such a simple task, however, I have included this in Amendment #11.

Item #2 of the attachment to your letter of March 4, 1991 is regarding Elcon's review of motor starters on the walking floor. This effort could have been avoided had SCS coordinated the writing of the walking floor specification with Elcon. This is considered by Metro to be within the scope of our original agreement.

The services of Elcon, as proposed in your letter of March 5, 1991, have not been necessary. No Amendment will be written for these services.

Item #1 of the attachment to your letter of March 6, 1991 is regarding Elcon's review and comments to retain the temporary service pole in the northwest corner of the trailer storage yard. Metro agrees that this work is extra, and it is included in Amendment #11.

Item #2 of the attachment to your letter of March 6, 1991 is regarding Elcon's coordination to provide lighting to the Oregon City sign. Metro agrees that this work is extra, and it is included in Amendment #11.

- Executive Officer
Rena Cusma
- Metro Council
- Tanya Collier
Presiding Officer
District 9
- Jim Gardner
Deputy Presiding
Officer
District 3
- Susan McLain
District 1
- Lawrence Bauer
District 2
- Richard Devlin
District 4
- Tom DeJardin
District 5
- George Van Bergen
District 6
- Ruth McFarland
District 7
- Judy Wyers
District 8
- Roger Buchanan
District 10
- David Knowles
District 11
- Sandi Hansen
District 12

Page Two
May 22, 1991
Lance Wadkins

Item #3 of the attachment to your letter of March 6, 1991 is regarding Elcon's review of the location of the handhole for the future scale. This is considered by Metro to be within the scope of our original agreement.

Item #4 of the attachment to your letter of March 6, 1991 is regarding Elcon's design of a sprinkler controller. This is considered by Metro to be within the scope of our original agreement.

Item #5 of the attachment to your letter of March 6, 1991 is regarding Elcon's review of the differences between the Amfab and the Shredding Systems (SSI) compactor. Much of this time was spent reviewing control wiring requirements. Metro considers the work performed by Elcon in reviewing control wiring requirements to be included in our original scope of work. Metro agrees that the work performed by Elcon to review the power requirements of the SSI compactor to be extra and estimates that half of Item #5 is for that activity. This is reflected in Amendment #11.

Item #6 of the attachment to your letter of March 6, 1991 is regarding Elcon's preparation of a Request for Proposal (RFP) to have the construction contractor furnish and install (2) two inch conduits from MCC-90 to MH-1. Metro agrees that this work is extra, and it is included in Amendment #11.

Item #7 of the attachment to your letter of March 6, 1991 is regarding Elcon's review and design to replace one conveyor with two walking floors. Metro agrees that this work is extra, and it is included in Amendment #11.


Each Item listed on the attachment to your letter of March 7, 1991 is for review and design in response to requests for clarifications or approved substitutions. This work could have been anticipated by SCS as typical for this type of construction and design. Metro considers this work within our original agreement.

The four letters referenced above represent a request/proposal to provide electrical engineering services for a cost totaling \$27,256. Amendment #11 represents the summation of the comments made above, and is for a cost totaling \$8,055.

Page Three
May 22, 1991
Lance Wadkins

Please call if you have any concerns or questions
regarding my review of these items.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rob Smoot".

Rob Smoot, Project Manager
Solid Waste Department

cc: Jim Watkins, Metro

AMENDMENT NO. 16

Contract No. 900971

**To the Design Services Agreement
for
Modifications to Metro South Station**

This Agreement amends the above-titled Design Services Contract between the Metropolitan Service District, referred to herein as "Metro", and SCS Engineers, Inc., referred to herein as the "Contractor". This Amendment is an expansion of the Contractor's original Scope of Work.

It is acknowledged by Metro and Contractor that the services provided herein are additional services that could not have been anticipated at the time of contract award.

The parties set forth below agree to the following additions to the Contract as specifically provided for herein.

This Amendment provides compensation to the Contractor for work performed beyond the original scope of work as described in SCS letter of October 28, 1991. The level of compensation is based upon the analysis contained in the Executive Officer's Decision dated September 1, 1992 which is attached.

Metro agrees to pay to Contractor additional compensation of thirty six thousand six hundred and ninety-five dollars (\$36,695.00) for the claimed additional work.

All terms of the original Agreement and previous Amendments, except as modified herein, shall remain in full force and effect.

SCS Engineers, Inc.

Metropolitan Service District

By: _____

By: _____

Date: _____

Date: _____

Meeting Date: October 22, 1992
Agenda Item No. 7.4

RESOLUTION NO. 92-1693

TRANSPORTATION AND PLANNING COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 92-1693, FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO EXECUTE THE ACQUISITION OF LAND IN THE SMITH AND BYBEE LAKES MANAGEMENT AREA

Date: October 15, 1992

Presented by: Councilor Washington

Committee Recommendation: At the October 13 meeting, the Transportation and Planning Committee voted unanimously to recommend Council adoption of Resolution No. 92-1693. Voting in favor: Councilors Devlin, McLain, Buchanan, Moore, and Washington.

Committee Issues/Discussion: Jim Morgan, Senior Regional Planner, presented the staff report. He briefly reviewed the history of the development of the Smith and Bybee Lakes project. Metro is the Trust Fund Manager and, as such, is required to acquire property within the management area from willing land owners. The acquisition process has been developed by a special task force of the Smith and Bybee Lakes Management Committee. The process provides for both full purchase agreements and conservation easement agreements of nearly 400 acres of land.

The purchase agreements for many of the parcels have been finalized, while others are still in negotiation. Confidentiality is necessary regarding the remaining negotiations until agreements have been signed, at which time, all agreements become public record. So far, the total amount is within the amount budgeted by the Council. If for any reason this changes, the Council will need to consider the option through the budget amendment process.

There is one portion of land within the management area that is currently in an annexation process with the Boundary Commission. The property is entirely surrounded by incorporated land and is being annexed under "island annexation" procedures. This issue will be decided by the Boundary Commission on October 18, 1992. When this annexation is completed, hunting within the area will cease because the city of incorporation has an ordinance banning the discharge of firearms. This change may impact the decision to sell of some of the now reluctant land owners.

The process for closure of sales agreements can be protracted. If it were necessary to hold up all agreements until the entire package was completed, the process would become extremely cumbersome. This resolution would allow the Executive Officer to act on each individual sale as closure is completed.

Councilor Washington asked about the use of "eminent domain". Mr. Morgan explained that Metro's policy is to deal with "willing sellers" whenever possible. "Eminent domain" is possible in extreme cases, but the hope is to never use it. In fact, the

subject has not been discussed with any of the potential sellers. There are cases where conservation easements will be utilized rather than outright purchase, as well as other options. In these cases, no trail improvements will be made to the land but Metro retains the option to flood the land periodically to enhance the wildlife.

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

| | | |
|---|---|----------------------------------|
| FOR THE PURPOSE OF AUTHORIZING |) | RESOLUTION NO. 92-1693 |
| THE EXECUTIVE OFFICER TO EXECUTE |) | |
| THE ACQUISITION OF LAND IN THE |) | Introduced by Rena Cusma, |
| SMITH AND BYBEE LAKES MANAGEMENT |) | Executive Officer |
| AREA |) | |

WHEREAS, on November 8, 1990, the Council of the Metropolitan Service District adopted Ordinance No. 90-367 approving the Natural Resources Management Plan for Smith and Bybee Lakes; and

WHEREAS, Metro is identified as the Trust Fund Manager of the Lakes Trust Fund as established by the Management Plan and the 1990 St. Johns Landfill Agreement; and

WHEREAS, the Management Plan identifies acquisition of private property in the Management Area from landowners willing to sell as critical to successful management of the area; and

WHEREAS, the Management Plan identifies the Trust Fund Manager as responsible for property acquisition; and

WHEREAS, expedition of the land acquisition process will avoid undue tax burdens on owners who are willing to sell and will permit timely implementation of management responsibilities by Metro; and

WHEREAS, executing closure on in-fee purchase of land parcels as they become available would be most expeditious; and

WHEREAS, funds have been budgeted within the Trust Fund for the acquisition of land parcels at fair market value; and

WHEREAS, Metro's liaison for property purchases for Smith and Bybee Lakes has negotiated acceptable purchase agreements with several landowners who are anxious to sell; and

WHEREAS, guidelines for negotiating terms of land purchases were developed by the Smith and Bybee Lakes Management Committee and presented to Council in Executive Session; and

WHEREAS, Metro's Office of General Counsel has approved purchase and sale agreements for Smith and Bybee Lakes properties; now, therefore,

BE IT RESOLVED,

1. That the Council of the Metropolitan Service District hereby authorizes the Executive Officer to execute purchase and sale agreements, as well as any other documents necessary to obtain closure on land properties in the Smith and Bybee Lakes Management Area as they become available, and within guidelines established by the Smith and Bybee Lakes Management Committee.

2. That the Executive Officer or designee is authorized to make any disbursements from the Lakes Trust Fund that are necessary to comply with the terms of the purchase and sale agreements.

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

Jim Gardner, Presiding Officer

STAFF REPORT

CONSIDERATION OF RESOLUTION NO.92-1693 FOR THE PURPOSE OF AUTHORIZING EXECUTIVE OFFICER TO EXECUTE LAND PURCHASES IN SMITH AND BYBEE LAKES MANAGEMENT AREA

Date: October 5, 1992

Presented by: Jim Morgan

FACTUAL BACKGROUND AND ANALYSIS

In the November 8, 1990 joint session of the Councils of Metropolitan Service District and the City of Portland, the Natural Resources Management Plan for Smith and Bybee Lakes was adopted. The Councils jointly established the Lakes Trust Fund, designating Metro as the Trust Fund Manager. In this role, Metro is responsible for implementation of the plan. An early activity outlined in the plan is the acquisition of private property remaining in the Management Area from land owners willing to sell.

Acquisition of private property in the lakes area has been proceeding for the past 18 months, including the following activities:

- 1) the land acquisition program was announced to all landowners;
- 2) two independent land appraisal firms were contracted to conduct appraisal of subject properties with the intent of establishing fair market value;
- 3) Metro Council authorized Jim Morgan through Resolution No. 92-1558 to serve as the principal liaison for negotiations;
- 4) Smith and Bybee Lakes Management Committee established guidelines for terms of acquisition;
- 5) offers were made on all parcels owned by those willing to sell;
- 6) purchase and sale agreements were developed;
- 7) a title insurance company has been contacted to establish escrow account and title insurance on properties; and,
- 8) preliminary environmental site assessments were conducted.

Guidelines for negotiation were outlined by a sub-committee from the Smith and Bybee Lakes Management Committee. These guidelines focussed exclusively on prices as which offers would be made. All offers made to willing sellers were within these guidelines. The guidelines will be presented to Council in Executive Session since negotiations with other property owners are continuing.

Presently, seven owners have accepted offers on seven parcels. Some parcels have multiple owners with undivided interests. Purchase and sale agreements have been sent to those six owners, and one has been returned signed to date. The remaining seven parcels with owners who are willing to sell are still in negotiation. There are two parcels in which the owners may not sell but are willing to discuss easements.

One party with full ownership of a small parcel has refused to sell, wishing to retain the land for game hunting. With the impending annexation of this and surrounding properties into the

City of Portland, hunting will no longer be allowed. The owners may be willing to sell in the future.

Another owner of an undivided interest in a parcel who is unwilling to sell currently resides on the subject parcel. Changing conditions that may affect the owners position include Metro's acquisition of the remaining 3/4 interests in the parcel, increased activity in the area that eliminates its isolation, and annexation of the parcels that will affect any future development capabilities. Negotiations with the owner will continue as conditions change.

Expedition of the land acquisition process is needed to avoid additional tax burdens on owners who are willing to sell and to proceed with other management activities in the area, such as trail development. Closure on individual parcels should proceed as they become available. Granting the Executive Officer the authority to execute closure on properties as they become available would be most expeditious. Resolution No. grants that authority.

BUDGET IMPACTS

As stated in the Natural Resources Management Plan for Smith and Bybee Lakes, funds for land acquisition would come from the Lakes Trust Fund. Up to \$200,000 was allocated for land acquisition in the FY92-93 budget approved by the Council. The total amount offered to potential sellers that have been accepted to date is \$193,760. To date, no expenditures for in-fee purchase of land has occurred.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 92-1693, authorizing the Executive Officer to execute closure on land purchases in the Smith and Bybee Lakes Management Area and make disbursements to comply with purchase and sale agreements.

Meeting Date: October 22, 1992
Agenda Item No. 7.5

RESOLUTION NO. 92-1688A

TRANSPORTATION AND PLANNING COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 92-1668, FOR THE PURPOSE OF DEFERRING PURSUIT OF A LOCAL OPTION VEHICLE REGISTRATION FEE FOR ARTERIAL-RELATED IMPROVEMENTS

Date: October 15, 1992

Presented by: Councilor Devlin

Committee Recommendation: At the October 13 meeting, the Transportation and Planning Committee voted unanimously to recommend Council adoption of Resolution No. 92-1668. Voting in favor: Councilors Devlin, McLain, Buchanan, Moore, and Washington.

Committee Issues/Discussion: Andy Cotugno, Planning Director, presented the staff report. He explained that two years ago Metro, by resolution, established our intent to pursue a local option vehicle registration fee. With the resolution came the self-imposed deadline of November, 1992 which, for a variety of reasons, has not be completed or pursued during the past two years. This resolution sets a new deadline of November, 1993 but also calls for a work plan, supported by Surface Transportation Plan money, to assure that this new deadline is kept. The deadline is actually earlier than November, 1993, if a measure is to appear on the General Election ballot at that time. The work plan will put together the program, generate the information needed for Department of Motor Vehicle (DMV) records and administrative procedures, and provide the necessary support for making the decision of whether to place the measure on the ballot.

Interested parties have expressed concerns regarding the timing of this issue and how the vehicle registration fee relates to other funding sources. The timing concern led to the suggestion that the issue proceed after the 1993 Legislature adjourns so that there will be a better understanding of the funding sources available to the region. This is particularly important because of the new Oregon Transportation Plan (OTP) being proposed. Additionally, there is concern regarding the usage of the resources, if approved. At present the usage is restricted to highway purposed only. There was an attempt to expand the usage to transit purposes in 1990, which failed. The decision was then made to provide for arterial purposes. There are clear relationships between usage of all funds, once established by the Legislature. Other potential funding being considered includes gasoline taxes, emission fees, log taxes, and transit components within the Regional Transportation Plan.

In the past, Metro adopted a resolution that provides that if we set up a locally funded urban arterial program in excess of \$10 million, a portion must be dedicated to transit purposes. At the time Metro made that commitment, the account available was \$3.8 million, now there may be \$9 million of more flexible funding

available. For that reason, we may choose to include in the package projects related to pedestrian, transit and bicycles. Even though this is a constitutionally restricted resource, it can stretch to cover bike and pedestrian paths within roadways and some transit related projects (e.g. park and ride areas).

The previous resolution adopted by the Council that has the November, 1992 deadline has a "sunset provision" if not extended. This resolution extends the "sunset provision".

Even with approval, before any money can be spent, there must be an intergovernmental agreement (IGA) because Oregon law allows Metro, Tri-Met or any of the three counties, or any collection of these groups, to request approval by the voters of the local option fee. Because of the multiple and overlapping boundaries and levels of jurisdiction, the statute also requires the five entities and the City of Portland to execute an IGA to specify the entity to actually collect the fee, the amount of the fee, and purpose. This effectively allows a potential six-way veto.

Chairman Devlin clarified that any vehicle registration fee must go to the vote of the people for approval.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF DEFERRING) RESOLUTION NO. 92-1668A
PURSUIT OF A LOCAL OPTION VEHICLE)
REGISTRATION FEE FOR ARTERIAL-) Introduced by
RELATED IMPROVEMENTS) Councilor Richard Devlin

WHEREAS, The Regional Transportation Plan, adopted by Ordinance No. 92-433, identifies a comprehensive transportation improvement program which includes a significant need to adopt new funding mechanisms; and

WHEREAS, Resolution No. 89-1035 adopted a comprehensive financing strategy for major highway corridors, LRT construction, urban arterials, and expanded transit operations; and

WHEREAS, Oregon Revised Statutes, Chapter 864, allows Metro to seek voter approval for a local option vehicle registration fee subject to execution of an Intergovernmental Agreement with Multnomah, Washington and Clackamas Counties; Tri-Met; and the City of Portland defining the fee amount and purpose; and

WHEREAS, Resolution No. 90-1301 established Metro's intent to seek, by November 1992, a local option vehicle registration fee to establish an Arterial Fund; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District:

1. Defers pursuit of voter approval for a local option vehicle registration fee for arterial-related improvements.
2. That the program will be defined and a decision made on whether or not to refer a measure to the voters on or before November 1993.

3. That the overall program structure will be integrated with a comprehensive transportation funding strategy for the state and region and will be consistent with the framework described in Exhibit A.

4. That up to \$350,000 of Surface Transportation Program funds are allocated to commence a work program consistent with Exhibit B and the FY 93 Unified Work Program is amended accordingly. The final amount is subject to local government contributions.

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

ACC:lmk
92-1668A.RES
10-15-92

EXHIBIT A

CONCEPT DRAFT OF INTERGOVERNMENTAL AGREEMENT ON A REGIONAL VEHICLE REGISTRATION FEE FOR ROADS

A. Timeframe

1. A decision will be made on whether or not a regional measure will be referred to the voters on or before an election date of November 1993.
2. The specific election date will be determined in accordance with the procedures set forth in this intergovernmental agreement.
3. This intergovernmental agreement terminates effective December 1, 1993 unless the regional Vehicle Registration Fee measure has passed.

B. Purpose of Vehicle Registration Fee

1. Revenues from the Vehicle Registration Fee must concern arterials, collectors or other improvements designated by JPACT as required by ORS. Consideration will be given to arterial improvements to benefit vehicular, bike, pedestrian and transit modes.

C. Amount of Fee

1. The regional Vehicle Registration Fee shall be an amount equal to the state fee.

D. Annual Allocation of Proceeds to Regional Arterial Funds

1. Metro shall establish five distinct sub-funds to the Regional Arterial Fund.
 - a. The Multnomah County Regional VRF Fund
 - b. The Clackamas County Regional VRF Fund
 - c. The Washington County Regional VRF Fund
 - d. The City of Portland Regional VRF Fund
 - e. The Regional Allocation VRF Fund
2. Prior to allocating gross proceeds to the five funds, Metro will appropriate one-tenth of 1 percent of gross proceeds (net of deductions by DMV) for administrative costs.
3. Three-quarters of the net proceeds will be allocated to the four jurisdictional sub-funds (a through d) on the basis of their pro-rata share of regional vehicle registrations.

4. The remaining one-quarter of the net proceeds shall be allocated to the Regional Fund (Fund e).
5. Interest earnings derived from each sub-fund shall accrue to that sub-fund and be allocated and disbursed in accordance to the procedures of that sub-fund.

E. Allocation of Revenue in Funds to Projects

1. Monies within the Regional Arterial Fund may be disbursed only for a program of projects recommended by JPACT.
2. The Metro Council may choose to accept the recommendation or remand it to JPACT for revision.

F. Procedures for Ballot Measure

1. JPACT shall recommend a measure to place the regional Vehicle Registration Fee on the ballot. This measure is to specify the precise Vehicle Registration Fee program and election date.
2. The Metro Council may choose to accept the recommendation or remand it to JPACT for revision.

G. Amendments to Intergovernmental Agreement

1. This intergovernmental agreement may be amended by mutual agreement of the signatories.

H. Termination of Intergovernmental Agreement

1. This intergovernmental agreement may be terminated by the written request of three of the five signatories. Termination of the intergovernmental agreement will terminate the regional Vehicle Registration Fee effective at the beginning of the calendar year following the termination request.

92-1668A.RES
ACC:lmk
9-21-92

EXHIBIT B

REGIONAL ARTERIAL FUND
WORK PROGRAM

1. September - November, 1992
Define Program Structure
Preliminary Selection of Projects
2. December, 1992 - Polling
Public Involvement
Consult with DMV regarding Procedures
3. November, 1992 - February 1993
Engineering Cost Estimates
Planning Context/Justification
Project Descriptions/Purpose
Public Involvement
4. January, 1993 - March, 1993
Financial Analysis
Delineation of Address Records for DMV
Draft Ballot Measure
5. March, 1993 - Polling
6. April, 1993 - Preliminary Assessment of Financing Options
7. June/July, 1993 (after Legislative session)
Final Decision on Financing Options

JPACT/Metro Council decision on whether to refer a measure to the voters
8. July, 1993 - Public Information Program

Resource Requirements

Metro Staff

| | | |
|--------------------------|--------------------|------------|
| Project Management . . . | 0.25 | |
| Project Selection. . . . | 0.15 | |
| Public Involvement . . . | 0.50 | |
| Address Records. | <u>0.10</u> | |
| | 1.00 FTE | .\$ 75,000 |

Consultants, for example:

| | |
|------------------------------------|--------------|
| Polling (@ \$25,000 ea.) | 50,000 |
| Engineering Consultant. | 40,000 |
| Planning Consultants. | 25,000 |
| Graphics/Report Printing. | 40,000 |
| Information Brochure. | 17,500 |
| Newspaper Insert. | 44,000 |
| Video for Cable TV. | 50,000 |
| Project Signs | <u>8,500</u> |
| | \$350,000 |

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 92-1668A FOR THE PURPOSE OF DEFERRING PURSUIT OF A LOCAL OPTION VEHICLE REGISTRATION FEE FOR ARTERIAL-RELATED IMPROVEMENTS

Date: September 8, 1992

Presented by: Andrew Cotugno

FACTUAL BACKGROUND AND ANALYSIS

Proposed Action

Adoption of Resolution No. 92-1668A would:

1. Defer Metro's pursuit of voter approval for a local option vehicle registration fee for arterial-related improvements;
2. Extend the intended deadline from November 1992 to November 1993; and
3. Adopt a work program to develop the program of projects and prepare for the vote and allocate \$350,000 of "Surface Transportation Program" (STP) funds.

Background

In January 1989, Metro adopted a comprehensive funding strategy encompassing five major elements:

- Major Highway Improvements
- LRT Expansion
- Arterial Improvements
- Expanded Bus Service
- Road Maintenance and Preservation

The local option vehicle registration fee was the key proposal for funding arterial improvements. Upon approval of the Oregon Legislature of enabling legislation, Metro established its intent to use this authority in July 1990 by Resolution No. 90-1301. Progress has been made in each category with the exception of the local option fee.

In July 1992, JPACT considered whether to recommend proceeding with the local option fee at the November 1992 ballot. At that time, it was recognized that insufficient time existed to put together a credible program and that it was preferable to wait until after the '93 Legislature deals with transportation funding recommendations resulting from the Oregon Transportation Plan and Roads Finance Study.

In addition, it was recognized that this program needs to be integrated with the funding strategies for the other areas,

including allocation of STP funds, funding for alternative modes, (such as bikes, pedestrians, transit and demand management) and funding for the next regional LRT corridor.

The schedule for the local option vehicle registration fee work program is designed to complete development of the program of projects by March 1993 in order to then allow consideration of funding strategies. If a decision is made to proceed with referring of the measure to the voters, it will also be necessary to execute an intergovernmental agreement with the three counties, Portland and Tri-Met. According to law, since multiple jurisdictions were given the authority to ask the voters for the fee, it is necessary to execute an intergovernmental agreement specifying which jurisdiction will proceed, at what fee level and for what purpose. Execution of that agreement will be sought based upon the program of projects that is referred to the voters.

The proposed Metro budget included a work element in the Transportation Department to develop this program via the use of interfund borrowing to be paid back through proceeds from the fee. This allocation of STP funds is in lieu of interfund borrowing.

Executive Officer's Recommendation

The Executive Officer recommends adoption of Resolution No. 92-1668A.

Meeting Date: October 22, 1992
Agenda Item No. 7.6

RESOLUTION NO. 92-1696

TRANSPORTATION AND PLANNING COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 92-1696, FOR THE PURPOSE OF AUTHORIZING THE ACCEPTANCE OF A TRANSFERRED POSITION FROM THE OREGON OFFICE OF EMERGENCY MANAGEMENT TO METRO AND DIRECTING PREPARATION OF BUDGET AMENDMENT

Date: October 15, 1992

Presented by: Councilor McLain

Committee Recommendation: At the October 13 meeting, the Transportation and Planning Committee voted unanimously to recommend Council adoption of Resolution No. 92-1696. Voting in favor: Councilors Devlin, McLain, Buchanan, Moore, and Washington.

Committee Issues/Discussion: Don Rocks, Executive Assistant, Executive Office, presented the staff report. He explained the background of the position proposed for transfer to Metro and the reasons why he believed it to be in the agency's best interest. Metro's role in regional emergency planning has increased in recent years in the area of major disaster planning (e.g. earthquakes). The agency has worked closely with the Oregon Seismic Safety Policy Advisory Committee (OSSPAC) and the Oregon Office of Emergency Management (OEM). Myra Thompson Lee, OEM Director, approached Metro with the proposal of transferring one employee from the State of Oregon to Metro.

The position is presently funded at the Oregon Office of Emergency Management through a Federal Emergency Management Administration (FEMA) grant, which would accompany the position if transferred to Metro. Salary and fringe benefits would be included but expenses for space, equipment, materials and supplies, estimated at \$18,000, are not. These additional funds are available within the Planning Funds for this fiscal years due to under-staffing. In addition, the individual holding the position would like his accrued vacation to accompany him. This resolution calls for transfer of the position and preparation of a budget amendment.

The official transfer would be completed through a contract in the form of an intergovernmental agreement. Within the agreement it states that Metro is not obligated to continue the position if funding from FEMA ceases. The position will be placed within the Planning Department. A workplan will need to be developed which includes the portions of time devoted to the State of Oregon and Metro.

In response to questions, Mr. Rocks explained that if FEMA funding ceases, the job will be eliminated as a Metro position. This is merely a way to allow the State of Oregon to officially eliminate a position, even though the position has no state funding. FEMA, as an agency, has been gaining in support recently. Mr. Rocks felt that funding would be more likely to increase, rather than

decrease.

Mr. Rocks clarified two errors in the staff report: 1) The grant amount from FEMA totals \$700,000 rather than \$800,000; and 2) the starting date is November 1 rather than October 26, 1992.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

| | |
|-----------------------------------|-------------------------|
| FOR THE PURPOSE OF AUTHORIZING) | RESOLUTION NO. 92-1696 |
| THE ACCEPTANCE OF A TRANSFERRED) | |
| POSITION FROM THE OREGON OFFICE) | Introduced by Executive |
| OF EMERGENCY MANAGEMENT TO) | Officer Rena Cusma |
| METRO AND DIRECTING PREPARATION) | |
| OF BUDGET AMENDMENT) | |

WHEREAS, Metro has acknowledged the importance of reducing earthquake hazards in the metropolitan area and has programmatically joined with the state Department of Geology and Mineral Industries (DOGAMI) to include soils stability data as an overlay to the Regional Land Information System (RLIS); and

WHEREAS, There are additional aspects of region preparedness involving the mitigation of earthquake hazard and related regional planning matters which are not being performed because budget cuts required during the FY 1992-93 budget process eliminated an earthquake program position; and

WHEREAS, The State Of Oregon Office of Emergency Management (OEM) has been required by the Governor to reduce staff and has identified a position that fulfills the state commitment to the Federal Emergency Management Administration (FEMA) which also benefits the metropolitan region; and

WHEREAS, The position is funded entirely through the FEMA Earthquake Hazards Reduction Program and acceptance of the position and its occupant do not require Metro funds or a commitment to maintain the position in the absence of FEMA funds; and

WHEREAS, The state OEM has obtained the approval of FEMA in transferring the subject position to Metro which provides the

opportunity for the agency to utilize a considerable amount of his time to fulfill objectives of Metro's earthquake program as well as meet commitments to FEMA and OEM; and

WHEREAS, The transferred position can be appropriately housed and supervised by the Metro Planning Department; now, therefore,

BE IT RESOLVED,

1. That the position transfer be authorized under an intergovernmental agreement between Metro and the OEM.

2. That a budget amendment ordinance be prepared for Council approval reflecting the line item position to be transferred and the source of revenue received to fund the position as of October 26, 1992.

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

Jim Gardner, Presiding Officer

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 92-1696: FOR THE PURPOSE OF AUTHORIZING THE ACCEPTANCE OF A TRANSFERRED POSITION FROM THE OREGON OFFICE OF EMERGENCY MANAGEMENT TO METRO AND DIRECTING PREPARATION OF BUDGET AMENDMENT

Date: October 6, 1992

Presented By: Don Rocks

BACKGROUND

Several months ago Myra Thompson Lee, Administrator, Oregon Emergency Management, approached the Executive Office to determine interest in accepting a position transferred from her staff to Metro. The position was described as one she was required to remove from her budget under guidelines prepared by the Office of the Governor.

Ms. Thompson observed that the position was charged with performing certain tasks that fulfilled the state's obligation to the FEMA Earthquake Hazards Reduction Program in exchange for full federal funding. The program has statewide application and much of the work relates directly to the reduction of earthquake hazards in the metropolitan area.

In addition to fulfilling the state program requirements which justify FEMA funding of the position, there remains a block of time which can be directed by Metro to specific regional earthquake planning needs.

The position will be housed in the Planning Department. Metro's commitment to regional earthquake planning needs at present include application for some 3 million dollars for the DOGAMI/METRO regional soils mapping project which will identify unstable soils and related earthquake hazards as an overlay to RLIS. The whole amount will be roughly split between the two agencies and the first 800 thousand dollars has been authorized.

Planning, at present, has also assigned a portion of one planner's time to Metro's earthquake program. That planner (Gerry Uba) has been meeting with the OEM and regional emergency managers to assist in enunciating and implementing the common elements of a regional emergency plan. The addition of the transferred position would expedite this work and strengthen relationships with the state planning apparatus and with emergency managers throughout the region.

The position is directly linked to the FEMA Earthquake Hazard Reduction Program and there is no obligation that it continue should those funds not be forthcoming. The state shall be responsible for annually applying for those funds. Should restrictions placed upon the OEM budget be lifted in future, the state would take back the position.

EXECUTIVE OFFICER'S RECOMMENDATION

The Council is asked to approve Resolution 1696 and to authorize that a budget amendment ordinance be prepared.

Meeting Date: October 22, 1992
Agenda Item No. 7.7

RESOLUTION NO. 92-1652A

REGIONAL FACILITIES COMMITTEE REPORT

RESOLUTION NO. 92-1652A, AUTHORIZING A DEVELOPMENT EFFORT AND STATING METRO'S INTENT TO PROVIDE FINANCING VIA GENERAL OBLIGATION BONDS FOR THE END OF THE OREGON TRAIL PROJECT.

Date: October 14, 1992

Presented by: Councilor McFarland

COMMITTEE RECOMMENDATION: At its October 13, 1992 meeting the Regional Facilities Committee voted 3-0 to recommend Council adoption of Resolution No. 92-1652A. Voting were Councilors McLain, McFarland, and Washington. Councilors Collier and Gronke were absent.

COMMITTEE DISCUSSION/ISSUES: The Regional Facilities Committee first discussed Resolution No. 92-1652 on July 28, 1992. The resolution was then in draft form, and the committee directed Regional Facilities staff to forward it to Clackamas County and the Oregon Trail Foundation for comment. The committee again considered Resolution 92-1652 at its August 25 meeting, at which time it was deferred to a later date because Clackamas County had suggested changes in the resolution's language and the differences in language had not been resolved. Resolution No. 92-1652A includes changes to the original resolution which were agreed to by a group of Councilors, the Executive Officer, representatives of Clackamas County and the Oregon Trail Foundation.

The amended resolution establishes Metro's intent to issue General Obligation bonds to finance construction of the End of the Oregon Trail project, subject to approval of a Memorandum of Understanding (MOU) by the governing bodies of Metro, Clackamas County, and the Oregon Trail Foundation. The MOU is to establish agreement on seven issues which are specified in the resolution, including the timing and amount of the bond measure and management authority for the project's construction and subsequent operations. The amended resolution deletes a requirement that Metro create a regional advisory committee for the project at this time, though it is anticipated such a body would be appointed later if agreement is reached on the MOU. A schedule for developing the MOU was distributed at the October 13 committee meeting, which anticipates its completion by the end of 1992.

Councilor Van Bergen said he agreed that the management structure and responsibility need to be resolved among the parties. He said if Metro provides financing through a regional bond measure that Metro should have a strong role in the management; he urged early resolution of this issue to avoid future problems like those surrounding consolidation of MERC facilities.

Councilor McLain agreed that all the issues listed in the resolution, including the management issue, need to be resolved and that all parties have a clear understanding of responsibilities and authority before going ahead with the project.

Councilor McFarland said it would be appropriate for Metro to take the lead on this project because its scope goes beyond the city or county in which it would be located, and be of national and even international significance.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING) Resolution No.92-1652A
A DEVELOPMENT EFFORT AND STATING)
METRO'S INTENT TO PROVIDE FINANCING) Introduced by Rena Cusma,
VIA GENERAL OBLIGATION BONDS FOR) Executive Officer
THE END OF THE OREGON TRAIL PROJECT)

WHEREAS, Clackamas County, the City of Oregon City, and the Oregon Trail Foundation, in cooperation with the State of Oregon and the eight-county Oregon Tourism Alliance, has completed a well-conceived master plan for the End of the Oregon Trail ("EOT") Project to include an Outdoor Living History Museum and an Interpretive Center as well as other associated facilities; and

WHEREAS, the EOT was designated by the United States Government in 1981 as one of two interpretive centers that should be constructed to commemorate this western migration (the other being the beginning of the Trail in Independence, MO); and

WHEREAS, the Oregon Trail Coordinating Council has recommended the EOT interpretive center for statewide participation and support; and

WHEREAS, an Oregon Trail Foundation, Inc. has been established with region-wide representation and is the primary organization overseeing this project in cooperation with the City of Oregon City and Clackamas County; and

WHEREAS, this project is expected to compare in visitor attendance to the Metro Washington Park Zoo, OMSI, and Oregon Coast Aquarium, drawing from regional, state, national and international markets; and

WHEREAS, the EOT project has potential to be operated and marketed in cooperation and alignment with other regional facilities; and

WHEREAS, Metro has been designated the lead agency for regional convention, trade and spectator facilities and operates other regional attractions such as the zoo and the Portland Center for the Performing Arts; and

WHEREAS, Clackamas County has restructured its hotel/motel tax ordinance and is thereby capable of providing needed operational support for the EOT project; and

WHEREAS, Metro's Public Policy Advisory Committee for Regional Convention, Trade, Performing Arts and Spectator Facilities recommended, "Metro should support the EOT project as a regional facility and should seek a source of funds to support construction of the facility and work with Clackamas County and Oregon City on a management structure"; and

WHEREAS, a recent poll indicates that development of this project has high public support from the entire region; and

WHEREAS, other private, state and federal funds are likely to be available to support the project; and

WHEREAS, the EOT project creates an opportunity to creatively use a closed landfill and provides a linkage to other regional issues such as the Greenspaces program; and

WHEREAS the EOT is a project of regional and national significance, and it is therefore appropriate to share the costs and benefits regionally; now therefore,

BE IT RESOLVED, that:

1. It is the intent of Metro to place a General Obligation Bond on a future ballot to finance construction of the project, subject to the approval of a Memorandum of Understanding described in paragraph 2 below.
2. A Memorandum of Understanding ("MOU") be developed between the Metropolitan Service District, Clackamas County, and the Oregon Trail Foundation, Inc. [and other End of the Oregon Trail investors] that establishes:
 - A. the amount of the bond and what project elements will be funded;
 - B. the timing of the ballot measure vote;
 - C. the responsibility and format for acquisition of project lands;
 - D. a management structure for operations and construction;
 - E. a source for operational funding;
 - F. a method to implement closure of the Rossman Landfill in a manner consistent with the EOT Masterplan and a final DEQ Closure Plan; and
 - G. an agreement on procedure for resolution of other issues that may arise.
3. The MOU will be submitted by the Executive Officer to the Metro Council for review and [confirmation] approval. Such approval will be obtained within sufficient time to place a measure on a future ballot.
- [4. In consultation with the Oregon Trail Foundation the Executive Officer may appoint and obtain Council confirmation by subsequent resolution a regional citizen's advisory committee to provide regional input and support for the project.]

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

Jim Gardner, Presiding Officer

DRAFT

Schedule for Developing
Memorandum of Understanding
End of the Oregon Trail Project

| <u>Activity</u> | <u>Date</u> |
|---|--------------------|
| Metro Regional Facilities Committee consideration of Resolution No. 92-1652A | Oct. 13 |
| Metro Council consideration of Resolution No. 92-1652A | Oct. 22 |
| Identification of team from Metro, Clackamas County and Oregon Trail Foundation, Inc. to develop MOU | Oct. 22 |
| First Team Meeting | Week of |
| -- Establish target Election Date | Oct. 26 |
| -- Update on land acquisition, funding, and construction schedule for 1993 celebration | |
| -- Discuss project scope | |
| -- Discuss potential project costs (environmental mitigation, landfill closure, site preparation, construction, program considerations) and financing options | |
| Second Team Meeting | Week of |
| -- Determine program design | Nov. 2 |
| -- Determine project scope | |
| -- Update on project costs | |
| -- Discuss management structure for land acquisition and construction | |
| Third Team Meeting | Week of |
| -- Update on project costs | Nov. 9 |
| -- Discuss operational costs and funding sources | |
| -- Discuss management structure for operations | |
| Fourth Team Meeting | Week of |
| -- Update on project costs | Nov. 16 |
| -- Determine amount of general obligation bond and what project elements will be funded* | |
| Fifth Team Meeting | Week of |
| -- Review draft of Memorandum of Understanding | Nov. 30 |
| Submit MOU to Clackamas County Board of Commissioners, Oregon Trail Foundation, Inc. Board of Directors, and Metro Council | Week of Dec. 14 |

* Dependent upon resolution of key issues during this process such as cost of environmental mitigation and final DEQ closure plan.

Staff Report

CONSIDERATION OF RESOLUTION NO. 92-1652A FOR THE PURPOSE OF AUTHORIZING A DEVELOPMENT EFFORT AND STATING METRO'S INTENT TO PROVIDE FINANCING VIA GENERAL OBLIGATION BONDS FOR THE END OF THE OREGON TRAIL PROJECT

Date: October 5, 1992

Presented by: Pam Erickson

Background

The Regional Facilities Committee first reviewed Resolution No. 92-1652 at its August 25, 1992 meeting. No action was taken pending further discussions with the Oregon Trail Foundation, Inc. and the Clackamas County Board of Commissioners concerning changes they proposed to the resolution.

At a subsequent meeting with the Executive Officer, Metro Councilors, and representatives of the Oregon Trail Foundation, Inc. and Clackamas County Commission, changes to the resolution were discussed. Those changes are reflected in Resolution No. 92-1652A.

All of the changes are contained in the "Be It Resolved" section. In paragraph 1, placing a general obligation bond measure on a future ballot is conditional on the approval of a Memorandum of Understanding. In paragraph 2, parties to the Memorandum of Understanding have been changed to include Clackamas County and the Oregon Trail Foundation, Inc. Paragraph 4 is being deleted. Deleting this paragraph does not mean that a regional citizen's advisory committee will not be appointed. It simply means that this paragraph is unnecessary. The Executive Officer could appoint such a committee at any time.

Attached to this resolution is a draft schedule for developing the Memorandum of Understanding.

Fiscal Impact

Staff time for the planning effort contained in Resolution 92-1652A is included in the 1992-93 Fiscal Year budget. As this effort proceeds and a date for a vote on the general obligation bond measure is set, funds will be requested for costs associated with the bond measure and with issues to be addressed during this process. This may occur in either Fiscal Year 1992-93 or in the 1993-94 budget process depending on the timing of the vote.

Executive Officer Recommendation

The Executive Officer recommends adoption of Resolution No. 92-1652A.

Meeting Date: October 22, 1992
Agenda Item No. 7.8

RESOLUTION NO. 92-1694A

REGIONAL FACILITIES COMMITTEE REPORT

RESOLUTION NO. 92-1694A, AUTHORIZING THE ISSUANCE OF THE REQUEST FOR PROPOSALS FOR THE OPERATOR OF METRO'S ON-SITE CHILDCARE FACILITY TO BE LOCATED IN THE HEADQUARTERS BUILDING.

Date: October 14, 1992 Presented by: Councilor Washington

COMMITTEE RECOMMENDATION: At its October 13, 1992 meeting the Regional Facilities Committee voted 3-0 to recommend Council adoption of Resolution No. 92-1694A. Voting were Councilors McLain, McFarland, and Washington. Councilors Collier and Gronke were absent.

COMMITTEE DISCUSSION/ISSUES: Headquarters Project Manager Berit Stevenson presented the staff report. She referred to an earlier committee discussion of a draft RFP for child care at the Metro Headquarters building, and said the resolution under consideration incorporated changes suggested by the Regional Facilities committee and committee staff. She discussed the proposed Child Care Advisory Committee, saying the RFP does not specify the composition or role of the committee, which can be resolved outside the RFP process. The RFP only requires the contractor to cooperate with the advisory committee.

Councilor McFarland said she has no quarrel with the RFP, recognizing there will be areas that require modification after we get some experience. She had concerns about liability from the original draft, but she is comfortable with the RFP if counsel advises that liability is not a problem. She thanked Ms. Stevenson for her work.

Councilor Washington asked General Counsel Dan Cooper if Metro is protected from liability. Mr. Cooper said the "hold harmless" clause in Section 3.4 in conjunction with insurance requirements elsewhere would protect Metro from liability costs. Councilor Washington asked who is responsible for ensuring the safety of toys and equipment. Ms. Stevenson said the operator would assist Metro in selecting the equipment, and Risk Management would be consulted. Councilor McFarland said there are state and federal product safety requirements that govern such equipment in child care centers. Councilor Washington asked whether required background checks would ensure children's safety. Mr. Cooper said there is no way to guarantee such safety, but requiring background checks of personnel and contracting with a reputable provider greatly minimizes the possibility of something slipping through the cracks. Ms. Stevenson said we are including as many checks as we can. Councilor McFarland said that in most cases where children have been harmed by a day care employee, there were early warnings that something might happen which were ignored. If we follow our procedures, we will probably avoid such problems.

Councilor McLain cited a provision on page 9 of the RFP regarding procedures for determining whether to keep the child care center open for Council meetings, to encourage people to come to the meetings. She had a problem with the word "feasible" in the last sentence of the fourth full paragraph. She wanted it to be clear that Metro would be able to decide whether to keep the center open after hours, and not have the decision based on the operator's financial concerns. Councilor McFarland moved to amend the last sentence in that paragraph, as follows:

Metro will determine ~~if-continued-operation-is-feasible~~
whether to continue the operation.

The amendment was approved 3-0.

Council Analyst Casey Short pointed out the RFP called for a 5-year contract, and that the resolution would authorize the Executive Officer to execute the contract, waiving the Council's prerogative to approve the contract following the RFP process. Committee members had no objection to these provisions.



METRO

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

Memorandum

DATE: September 22, 1992
TO: Regional Facilities Committee
FROM: Casey Short^{CS}, Council Analyst
RE: Proposed RFP for Child Care Services at Metro Headquarters

I have reviewed the proposed RFP for child care services at the Metro Headquarters facility, which is scheduled for review at your committee meeting today. The RFP requires Council approval by resolution because it is a multi-year contract, so today's review should be considered preliminary. I understand the Regional Facilities Department plans to have a resolution authorizing release of the RFP before your committee at the October 6 meeting.

I have a few questions regarding the proposed RFP, beginning on page 8.

p. 8, first full paragraph: "The mix of ages should be age appropriate . . ." What does this mean?

p. 8, third paragraph: Why are we asking for accreditation from two agencies (National Association for the Education of Young Children and National Academy of Early Childhood Programs)?

p. 9, second full paragraph: Please explain how the goal of maintaining at least 50% "Metro kids" will work in practice. What will be the policy if less than 50% of openings are requested by Metro employees? Conversely, is there a ceiling for Metro employees' participation - could the center have 100% Metro kids if the demand were there?

p.9, third full paragraph: Please clarify whether the contractor will be expected to provide child care during Council meetings and committee meetings.

p. 9, fourth full paragraph: "Contractor fees charged to parents for child care services must be consistent with and not exceed the range of market rates for Portland area child care centers of comparable quality. These fees will be reviewed on an annual basis and revised as necessary."

Who will determine whether rates are within market rates, and how will that determination be made? Will Metro have authority to approve rates/fees?

"Since rent, utilities and janitorial services will be assumed by Metro, it is expected that a better wage and benefit package will be offered to Center employees."

Will wage and benefit rates be considered in determining the contract award?

p. 9, section 3.1: ". . . a payroll collection system for the automatic deduction of fees from Metro parent's paycheck is anticipated. . . "

When is such a system expected to be in operation? What will be the costs?

p. 9, section 3.1(a): "Staff shall submit to criminal history background checks or other checks as requested by Metro."

What "other checks" are contemplated?

p. 10, section 3.1(e): There is a reference here to "parent organizations." What is contemplated here?

p. 10, section 3.1(f): I applaud the requirement that breakfast be provided, but experience teaches me that it only be provided if a child arrives by a certain time.

p. 10, section 3.1(g): Reference to "these" expenses should be clarified to indicate that the contractor is responsible for local and long distance telephone line charges and maintenance charges.

p. 11, section 3.3.a: What is to be the composition of Metro's Childcare Committee, how will its members be selected, and what will be its charge?

p. 12, section 3.3(c): Is there a reason the non-discrimination clause does not include sexual orientation?

p. 13, top paragraph (section 4.1.d): Please explain why replacement of equipment, toys and furniture is to be the responsibility of the contractor. It seems to me that if Metro is committing to buy the original equipment, then Metro should replace it. This should either be a contractor responsibility from the outset or a Metro responsibility, including replacement.

Attachment B: When will the list of equipment, toys and furniture be available?

Attachment D: Section 2.1. (on page 9 of the RFP) says Metro expects a better wage and benefit package will be offered to Center employees. If we are expecting such a thing, shouldn't employee compensation be an evaluation criterion?

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

**FOR THE PURPOSE OF AUTHORIZING)
THE ISSUANCE OF THE REQUEST FOR)
PROPOSALS FOR THE OPERATOR OF)
METRO'S ON-SITE CHILDCARE FACILITY)
TO BE LOCATED IN THE HEADQUARTERS)
BUILDING)**

RESOLUTION NO. 92-1694

**Introduced by Rena Cusma
Executive Officer**

WHEREAS, the Headquarters Project has included the design and construction of a 6,400 square foot space which will become a Childcare Center; and

WHEREAS, the Childcare Center will accommodate at least 50 children, ranging in age from six weeks to six years and will be utilized by both Metro employed parents and parents from the surrounding neighborhood; and

WHEREAS, a Requests for Proposals (RFP) for an Operator for the Childcare Center has been prepared by Metro staff in conjunction with Metro's Childcare Consultant and is attached as Exhibit "A"; and

WHEREAS, the RFP contemplates a multi-year contract which has been designated an "A" list contract, thereby requiring Metro Council authorization prior to issuance; now therefore,

BE IT RESOLVED, that the Council hereby authorizes the issuance of the RFP for an Operator of the Metro Childcare Center and authorizes Executive Officer to enter into a contract with the selected Operator.

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

**_____
Jim Gardner
Presiding Officer**

EXHIBIT "A"

METROPOLITAN SERVICE DISTRICT

Request For Proposals
for
On-Site Childcare Center Operator

TO: Prospective Proposers

SUBJECT: Requests for Proposals for
On-site Childcare Center Operator at the
Metro Headquarters Building

ISSUE DATE: November 2, 1992

ISSUED BY: Berit Stevenson
Regional Facilities Department, Metro
(503) 221-1646

MAILING ADDRESS: Metro
2000 Southwest First Avenue
Portland, Oregon 97201
Attn: Berit Stevenson

PROPOSALS DUE: 2:00 pm, PST
Friday, December 6, 1992

INVITATION TO PROPOSE

**for the
ON-SITE CHILDCARE CENTER OPERATOR**

**for the
METRO HEADQUARTER BUILDING**

The Metropolitan Service District (Metro) administers region wide concerns in the urban areas of Clackamas, Multnomah and Washington counties. Metro is responsible for solid waste management, operation of the Metro Washington Park Zoo, transportation and land use planning, urban growth boundary management, technical services to local governments and, through the Metropolitan Exposition-Recreation Commission, management of the Oregon Convention Center, Memorial Coliseum, Civic Stadium and the Portland Center for the Performing Arts.

Metro has recently purchased and is renovating the former Sears Department store located in Northeast Portland at the intersection of Grand Avenue and Irving Street. The building, scheduled to be completed in March 1993, will become Metro's new Headquarters Building and will include approximately 85,000 sq. ft. of Metro office space. In addition, the Metro Headquarters Building will include a childcare facility to serve both Metro and non-Metro parents and their children. The 6,400 sq. ft. childcare facility is designed to accommodate fifty infants, toddlers and preschoolers. Metro is soliciting written proposals for a qualified Childcare Center Operator to develop, implement and operate a high quality child care program for the Metro Headquarters Building Childcare Center. The required elements of the high quality child care program are detailed in the attached Scope of Work.

Metro reserves the right to reject any or all Proposals not conforming to the intent and purpose of the Request for Proposals, to waive any informality or irregularity in any Proposal, and to, for good cause, reject any or all Proposals upon a finding by Metro that it is in the public interest to do so.

Metro and its Contractors will not discriminate against any person or firm upon race, color, national origin, sex, sexual orientation, age, religion, disability, political affiliation or marital status. Metro extends equal opportunity to all persons and specifically encourages disadvantaged and women-owned businesses to access and participate in this and all Metro projects, programs and services.

PROPOSAL INFORMATION

1.0 PROPOSAL SUBMISSION

1.1 Proposers shall prepare their proposals using the following format:

1.1.a. Letter of Transmittal - This letter will summarize in a brief and concise manner, the proposer's understanding of the Scope of Work and their proposed approach to meet the Scope of Work. The letter should name all of the persons authorized to make representations for the proposer, and include addresses and telephone numbers.

1.1.b. Statement of Organization Profile and Qualifications - This statement should describe the proposer, including organizational structure, size, range of activities, pertinent past experience and qualifications, etc. Identify the primary individuals responsible for performing the work, including but not limited to the Site Director, and include resumes and references.

1.1.c. Statement of Work - This section should explain the Scope of Work as understood by the proposer and detail the approach, activities and work product(s) to be delivered by proposer. Specifically, proposer should:

- Describe their overall philosophy and goals for the program and the philosophy and goals for each age group within the program.
- Prepare a typical, detailed daily schedule for each age group.
- Describe plans for involving parents in the program.
- Describe staffing policies and procedures, including training program, employee benefits, ongoing evaluations and proposed staffing schedule.
- Describe in detail a start-up plan and schedule.
- Provide a proposed annual operating budget, including parent's fees for each age group, full and part time, late fees, registration fees and any other fees and all expenses; costs associated with the start-up period should be discussed.
- Include a list of any equipment, toys, furniture and supplies to be provided by proposer.
- Describe how enrollment, priority to Metro parents and/or parents with siblings enrolled, terminations, withdrawals, waiting list, requests for part time will be handled.
- Describe health and safety procedures.
- Describe accounting and fiscal management procedures.
- Describe proposed diaper policy.
- Describe proposed food service, including proposed menus.
- Submit a floor plan for utilization of available space.

- Describe proposer's plan for working with an advisory committee.
- Specify and provide information on any other model program elements deemed unique, innovative and worthy of Metro consideration.

1.1.d. Proposed Parent's Fee Work Sheet - Attachment "C"

1.1.e. Additional Data - Any additional information which the proposer considers pertinent for consideration should be included in this separate section. This may include printed brochures and other material describing proposer or other operations of proposer.

1.2 All proposals must be received no later than 2:00 pm, Friday, December 6, 1992. No late proposals will be accepted. Proposals should be hand carried or mailed to Berit Stevenson, Project Manager, Regional Facilities Department, Metro, 2000 SW First Avenue, Portland, Oregon 97201.

1.3 One original and five copies of the proposal shall be submitted. The original shall bear an original signature of an authorized representative of the proposer. Proposals must be submitted in sealed package(s) or envelope(s) and shall be marked "Proposal - Metro Headquarters Childcare Center Operator."

1.4 A proposer may not modify a proposal after it has been submitted to Metro. A proposer may rescind their proposal and submit a new sealed proposal prior to the time set for receipt of proposals. No oral, telegraphic, facsimile or telephone proposals will be considered.

2.0 PROPOSAL EVALUATION

2.1 Metro will appoint a selection committee to evaluate proposals and to select the proposer which best meets the interests of Metro. Selection committee members will include representatives of Metro and local childcare administrators and educators.

2.2 Written proposals will be evaluated, and two to four semi-finalists may be selected. Each semi-finalist may be required to make a presentation of a specified maximum length. The semi-finalists will be notified, and a date and time for presentations will be arranged. The purpose of such presentation is to provide an opportunity for the semi-finalists to clarify or elaborate on their proposal. The proposed site director and any other proposed staff may be required to participate in the presentation.

2.3 Metro may request to make site visits to on-going programs of semi-finalists prior to making an award.

2.4 The selection committee's evaluation will be based on the written responses submitted and on clarifying information received either during the presentation or on-site visits if applicable. The selection committee will use an Evaluation of Proposals Form attached as Attachment "D" to assist in their determination.

3.0 PRE-PROPOSAL CONFERENCE

3.1 A pre-proposal conference will be held at 10:00 am, November 13, 1992 at the Oregon Convention Center in the King Boardroom. All proposers are encouraged to attend. This RFP will be explained and proposers may ask questions regarding it and the selection process. A site tour of the facility will be conducted immediately subsequent to the pre-proposal conference. All proposers are encouraged to attend since the Center will be under construction and unescorted access denied.

4.0 AMENDMENT TO THE RFP

4.1 Metro may amend this RFP after issuance as a result of either changed circumstances or questions posed by proposers. All proposers who have received this RFP from Metro will receive amendments to the RFP. All requests to amend the RFP must be made in writing and be received by Metro no later than seven calendar days prior to the due date for the proposals.

5.0 GENERAL PROPOSAL AND CONTRACT CONDITIONS

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

5.2 This RFP represents the most definitive statement Metro will make concerning the information upon which proposals are to be based. Any verbal information which is not addressed in this RFP will not be considered by Metro in evaluating the proposals. All questions relating to this RFP should be addressed to Berit Stevenson at (503) 221-1646. Any questions, which in the opinion of Metro, warrant a written RFP amendment will be furnished to all parties receiving this RFP.

5.3. Metro intends to award a Personal Services Agreement with the selected operator. Metro has determined it is in the best interest of children and their parents to provide uninterrupted service for childcare through a

long-term relationship. Therefore, the term of the Agreement will be five years. However, the Agreement will be subject to an annual review.

A copy of the standard Personal Services Agreement contract form approved by Metro General Counsel is attached as Attachment "E". Any proposed changes in the language, construction or requirements of the document must be raised and resolved as a part of the RFP process. All proposers are therefore advised to review, clearly document, and include a response to this document in their proposal.

5.3 The proposal shall be considered valid for a period of at least 90 days from proposal due date. The proposal shall contain the name, title, address and telephone number of an individual or individuals with authority to bind any organization contracted during the period in which Metro is evaluating the proposals.

5.4 All proposers are hereby advised and through submission of a proposal agree to release Metro to solicit and secure background information based upon the information including references provided. Fully descriptive and complete information should therefore be provided to assist in this process and ensure the appropriate impact.

5.5 In the event that any subcontracts are to be utilized in the performance of this agreement, the proposer's attention is directed to Section 2.04.160 of the Metro Code and an October 1991 letter from Metro's Deputy Executive Officer which strongly encourages good faith efforts to utilize Disadvantaged, Minority and Women Owned Business Enterprises and subcontractors and suppliers.

SCOPE OF WORK

ON-SITE CHILDCARE CENTER OPERATOR

METRO HEADQUARTERS BUILDING

Contractor shall design, implement and operate a high quality, fee-for-service, child care program in the new Metro Headquarters Building. The program will be full-day, year-round and will be developmentally appropriate for young children, ages six weeks to six years.

1.0 FACILITY

1.1 The Metro Childcare Center will be located on the first floor of the new Metro Headquarters Building at 600 Northeast Grand, Avenue, Portland, Oregon. The Metro Headquarters Building is currently under renovation and is scheduled for completion in March 1993 with the Childcare Center expected to be open the first week of May, 1993.

The Center is approximately 6,400 square feet, independently heated and air conditioned, includes a fenced out-door play area, nine drop-off parking spaces for parent's use and a full service kitchen and laundry with all necessary appliances provided. The space will be used exclusively for child care. A basic floor plan is included as Attachment "A" to this Scope of Work to provide general information on the physical space allocation.

Metro will provide the child care space free of rent and will provide typical utilities including water/sewer, natural gas, electricity, garbage and recycling pick-up at no cost to Contractor. In addition, Metro will provide custodial services equivalent to the Metro standard; any special or additional clean-up needs inherent in the operation of a childcare facility will be the responsibility of Contractor. Contractor will be responsible for keeping the diaper changing areas clean and sanitized.

Metro will provide initial equipment, toys, and furniture sufficient to operate a high quality child care program. A preliminary list is attached to this Scope of Work as Attachment "B". The selected operator will be required to assist in the further development of the list and the administrative activities related to the procurement and installation of the the items on the list. All costs associated with the procurement of the such items including delivery, assembly and installation will be borne by Metro.

Contractor shall make no alterations or renovations to the facility without the prior authorization of Metro.

2.0 PROGRAM

2.1 The goals of the Metro Childcare Center shall be:

- a. To provide quality child care, at a reasonable and competitive cost, to the children of employees of Metro and to other parents during normal working hours.**
- b. To provide the children a stimulating and safe child care environment and a learning experience.**
- c. To encourage parental involvement through newsletters, parent/teacher conferences, special activities, daily lesson plans and permitting visits by parents at all times.**
- d. To provide a continuing educational component for both parents and staff.**

The space has been designed to accommodate 12 infants, 12 toddlers and 26 preschoolers. This allocation assumes square footage requirements in excess of the Oregon Children Services Division (CSD) minimum standards. The actual number and age mix of children may differ depending on the identified needs of the parents. The minimum age will be six weeks and the maximum 6 years. The mix of ages should be age appropriate and suitable for the ongoing success of the program.

A multi-cultural, anti-bias curriculum should be developed and implemented for the overall program. Separate programs must be designed to accommodate each age group. The daily program for all age groups must include varied age appropriate activities which provide both quiet and active periods, indoor and outdoor play, as well as meals, snacks and nap periods.

Contractor will be required to apply for and receive accreditation from the National Association for the Education of Young Children (NAEYC) within two years of commencing operation. Contractor will maintain this accreditation through the life of this agreement. Contractor shall apply for and receive a license from the State of Oregon to provide child care and any other permits that are necessary to open and operate the Center.

All proposed services and curriculum shall be age appropriate and be designed to meet or exceed the minimum Rules for Certification of Day Care Centers issued by CSD and any other State of Oregon or Federal requirements that apply to child care operations.

Diaper changing areas will be provided in the Center. Contractor will be responsible for keeping the areas clean, sanitized and organized. Because Metro is the agency

responsible for solid waste planning and recycling, use of disposable diapers will be strongly discouraged.

Contractor will be required to provide necessary meal service. A fully equipped kitchen for such meal service has been provided, however, Contractor is not required to utilize the kitchen facility for the provision of food service.

Contractor will be responsible for initial and continued enrollment of the Center, maintaining the appropriate age ranges and mixes of children. Contractor shall give priority to children of Metro employees. Initially, priority should be given such that at least 50% of enrolled children are children of Metro parents. This priority figure of 50% may be adjusted up or down from time to time to reflect actual demand of Metro parents. Once enrolled, children without Metro affiliation will not be discharged to accommodate Metro affiliated children.

The minimum hours of operation will be from 7:00 a.m. to 6:00 p.m., Monday through Friday. The Center will observe the same holidays recognized by Metro. A list of these holidays will be provided to Contractor each year.

Hours of operation may be adjusted at a later date dependent on use and identified needs. One such potential need which has been identified is child care services during Metro Council meetings which occur in the evenings on the second and fourth Thursdays of each month. Contractor will be required to provide childcare services during Metro Council meetings for a three month period which shall occur within six months of commencement of operations. Fees for such services shall be approved by Metro. Upon completion of this three month period, Contractor shall issue a written report detailing the use and nature of the after hours operation and a recommendation regarding continued operation. Metro will determine [~~if continued operation is feasible~~] *whether to continue the after hours operation.*

Contractor fees charged to parents for child care services must be consistent with and not exceed the range of market rates for Portland area child care centers of comparable quality. These fees will be reviewed by Contractor and Metro on an annual basis and revised as necessary. Metro will approve all fees charged by Contractor. Since rent, utilities and janitorial services will be assumed by Metro, it is expected that a better wage and benefit package will be offered to Center employees.

3.0 CONTRACTOR'S RESPONSIBILITIES

3.1 Contractor shall be responsible for the complete management and operation of the Center, including but not limited to all aspects of child care, teaching, staff selection and training, parent relations, fee collection (a payroll collection system for the automatic deduction of fees from Metro parent's paycheck is anticipated), record keeping, financial reporting and budget preparation and submission. In addition, Contractor will be responsible for accomplishing all tasks related to the start-up and

opening of the Center. A partial but not exhaustive list of specific responsibilities of the Contractor follows:

- a. Provide all staffing and staff training. Staff levels shall, at a minimum, meet CSD's requirements, however, Metro desires staffing levels which will optimize the care and education of the children. Staff shall submit to criminal history background checks or other checks as requested by Metro. Contractor shall provide a highly qualified, full-time site Director who possesses exceptional qualifications and experience. Contractor shall provide adequate staff training programs to ensure highly qualified staffing. At a minimum, staff should be trained in age appropriate curriculum, the prevention and detection of child abuse, first aid and CPR.
- b. Provide laundry and diaper service as needed for use in the Center.
- c. Provide day to day Center management - including the provision of office equipment not specified as provided by Metro, office supplies, bookkeeping, application processing and maintenance of clients waiting list.
- d. Establish and implement security and health and safety procedures for children, parents and staff during operating hours. At a minimum, Contractor shall provide an emergency evacuation plan for the Center and shall conduct monthly fire drills.
- e. Establish and work with parents to promote and encourage parent involvement in a variety of ways, including, at a minimum, provision of a parent's handbook detailing Center policies and procedures, scheduling regular parents' conferences and providing a reference library of childcare and parenting materials available to parents.
- f. Provide a nutritious breakfast, lunch, mid-morning and mid-afternoon snack and milk, as well as other CSD nutrition requirements.
- g. Responsible for all telephone related expenses, with the exception of single line telephone instruments and internal building wiring, which will be provided by Metro. Expenses which will be the responsibility of Contractor include local and long distance telephone line charges and maintenance charges.
- h. Provide all program supplies, including manipulatives, office supplies, first aid supplies, food service supplies and any other supplies necessary for an ongoing program.
- i. Maintain the follow insurance coverage throughout the term of this Agreement:

1. **Comprehensive or Commercial General Liability specifically covering childcare operations. This insurance shall include bodily injury, property damage, personal injury, contractual liability for the indemnity provided under this agreement and products/completed operations liability. Combined single limit per occurrence shall not be less than \$1,000,000, or the equivalent.**
2. **Automobile Liability - combined single limit per occurrence of not less than \$1,000,000 or the equivalent.**
3. **Workers' Compensation - Contractor, its subcontractors, if any, and all employers working under this agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers.**
4. **The liability insurance coverages required shall name Metro, its elected officials, officers, employees, and agents as additional insureds. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.**

3.2 Contractor will be required to prepare and submit the following periodic reports and items.

- a. **At least two weeks prior to opening, a start-up report which details Center personnel, including results of reference and criminal history background checks, security and health and safety procedures, license/certification status and enrollment status.**
- b. **Quarterly reports which detail enrollment size, ages of children, parent affiliation to Metro, financial reports, facility condition, unusual concerns, any other relevant general information and any additional requested information.**
- c. **Incidence reports which detail all criminal or other incidents requiring medical attention. These written reports should be delivered to Metro within 24 hours of the occurrence.**
- d. **Yearly audited financial statements.**
- e. **Proof of current state and local licenses; proof of tax-exempt status if applicable; and proof of NAEYC certification; proof of insurance coverage as requested by Metro.**

f. Upon reasonable request by Metro, Contractor shall demonstrate its financial capability of continuing its operations under the terms of this Agreement.

3.3 Miscellaneous responsibilities of Contractor include the following:

a. Contractor shall participate and cooperate with Metro's Childcare Advisory Committee.

b. The Contractor shall be responsible for any damage to either Metro provided equipment, toys and furniture or the Center which occurs due to wrongful or negligent act(s) of the Contractor. Normal wear and tear due to the every-day operation of the Center is not the responsibility of the Contractor.

c. Contractor shall not discriminate on the basis of sex, race, religion, color, age, marital status, political affiliation, national origin, sexual orientation or disability with respect to enrollment of children or employment of staff. Religious teaching and dissemination of religious or political material will not be allowed.

d. Media coverage of the Center must be approved in advance by Metro. In addition, Contractor shall submit to Metro for approval all written and/or printed materials prior to distribution or publication.

e. Contractor shall comply with all building regulations and policies, including but not limited to security and access arrangements, health and safety, parking and recycling operations.

f. No portion of the work may be subcontracted without the prior written consent of Metro.

g. Contractor is not an employee or agent of Metro. Parents with children enrolled at the Center shall contract directly with Contractor. Except for matters explicitly addressed in this agreement, decisions and responsibilities with respect to the program, enrollment, fees and tuition, staffing, policy making, and any and all other aspects of the operation and conduct of the Center's business shall be the exclusive right, prerogative and responsibility of the Contractor.

3.4 Contractor shall indemnify and hold Metro, its elected officials, employees and agents harmless from any and all claims, demands, losses and expenses, including attorney fees, arising out of or in anyway connected with the performance of the agreement and arising out of or in anyway connected with the childcare operations.

4.0 METRO'S RESPONSIBILITIES

4.1 Metro will provide the following:

- a. Use of the childcare facility at 600 NE Grand Avenue, and the adjacent play area and drop-off parking spaces as indicated on the attached site plan. (Attachment a).
- b. Janitorial services (i.e., vacuuming, disposal of trash, general cleaning of restroom facilities) and utilities including water/sewer, natural gas, electricity, garbage and recycling services.
- c. Landscape maintenance.
- d. Purchase or supply of initial equipment, toys and furniture. These items will remain the property of Metro and will be provided for use to the Contractor only for operation of the Metro Center, and only until the expiration of the Agreement. Contractor shall maintain an inventory of all such items which shall be subject to periodic review and verification by Metro. Metro will provide routine maintenance of such items, however replacement will be the responsibility of Contractor.
- e. Publicity to solicit Metro employee participation in the program.

5.0 START-UP PERIOD PRIOR TO CENTER OPENING

5.1 Metro desires participation of the selected operator prior to opening to insure an effective partnership and a quality child care program. Metro expects that this participation will encompass a two to three month period and will include the following activities. Other activities may also be required:

- a. Participation in selection and purchase of initial equipment, toys and furniture (funds provided by Metro);
- b. Participation in the naming and logo development for the Center;
- c. Preparation of Center for opening - set up classrooms, kitchen, equipment, office systems;
- d. Hiring of staff, orientation, necessary training;
- e. Certification/licensing process;
- f. Preparation of Parent's Handbook, brochures and other printed material;
- g. Enrollment of children.

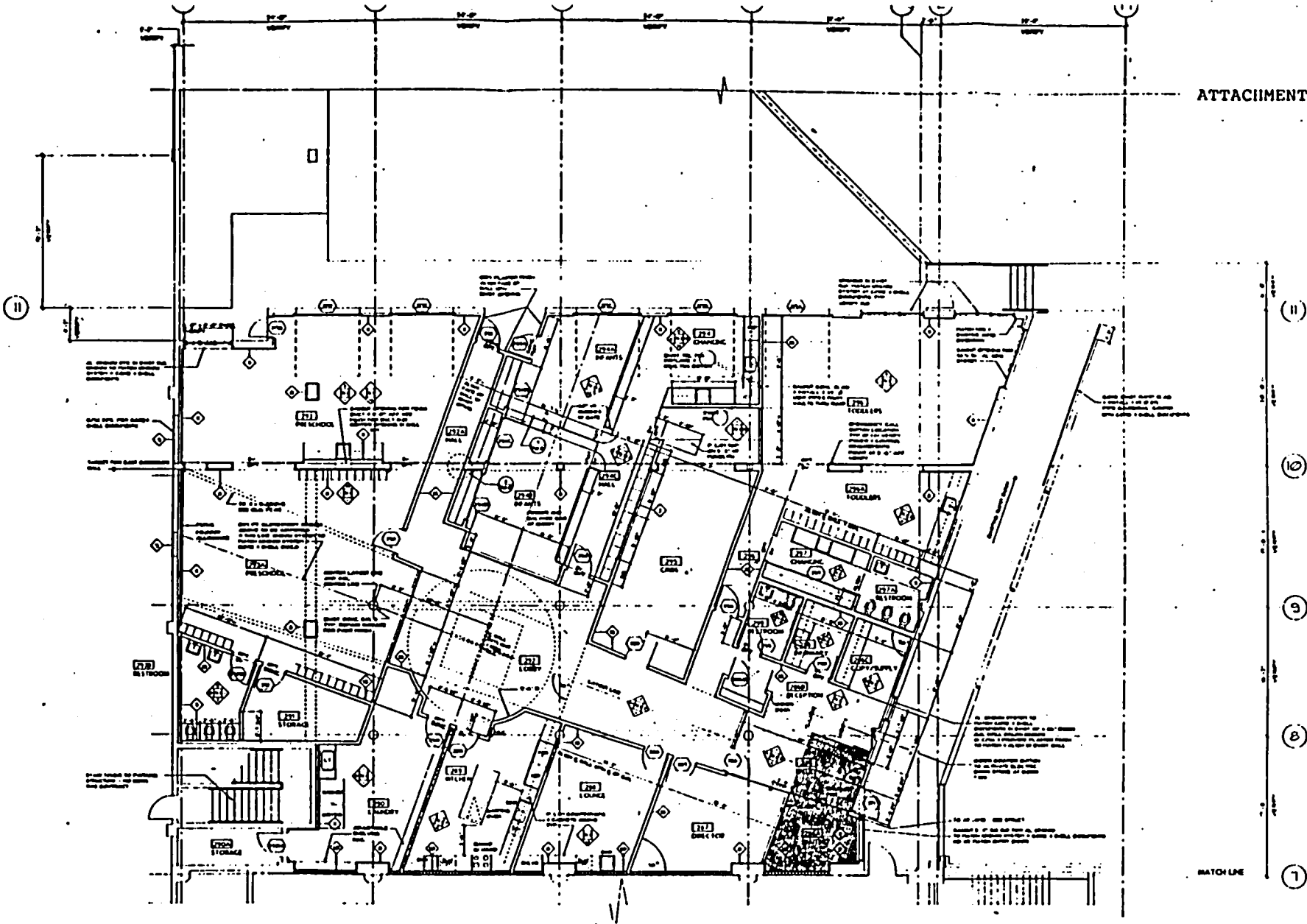
To facilitate this start-up period, Metro will provide employee time and in-kind services such as copying, graphic design and storage space. However, during this


start-up period, no funds are available for salary to the selected operator or operator's staff. The proposed budget should take into account this start-up period.

6.0 ANNUAL REVIEW PROCESS

Metro has determined it is in the best interest of children and their parents to provide uninterrupted service for childcare through a long-term relationship. Therefore, the term of the Agreement will be five years commencing upon the execution of the Agreement.

To insure continued quality childcare throughout the term of the Agreement, an annual review will be conducted by Metro to determine Contractor's compliance with the Scope of Work. The review process will entail an interview with Contractor's key personnel and possible written responses to questions posed by Metro. Contractor is required to cooperate with Metro by participating in the interview and providing timely responses. Metro will issue a written evaluation based on the annual review to Contractor. Termination of the Agreement will result if Contractor is found to be significantly non-compliant with the Scope of Work.

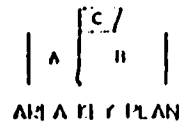



SECOND FLOOR - AREA C DAYCARE
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DATUM ELEVATION: 102.08

- GENERAL FLOOR PLAN NOTES**
- 1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 2. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL MECHANICAL AND ELECTRICAL CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 3. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL PLUMBING AND MECHANICAL CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 4. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL FIRE AND MARINE CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 5. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL SAFETY CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 6. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL HEALTH AND SAFETY CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 7. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL ENVIRONMENTAL CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 8. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL ACCESSIBILITY CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 9. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL SUSTAINABLE DESIGN CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 10. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL ENERGY CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 11. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL WATER AND WASTE CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 12. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL TRANSPORTATION CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 13. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL COMMUNICATIONS CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 14. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL SECURITY CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 15. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL PAVEMENT CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 16. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL SIGNAGE CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 17. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL LIGHTING CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 18. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL SOUND AND VIBRATION CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 19. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL THERMAL ENVIRONMENT CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 20. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL AIR QUALITY CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 21. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL CLIMATE CHANGE CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 22. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BIODIVERSITY CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 23. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL CULTURAL HERITAGE CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 24. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL LANDSCAPE ARCHITECTURE CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 25. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL URBAN DESIGN CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 26. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL TRANSPORTATION PLANNING CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 27. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL INFRASTRUCTURE CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 28. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL TELECOMMUNICATIONS CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 29. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL ENERGY EFFICIENCY CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 30. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL WATER EFFICIENCY CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 31. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL WASTE MANAGEMENT CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 32. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL SAFETY AND HEALTH CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 33. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL OCCUPATIONAL SAFETY AND HEALTH CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 34. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL PERSONAL PROTECTIVE EQUIPMENT CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 35. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL EMERGENCY PREPAREDNESS CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 36. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL DISASTER RELIEF CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 37. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL RECOVERY AND RECONSTRUCTION CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 38. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL RISK MANAGEMENT CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 39. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL CRISIS MANAGEMENT CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 40. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUSINESS CONTINUITY CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 41. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL INFORMATION SECURITY CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 42. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL DATA PROTECTION CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 43. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL PRIVACY CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 44. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL FREEDOM OF INFORMATION CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 45. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL TRANSPARENCY CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 46. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL ACCOUNTABILITY CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 47. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL ETHICS CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 48. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL INTEGRITY CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 49. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL HONESTY CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 50. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL FAIRNESS CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 51. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL RESPECT CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 52. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL KINDNESS CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 53. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL EMPATHY CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 54. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL COMPASSION CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 55. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL GENTLENESS CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 56. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL PATIENCE CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 57. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL SELF-CONTROL CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 58. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL MODERATION CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 59. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL TEMPERANCE CODES AND ALL APPLICABLE LOCAL ORDINANCES.
 - 60. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL VIRTUE CODES AND ALL APPLICABLE LOCAL ORDINANCES.

NOTE:
 REFER TO CORE AND SHELL DOCUMENTS DATED APRIL 21/99/
 AND ADDENDUMS 1 AND 2 FOR WORK PRIOR TO THIS PACKAGE
 ALSO REFER TO ALL 461'S ISSUED PREVIOUS TO 1/1/99.



ARCHITECTURAL PLAN

Attachment "B"

Preliminary List of Equipment Toys and Furniture

Infant Room: 12 children

Equipment:

12 cribs
2 highchairs
4 small tables
8 chairs
1 rocking chair
1 comfortable loveseat
2 large interlocking cubes
interlocking mats
5 soft structure stacking shapes
1 refrigerator
1 microwave
2 laundry (diaper) pails
1 trash receptacle
1 recycle receptacle
1 step stool
1 sink (handwashing for staff and children)
Built-in cabinets with 14 cubbies

Toddler Room: 12 children

Equipment:

15 sleeping cots
4 tables
15 small chairs
4 bigger chairs
2 art easels
1 large interlocking slide
1 large floor toy shelf (2 piece and connects back-to-back)
1 large floor book shelf
1 set of play stove & refrigerator
1 water/sand table
1 small table for audiocassette & record player
1 handwashing sink and drinking fountain
15 wall open-locker cubbies with shelving above
1 large wall storage cabinets
1 trash receptacle
1 recycling receptacle
2 laundry (diaper) receptacles

Preschool Room: 26 children

Equipment:

- 4 tables (eating)
- 2 small tables (arts-n-crafts)
- 1 large manipulative table
- 30 kid chairs
- 4 adult chairs
- 1 comfortable loveseat or chair
- 30 sleeping mats
- 1 sleeping mat rack (freestanding & takes up floor space)
- 1 handwashing sink and 1 drinking fountain
- 10 floor shelving units
- built-in cabinets including 30 cubbies
- 1 play stove & refrigerator
- 1 water/sand table
- 1 small table for audiocassette & record player
- 1 small table for "woodworking"
- 1 trash receptacle
- 1 recycling receptacle
- 1 art easel

Attachment "C"

PROPOSED PARENT'S FEE WORK SHEET

Full Year Rates from May 1993 - May 1994

Metro Headquarters Childcare Center

Full year, Full time Rates

| | | |
|------------------------------------|----|-------|
| Infant (to 12 months) | \$ | _____ |
| Toddler (12 to 30 months) | \$ | _____ |
| Preschooler (30 months to 6 years) | \$ | _____ |

Part-time Rates

| | | |
|------------------------------------|----|-------|
| Infant (to 12 months) | \$ | _____ |
| Toddler (12 to 30 months) | \$ | _____ |
| Preschooler (30 months to 6 years) | \$ | _____ |

Other Fees

| | | |
|--------------------------------------|----|-------|
| Late Fees | \$ | _____ |
| Registration Fees | \$ | _____ |
| (indicate if one time or annual fee) | | |
| Other Special Fees : _____ | \$ | _____ |

Attachment "D"

EVALUATION OF PROPOSALS FORM

Metro Headquarters Childcare Center

| <u>Evaluation Components</u> | <u>Number of Points Available</u> | <u>Percentage</u> |
|--|-----------------------------------|-------------------|
| I. OVERALL PROPOSAL | | |
| a. General understanding of programmatic needs and quality of care | 15 | |
| b. Overall ability to provide services that meet the child care needs of Metro employees | 15 | |
| | --- | |
| Total for Overall Proposal | 30 | 15% |
| II. ADMINISTRATION AND CENTER MANAGEMENT | | |
| a. Qualifications of Operator | 5 | |
| b. Qualifications of On-Site Director | 10 | |
| c. Qualifications of other staff and adequacy of plan for training of staff | 10 | |
| d. Plan for utilization of staff and staff to child ratio | 10 | |
| e. Evidence of sound fiscal and operational policies and procedures | 15 | |
| | --- | |
| Total for Admin. and Center Management | 50 | 25% |
| III. PROGRAM | | |
| a. Adequacy of plan for health and safety, discipline, nutrition and enrollment | 40 | |
| b. Adequacy of plan for parent involvement/ access/ communication | 10 | |
| c. Adequacy of plan for daily routine and curriculum | 20 | |

| | | | |
|------------|--|-------|-----|
| d. | Adequacy of plan for initial enrollment and start-up | 10 | |
| | | <hr/> | |
| | Total for Program | 80 | 40% |
| | | | |
| IV. | FINANCIAL MANAGEMENT AND COST | | |
| a. | Fiscal Accountability | 10 | |
| b. | Completeness and adequacy of operating budget | 10 | |
| c. | Affordability of parent fees and adequacy of fee scale | 10 | |
| d. | Adequacy of wage & benefits to Center staff | 10 | |
| | | <hr/> | |
| | Total for Financial Management | 40 | 20% |

PERSONAL SERVICES AGREEMENT

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

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

1. Duration. This personal services agreement shall be effective _____, and shall remain in effect until and including _____, unless terminated or extended as provided in this Agreement.
2. Scope of Work. Contractor shall provide all services and materials specified in the attached "Exhibit A--Scope of Work," which is incorporated into this Agreement by reference. All services and materials shall be provided by Contractor in accordance with the Scope of Work, in a competent and professional manner. To the extent that the Scope of Work contains additional contract provisions or waives any provision in the body of this Agreement, the Scope of Work shall control.
3. Payment. Metro shall pay Contractor for services performed and materials delivered in the maximum sum of _____ AND ___/100THS DOLLARS (\$_____), in the manner and at the time specified in the Scope of Work.
4. Insurance.
 - a. Contractor shall purchase and maintain at the Contractor's expense, the following types of insurance, covering the Contractor, its employees, and agents:
 - (1) Broad form comprehensive general liability insurance covering personal injury and property damage, with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and

- (2) Automobile bodily injury and property damage liability insurance.
- b. Insurance coverage shall be a minimum of \$500,000 per occurrence, \$250,000 per person, and \$50,000 property damage. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
 - c. Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.
 - d. Contractor, its subcontractors, if any, and all employers working under this Agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Contractor shall provide Metro with certification of Workers' Compensation insurance including employer's liability.
 - e. If required by the Scope of Work, Contractor shall maintain for the duration of this Agreement professional liability insurance covering personal injury and property damage arising from errors, omissions, or malpractice. Coverage shall be in the minimum amount of \$500,000. Contractor shall provide to Metro a certificate of this insurance, and 30 days' advance notice of material change or cancellation.
5. Indemnification. Contractor shall indemnify and hold Metro, its agents, employees and elected officials harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Agreement, with any patent infringement arising out of the use of Contractor's designs or other materials by Metro and for any claims or disputes involving subcontractors.
6. Maintenance of Records. Contractor shall maintain all of its records relating to the Scope of Work on a generally recognized accounting basis and allow Metro the opportunity to inspect and/or copy such records at a convenient place during normal business hours. All required records shall be maintained by Contractor for three years after Metro makes final payment and all other pending matters are closed.

7. Ownership of Documents. All documents of any nature including, but not limited to, reports, drawings, works of art and photographs, produced by Contractor pursuant to this Agreement are the property of Metro, and it is agreed by the parties that such documents are works made for hire. Contractor hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such documents.
8. Project Information. Contractor shall share all project information and fully cooperate with Metro, informing Metro of all aspects of the project including actual or potential problems or defects. Contractor shall abstain from releasing any information or project news without the prior and specific written approval of Metro.
9. Independent Contractor Status. Contractor shall be an independent contractor for all purposes and shall be entitled only to the compensation provided for in this Agreement. Under no circumstances shall Contractor be considered an employee of Metro. Contractor shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified in the Scope of Work. Contractor is solely responsible for its performance under this Agreement; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified in the Scope of Work; and for meeting all other requirements of law in carrying out this Agreement. Contractor shall identify and certify tax status and identification number through execution of IRS form W-9 prior to submitting any request for payment to Metro.
10. Right to Withhold Payments. Metro shall have the right to withhold from payments due to Contractor such sums as necessary, in Metro's sole opinion, to protect Metro against any loss, damage, or claim which may result from Contractor's performance or failure to perform under this Agreement or the failure of Contractor to make proper payment to any suppliers or subcontractors.

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

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

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

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

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

CONTRACTOR

METROPOLITAN SERVICE DISTRICT

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

STAFF REPORT

Meeting Date: October 13, 1992

CONSIDERATION OF RESOLUTION 92-1694 FOR THE PURPOSE OF AUTHORIZING THE ISSUANCE OF THE REQUEST FOR PROPOSALS (RFP) FOR THE OPERATOR OF METRO'S ON-SITE CHILDCARE FACILITY TO BE LOCATED IN THE HEADQUARTERS BUILDING

Date: October 5, 1992

Presented by: Berit Stevenson

FACTUAL BACKGROUND

The Metro Headquarters Project includes as a work element the provision of an on-site childcare facility. The 6,400 square foot facility has been designed to accommodate 50 children. Initially, approximately half are expected to be children of Metro employees, while the other half are expected to be children from the surrounding neighborhood. As Metro's employee base increases, more children of Metro parents may be served by the facility.

The attached RFP to select an operator for the Childcare facility has been prepared by Metro staff with the assistance of Tom Tison, Metro's childcare consultant. The RFP has been written using both the State of Oregon and the BPA childcare programs as models. Both of these programs offer infant through preschooler on-site programs in their buildings. In each case, the government agency contracts with a non-profit operator to provide complete childcare services. The government agencies provide the space occupied by the childcare facility free of rent and pay for utilities and janitorial services. Equipment necessary for the program such as cribs, tables and chairs are purchased by the government agency and remain the property of the government agency.

A draft RFP was presented to the Regional Facilities Committee at the September 22nd meeting. Staff has addressed the Committee questions as well as a list of several questions posed by Council Analyst, Casey Short. The Regional Facilities Committee is now being asked to authorize the issuance of the RFP which would result in a multi-year, "A" list contract.

ANALYSIS

Modifications to the RFP which were discussed at the September 22nd meeting have been incorporated in the RFP which is attached as Exhibit "A". In addition, two questions were raised which are addressed below. These two questions are (1) the role and membership of Metro's Childcare Advisory Committee (CAC) and (2) the independent contractor status of the Operator and the resulting issue of Metro liability for the actions of the Operator.

The RFP indicates that the selected Operator will be required to "participate and cooperate with Metro's Childcare Advisory Committee". This committee would, as the name implies, act in an advisory capacity, providing advice to the Executive

Office regarding the operations of the childcare facility and the performance of the operator. Day-to-day management decisions would remain the responsibility of the Operator. It is expected that the CAC would meet at least quarterly and would receive a report regarding the operations of the childcare program from both the Metro staff member acting as Contract Manager and the Operator's Site Director, both of whom would be *ex officio* members of the CAC. CAC members would have opportunity to ask questions, receive relevant financial and other information and make recommendations regarding the childcare operations. This advice in the form of recommendations would be provided to the Metro staff responsible for managing the agreement and monitoring the Operator's performance.

This management model is consistent with numerous other Metro contracts which are administered by Metro's Executive department and with other government agencies which include on-site childcare programs. Membership of the CAC has not been finalized at this time but would likely be appointments by the Executive Department and would include participation from the Metro Council, the union, parents of children enrolled in the program and local childcare administrators and/or educators.

The second issue raised concerns the independent contractor status of the Operator and the potential liability to Metro for actions of the Operator. Metro's General Counsel and Risk Manager have been consulted regarding this issue. While all Metro staff working with the childcare initiative recognize the highly sensitive nature of the program, advice from both Risk Manager and General Counsel indicate that the RFP as written provides adequate protection for Metro. Specifically, the insurance which will be required from the Operator includes coverage specifically designed for childcare operations. In addition, the indemnification and holdharmless requirement further protects Metro from the activities of the Operator.

Apart from the insurance and indemnification requirements, the RFP was written with numerous devices intended to monitor the Childcare operation. These include the requirement of the Operator to participate and cooperate with the CAC, numerous reporting requirements including proof of compliance with state and local licenses and certification with NAEYC and the annual review process.

BUDGET IMPACT

The contract with the Operator of the Childcare Center will not require payments to the Operator as the Operator is compensated for services provided from tuition fees collected. It is estimated that 10-20% of a Metro FTE's time would be necessary to manage the contract. The capital cost to design, construct and equip the Childcare Center is included within the Metro Headquarters Project budget.

RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 92-1694 by the Metro Council.