



METRO

**NOTE:** Special date and day due to Veteran's Day  
(Metro Will be closed November 11, 1993)

DATE: November 10, 1993\*  
MEETING: Metro Council  
DAY: Wednesday\*  
TIME: 4:00 p.m.  
PLACE: Metro Council Chamber

Approx.  
Time\*

Presented  
By

4:00

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

4:05  
(20 min.)

**3.1 Update on Oregon Department of Transportation Six-Year Program Process, Schedule and Criteria**

4:25  
(5 min.)

**4. CONSENT AGENDA (Action Requested: Motion to Adopt the Consent Agenda)****4.1 Minutes of October 28, 1993****REFERRED FROM THE SOLID WASTE COMMITTEE****4.2 Resolution No. 93-1867, For the Purpose of Revising the Initial Term Commencement Dates for Members of the Solid Waste Rate Review Committee to Allow for a More Orderly Transition Between Terms****REFERRED FROM THE FINANCE COMMITTEE****4.3 Resolution No. 93-1861, For the Purpose of Confirming the Appointment of Christopher D. Cassard to the Investment Advisory Board**

4:30  
(5 min.)

**5. ORDINANCES, FIRST READINGS****5.1 Ordinance No. 93-515, An Ordinance Amending Ordinance No. 93-487A Revising the FY 1993-94 Budget and Appropriations Schedule to Sustain Membership in the Oregon Tourism Alliance; and Declaring an Emergency (Action Requested: Refer to the Finance and the Regional Facilities Committees)**

For assistance/services per the Americans with Disabilities Act (ADA), dial TDD 797-1804 or 797-1534.

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

METRO COUNCIL AGENDA

November 10, 1993

Page 2

**5. ORDINANCES, FIRST READINGS** (Continued)

**5.2 Ordinance No. 93-521**, An Ordinance Amending Ordinance No. 93-487A Revising the FY 1993-94 Budget and Appropriations Schedule For the Purpose of Funding an Intergovernmental Agreement with the City of Portland for a Predicate Study; and Declaring an Emergency (Action Requested: Refer to the Finance and Governmental Affairs Committees)

**5.3 Ordinance No. 93-523**, For the Purpose of Approving the Revision of the Metro Code Chapter 2.02, Personnel Rules (Action Requested: Refer to the Governmental Affairs Committee)

**6. ORDINANCES, SECOND READINGS**

REFERRED FROM THE PLANNING COMMITTEE

4:35  
(10 min.)

**6.1 Ordinance No. 93-506A**, For the Purpose of Amending the Regional Urban Growth Boundary for Columbia South Shore, Policy 26 Area PUBLIC HEARING (Action Requested: Motion to Adopt the Ordinance)

Kvistad

REFERRED FROM THE SOLID WASTE COMMITTEE

4:45  
(20 min.)

**6.2 Ordinance No. 93-519**, For the Purpose of Granting a Franchise to Energy Reclamation, Inc. For the Purpose of Operating a Solid Waste Processing Facility, and Declaring an Emergency PUBLIC HEARING (Action Requested: Motion to Adopt the Ordinance)

McFarland

**7. RESOLUTIONS**

REFERRED FROM THE PLANNING COMMITTEE

5:05  
(10 min.)

**7.1 Resolution No. 93-1851**, For the Purpose of Funding Third-Year of Greenspaces Projects to Restore and Enhance Urban Wetlands, Streams and Riparian Corridors and Upland Sites (Action Requested: Motion to Adopt the Resolution)

Devlin

5:10  
(20 min.)

**8. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS**

**8.1 Advisory Committee Reports**

- (a) Forest Grove Enhancement Committee
- (b) Composter Community Enhancement Committee
- (c) North/South Steering Committee
- (d) Greenspaces Update

McLain  
Buchanan  
Monroe  
Devlin

5:30

**ADJOURN**

Meeting Date: November 10, 1993  
Agenda Item No. 3.1

**ODOT UPDATE**



## METRO

Date: November 2, 1993

To: JPACT

From: *MH* Michael Hoglund, Manager  
Regional Transportation Planning

Subject: ODOT Program Cuts; Public Meeting

Metro hosted a public meeting on Thursday, October 21, 1993, to initiate the region's public process relative to ODOT's 1995-1998 Transportation Improvement Program (TIP) funding shortfall. The purpose of the meeting was to provide general background information on the TIP, the shortfall, and the criteria and process used to prioritize a project "cut" list and a potential "add" list. The meeting was also a first opportunity for citizens and interest groups to comment and offer suggestions on the TIP, the shortfall and related issues.

Approximately 60-70 people attended the meeting and Metro and ODOT staff heard a number of interesting and thoughtful comments. Some of the information distributed at the meeting and a meeting summary are attached and include:

- Attachment A. The meeting agenda and summary.
- Attachment B. The Metro/ODOT TIP schedule.
- Attachment C. A list of the candidate cut and add projects.
- Attachment D. A preliminary ranking of projects using the technical criteria only.
- Attachment E. A questionnaire intended to garner feedback on the technical project ranking criteria and on the potential for adding alternative mode projects.

The public was also provided with copies of the ranking criteria and a project form for submitting alternative mode project ideas. That information is not attached.

At the November 10 JPACT meeting, staff will provide a brief overview of the key issues and concerns raised at the public meeting. In addition to public concerns regarding specific road projects, three key issues for JPACT discussion include:

1. Should alternative mode projects be funded with additional highway/arterial cuts and, if so, to what degree?
2. What is the status of Single-Occupant Vehicle (SOV) projects in the context of ISTEA, the State Transportation Planning Rule, and Metro's Region 2040 study?
3. If alternative mode projects are funded, what is the best regional use of funds for pedestrian and bicycle improvements (relative to local funds)?

TPAC and the TIP Subcommittee will be addressing these questions prior to the meeting and will forward comments/suggestions for JPACT consideration.

MH



METRO

ATTACHMENT A

TRANSPORTATION IMPROVEMENT  
PROGRAM  
AGENDA  
PUBLIC MEETING  
OCTOBER 21, 1993, 7:00 PM

Oregon State Building, Room 140  
800 NE Oregon Street  
Portland, Oregon

1. Welcome/Opening Remarks - 5 minutes
  - Richard Devlin, Metro Councilor
  - Gina Whitehill-Baziuk, Metro, Facilitator
2. Funding Shortfall/Program Cuts - 5 minutes
  - Marty Andersen, Oregon Department of Transportation
3. Schedule - 5 minutes
  - Mike Hoglund, Metro
4. Background - 20-25 minutes
  - a. Transportation Policy and Funding
    - Andrew Cotugno, Metro
  - b. Transportation Improvement Program - Project Review
    - Andrew Cotugno, Metro
  - c. Prioritization Criteria
    - Mike Hoglund, Metro
  - d. Preliminary "Cut" and "Add" Projects
    - Terry Whisler, Metro
  - e. Public Project Submittals
    - Mike Hoglund, Metro
5. Question/Answer - 30 minutes
6. Public Comment - 60 minutes

**Notes from Transportation Improvement Program Meeting**  
**October 21, 1993, Oregon State Building**

In attendance: Andy Cotugno, Councilor Richard Devlin, Gina Whitehill-Baziuk, Mike Hoglund, Terry Whisler, Marty Anderson, Jenny Kirk and Barbara Duncan.

**Audience Questions**

If there are no pedestrian criteria, why not?

Is the safety consideration just for vehicles?

Does the VMT reduction criteria apply only to alternative modes?

If the project is part of the regional system? also heavily ranked. Is improving access to LRT. Bicycles, local concerns.

Regarding economic development around the 26 light rail corridors, how was that factored in?

Does "cut" mean deferring or eliminating the project?

The bike lane project, from SW Barbur to Hamilton I-405, that is combined with resurfacing of the street. Why is the bike lane endangered when you're already going to be doing other work on that street?

Is there a limit on how the flexible funds are spent?

If \$400 million is being cut out of the state budget, who decided on that number, where is that money going?

The state money can be used for alternative modes, how much can only be used for highways?

The screening process does not mention the Oregon land use rules or goals, if a project is found to be in violation of those, does it automatically drop out?

Does the technical criteria for highway/arterial expansion criteria, does multimodal system include large freight trucks?

Who did the technical ratings?

Were there any suggestions from ODOT for high speed rail? Could this money be used for high speed rail?

Is a project not on the list to start over as a new project regardless of the amount of work already completed?

Can we have list of the 'kept' (funded) projects?

Are CMAQ projects being discussed tonight?

## Testimony

Don Lloyd, Troutdale, City Council member and President of Troutdale Chamber of Commerce.

"I would like to make a few brief comments about the criteria used to evaluate the projects, and question some of them. First, I have some concern that the criteria do not address three aspects of any given project that might be important. One, the level of local support or lack thereof for a project is not considered. Second, the investment that may already have gone into the project via design costs, right of way acquisitions, partial construction and the like don't appear to be addressed. Third, the need to utilize restrictive federal funds such as interstate construction funds where they are available. The particular project I'm concerned about is that segment of Interstate I-84 from 223rd Avenue to Troutdale. It is strongly supported by the local communities. Several million dollars have already been expended on this project. Funds which may have to be reimbursed to the federal government if the project is not completed. And, it is one of only two short sections of the interstate system in Oregon still eligible for intercity construction funds. In addition to the criteria changes I propose, I also think that the Metro criteria may have been applied incorrectly to this I-84 project. Specifically, part of this interstate segment has a current level of service F during the p.m. peak, this is apparently only partially considered in your evaluation. Further, this segment has been identified as having several safety problems at the 238th interchange, where vehicles seeking to exit the freeway are backed up onto the freeway during high peak hour volume. There are also problems with poor sight distance, the railroad crossing immediately south of the interchange and a tight reverse curve on the westbound onramp. Yet your criteria only recognize accident rates. I would hope that you would also try to avoid accidents by trying to eliminate these identified safety hazards before accidents occur. Finally, the East county area has been growing rapidly with both residential and commercial construction. In addition to the normal traffic such development generates, we have also become a very large trucking center, with several truck stops and transportation carriers such as Burns Brothers, Flying J, Cogars, Walsh and Sons and recently a new arrival, Swift trucking with over a 150 trucks and in excess of 200 employees that will add to the demand placed on I-84 freeway in this area. I might also add that we have the benefit of all the Metro garbage trucks running through the town on I-84. Lastly, I-84 has become a major thoroughfare for tourists driving to the newly created Columbia Gorge National Scenic Area and for travelers bound to the Mt. Hood National Forest, all of which contribute to the congestion, safety problems and deteriorating level of service on I-84. I urge your consideration of my proposed changes of criteria and favorable reevaluation of the I-84 project, and I don't envy you your task. Thank you."

Paul Spanbauer, Chair, Economic Development Council for the Gresham Area Chamber of Commerce.. "Don Lloyd virtually said everything that I had to say. We're very much concerned about the interchanges at Wood Village and Troutdale that hooks up to Hwy. 26 which is the gateway to Mt. Hood and Eastern Oregon. The Mt. Hood Parkway is a long way down the road and anything that we could do to help that traffic flow from I-84 to Hwy. 26 is very important to the economic vitality of our region. We represent what we call the Quad cities, Wood Village, Troutdale and Gresham. A reevaluation of both projects is very important to us in our area. Thank you."

Don Robertson, Mayor Wood Village. "My comments are similar to Don Lloyd and Paul Spanbauer, we're both addressing the section of I-84 from 223rd to Troutdale and also the Mt. Hood Parkway that's been proposed. There is a large investment in time and money already.

As part of the interstate system in Oregon, its one of the only two projects still eligible for federal interstate construction funds. To drop the project now would certainly place the project in danger of losing federal dollars. We've got a serious traffic problem with the 238 interchange offramp. Vehicles wishing to exit I-84 at Wood Village are often backed up in the eastbound lanes of the freeway. By 2010 this condition is expected to worsen. These are unacceptable conditions for Wood Village and all the surrounding areas. Further consideration for completing this is the Mt Hood parkway. The connecting part of the Parkway will not be built if the freeway is dropped. We're asking you to go back to the drawing table and look at it again and see if this can't be completed as scheduled. It is a very, very important issue."

Doug Klotz, President, Willamette Pedestrian Coalition. "Its been two years since ISTEA, and also almost two years since the state Transportation Planning Rule was adopted, and I'm afraid that I don't see the sort of change that we expected to see out of this legislation. Both pieces of legislation addressed changing the mode split, changing the whole way transportation planning is done in this country. It looks to me like Metro and ODOT are still running this program as if its a highway program. The highway projects are run under a different set of criteria, yes you have paid a lip service to multi-modal aspects here and there. But, to me all the projects should be equally screened for their reduction in Vehicle Miles Traveled. Why are highway projects exempt from meeting a standard for VMT? The safety criteria is rated just on accidents per mile. The problem is that increasing safety for vehicles often decreases safety for pedestrians. You increase safety for vehicles by making the lanes wider, by making the turn radius larger, both of which makes it more difficult for pedestrians to get across the street and make it not only unsafe but does not encourage pedestrians to walk or people to bicycle either. I'm afraid that your criteria do not move us in right direction at all. I do wish to say that you should definitely go up to the full \$30 million additional cuts that ODOT said we have the ability to do and add \$30 million back into pedestrian and bicycle projects."

Ray Polani, Chair, Citizens for Better Transit. "It looks like Measure 5 is reaching into the transportation pot and its probably appropriate. In August we talked with the Oregon Transportation Commission in conjunction with a workshop held to discuss the situation and the possible cuts. Our recommendation was concentrate present funding expenditures on maintenance, preservation and safety of our road system and place on hold all so called modernization projects which would add capacity to the road system, thereby making our existing problem worse. Its interesting to note in the 10/14 *Oregonian*, in conjunction with this reanalysis of what to do, that the traffic manager of Region 1, Gary McNeal was quoted as saying 'You can't build your way out of congestion. Thats the game that was played in Los Angeles and other places and they ended up with ten lane freeways.' That being the case, its really distressing to see in your criteria, that you're talking about the highway arterial expansion, and number one, you give points for the project's ability to reduce congestion over 20 years. Your traffic manager says you can't do that. I think we know that whenever you have added operational capacity, you may have reduced congestion for one or two years, but certainly not over 20 years because the result is that you have added more traffic. We also told the Commission that we suggested therefore a road and highway expansion moratorium, and that they concentrate on the protection of the existing investment. To assist the Commission, we had prepared a list of Region 1 projects which we thought were prime candidates for elimination or delayed construction. I think thats all we have to say, but obviously the era of scarcity has reached the construction of highways."

David Seigneur, Director, Clackamas County Development Agency. "I'm here to urge you to

keep the I-205 Sunnybrook/Sunnyside split diamond interchange as a reconstruction project on the transportation improvement program. Believe me I'm aware of you're difficult task, its like pulling teeth from a tiger, you're going to pull the wrong tooth and you're going to get bit in the process, so I sympathize with you. Its especially difficult when the Portland area is growing in population and in its transportation needs. It is critical, in my opinion, that in your undertaking you consider significant areas in the region that are vital to the region's economic health and job growth. These areas are in desperate need of transportation improvement that not only include highway improvement but other transportation modes to help share the load and reduce congestion. My recommendation to maintain the Sunnybrook/Sunnyside split diamond in the transportation improvement program is promulgated by the rapidly expanding Clackamas Town Center area. As you know its one of the largest suburban business centers in the Portland area and in the state. Its growth over the last 12 years has produced thousands of new jobs and hundreds of millions of dollars in assessed value. It provides goods and-services to an extremely large market area, and the area has continued to grow at about a two to five percent rate. I could go on about the significant statistics but I won't, Clackamas County and Clackamas County Development Agency has already invested millions of dollars in transportation improvements in the Clackamas Town Center area. The investment was based upon as number of transportation studies conducted in harmony with the department of transforation and the county. The results of these studies developed a plan of transportation improvements in the area and have been the basis for continued county funding and construction. A significant project that came from the transportation plan with ODOT was the Sunnybrook/Sunnyside split diamond project. The project has the whole hearted agreement with the county and with the ODOT as a project that will accommodate current and future traffic problems in that location. The county development agency has already invested a considerable amount of funds working closely with ODOT, Tri-Met and Metro on developing and studying the extension of light rail lines to the Clackamas Town Center. A few years ago the county and the department of transportation entered into a partnership that developed the split diamond project. The county over the last three years has obtained the necessary signatures to create a local improvement district. We did this in with participation with ODOT's requirement. I think its a precedent that ODOT and Metro ought to see continued in the region. You begin to leverage local, not only public dollars from counties and cities but from the private community itself and we have done that. The proposal for the improvement that will be activated if this project is destined for construction will raise \$5 million in 1999 dollars. As part of the total funding program, that locally we're spending amounts to \$25 million. We're not expecting to get from the state and federal government. These are supporting projects and necessary projects to reduce congestion in that area and to support the construction of the split diamond. We've already helped reduce the problem in terms of safety and congestion at that intersection of I-205 by funding a widening south bound off ramp system, in one case we set a precedent, direct access into the Town Center which greatly reduced the backup on I-205 and has reduced not only traffic congestion on I-205 thats helped in one extent and yet hurt us in another in the rating system that we get no credit for reducing the accident rate. We have apparently less than a hundred so we got zero in your accident rating system. Its our investment that hurt us where others who have not made that investment have higher accident rates. I would like you to take that into consideration. We are also currently constructing a right turn lane at our expense to make sure that bridge at I-205 and Sunnyside road is more effective we purchased a traffic signal device, putting in a news signal system and creating an exclusive right turn lane northbound onramp of I-205. As you can see, Clackamas County and its development agency has fulfilled its partnership obligation with ODOT. To eliminate this project from the transportation Improvement program would be a significant letdown to

Clackamas County. It would seriously effect the Clackamas Town Center and I-205 and its efficiency in that area. It would deeply disappoint the private business community who was willing to stand behind this whole series of projects and help their funding through a local improvement district. I urge you to honor Clackamas County's expectation in this area by keeping the split diamond project in the transportation improvement program. I believe Clackamas County and the development agency has done its share of the bargain, we're now counting on you to fulfill ODOT and Metro's share of the bargain. Thank you."

Peter Fry, Planning Consultant, Central Eastside Industrial Council. "I wanted to speak on three subjects briefly. First, ODOT's criteria was good because the addressed four areas that I feel are critical. First, the completion of primary connections within the system to focus our investment on connecting the system in the primary areas. Second, to reinforce state and local goals, particularly vehicle miles traveled, the idea is intensification in our urban areas, as opposed to sprawl and to allow the uses to be pushed out by congestion to the surrounding area. There is obviously one easy way to solve congestion and that is to push the uses out. Congestion is a natural result of intensification. Safety is another good point that ODOT raised. The final point is congestion, we use L.A. as an example. I have to point out that L.A. is one of the strongest economic systems in the world, so for us to constantly criticize it is like the little thing criticizing a huge economic machine. The point being that congestion is positive, because it is a result of intensification. The second area I want to talk about is process, we've always been underfunded, I've never known a situation where we've had surplus funds. I also understand that the state funding is primarily used to match federal funds. I also known that the state six year plan is updated on average every two years. So its difficult to understand how projects that have been on the six year plan can be cut permanently when the six year plan may be revisited in 2 years. Why is it "cut" why not "deferment? If you don't have enough money, you push it back. So I don't understand the word "cut" unless it has a political purpose rather than a purpose in terms of transportation. Finally, on the economic development factor, its been my experience that Metro under predicts the growth of inner city jobs and the reason I believe thats set up is because of the historical growth in suburban jobs. I would ask you to look at the inner city numbers versus the outer city numbers and recognize that historically, Metro's underestimated the inner city jobs and created a self-fulfilling prophecy doing that. Lastly, at some point you need to explain how you determine the cost benefit. Thank you."

Doug Terrill. "I agree with the previous comments about making certain pedestrian/transit improvements in the local business districts and then working out from there. I want to talk about the recent proposal for schools that was submitted to the Metro Council previously for CMAQ funds. This also has advantages, its dual purpose for pedestrians to transit also. It also helps small businesses, it will have long term changes on peoples transportation modes. It will give children a chance to experience their communities with out the automobile. People and students need the facility to make the change from autos to transit and bicycle."

Wesley Risher, Vice-President, Southwest Neighborhood Information. "I'm here to emphasize our support for the city of Portland's project list in terms of bicycle and pedestrian improvements in SW Portland, specifically Capitol Highway to Barbur, the three segments listed. I'd also like to lend support to the Barbur bike lane from Hamilton to I-405. One project that didn't make it from the city of Portland submittal is the Betha Blvd. bikeway between Beaverton-Hillsdale Highway to Vermont. It would make the critical link between the current existing bike lane from 65th to Lake Oswego. There is no consideration for energy savings in

the criteria. I think that's more important when we discuss as a region where we're going. Also I don't know if there is any criteria about the long term social pattern shift of the projects, where you can change peoples modes of travel and impact how we grow as a region. Lastly, I'd like to see some money moved, if we're going to shift funds, to transit oriented development (TOD) to jump start those projects. TOD monies have been proven in San Francisco, and of course DEQ ranks those projects very high as community projects where you can actually see real significant reductions."

Jay Mower, Wilson Neighborhood Association, and Hillsdale Vision Group. "The Hillsdale Vision Group is a coalition that has been talking for the last nine months about how to reclaim Hillsdale to make it more of a community. The grass roots effort there has been quite remarkable. I appreciate all the different comments, I am grateful to all the people who are contributing to this conversation. My comments are quite general about our society. I'm speaking about the car. The car influences us so much and I'm going to quote from a review of a new book called *The Geography of Nowhere* by James Howard Kunstler. "Eighty percent of everything ever built in America has been built in the last 50 years. Most of it is depressing, brutal, ugly, unhealthy and spiritually degrading. The jive plastic commuter tract home wastelands, the Potomkin village shopping plazas with their vast parking, the lego block hotel complexes, the gourmet mansardic junk food joints, the Orwellian office parks featuring buildings sheathed in the same reflective glass as the sunglasses worn by chain gang guards, the particle board garden apartments rising up from every meadow and corn field, the freeway loops around every big and little city with their clusters of discount merchandise marts and the whole destructive, wasteful, agoraphobia inducing spectacle that we proudly call growth." Just how the American landscape got to be this way, or what can be done about it is the subject of this man's book. The main culprit responsible for the deterioration of the American landscape is the country's ethos of individualism, a belief, the author says, degrades the idea of the public realm and hence of the landscape tissue that ties together the thousands of pieces that make up a town, suburb or a state. The American dream of owning a house and an automobile has lead, he argues, to a nation of isolated and alienated individuals who spend more and more time commuting to work and much of the remaining time at home alone with their television sets. I really believe this. When I moved to Portland two years ago I sold my car, I've been on foot and Tri-Met ever since. And the contact, this has gotten me into the texture and the people of this place, its been really exciting. And the social change I think is what needs to occur because the transportation system that we have built is so tremendously expensive. I think over time we will realize that we cannot afford to support. It takes too much of our resources, its a massive system. But the efforts that can be made to build pedestrian, bike and intermodal links will be long time well served. The trend is in that direction. I think people will agree we need to redirect our resources personally. Its been happening all over in this last year, this contracting of government, business and personal finances. I think its an indicator of the expenses people are just not going to be able to afford anymore. So if we can orient these projects towards the less costly pedestrian and bike projects that it would be very, very good. Thank you."

Mark San Soucie, member, Bicycle Transportation Alliance. "I want to make a general comment of very strong support of the notion of shifting some additional funds over to alternative modes of transportation. As a regular bicycle commuter, I have noticed just over the last two years that I've been trying to spend all of my commute time on a bicycle. We're beginning to see the signs, even in Washington County, but more so in denser areas in Portland that we're approaching a point of critical mass where bicycle transportation can make some

sense on a wide scale where we will see larger and larger numbers of people converting over to it'. One of the things that will help to sway the minds of the fence sitters who are considering it but aren't really certain that its wise or safe to get out on a bicycle is a firm public commitment from the money sources to support this kind of effort in the future. People will experiment and will join you in the effort if they see they're going to get support from their government officials in this long range planning effort. Specifically, things that are being presented here tonight. One concern that I have is that many of the projects that are on the cut list, according to the criteria here, will work against the multi-modal future that we're all talking about. I think its important that the criteria used for determining prioritization in the cut list as well as the criteria used for consideration for the add list have the notion that it supports the multimodality strengthened above what you have here in your preliminary criteria. Between the ISTEA and the Transportation Planning Rule, its pretty clear what the federal and state direction is on this. I think that criteria we use in this process must reflect that. One of you said earlier that ISTEA and the TPR are intended to be supported by the local comprehensive plans and the local transportation plans from which projects are drawn. I think its worth it for all of us to remember that not all local transportation comp plans have begun to address ISTEA or the TPR. So the projects that have been submitted from local plans do not necessarily reflect any change in policy in response to TPR or ISTEA. Its necessary for ODOT and Metro impose a bit of vision and guidance on the selection process by strengthening the criteria that reflect TPR and ISTEA mandates and guidelines. Lastly, I notice that you're asking for solicitations for projects from individuals and from other groups, one of the things that occasionally causes some frustration is that projects that some neighborhood or some business groups see as being critical may not be on a local plan and for various reasons it may be difficult to get on a local plan. I would hope that in this process we would find some mechanism whereby well deserving projects that would rate highly as far as reaching VMTs and other regional goals, that are not on local plans but should nonetheless be considered. Thanks."

Annette Liebe, Oregon Environmental Council. "I have three suggestions on your criteria. First I'd like to thank the Oregon Transportation Commission for insisting on this cut process public. I'd like to thank Metro on this process that you've devised in order to work through this. My first comment is that the criteria appear to be blind to land use issues. I would like to encourage you to observe all Region 2040 options, so that that process can move forward without a preordained result. I'd like you to take out all of the construction and development projects which would that foreclose any of the Region 2040 options. Secondly, we feel very strongly that only projects which include increased bicycle and pedestrian facilities should be considered for funding in this process. The final comment is that for intermodal projects, we strongly encourage you to support those projects which promote rail for long distance hauling of goods as opposed to trucks. Thank you."

Don Weege, citizen of Portland area. "First, I would hope that you would all remember in your deliberation that roads carry commerce in addition to people. There seems to be an awful big focus on what you should do, how many people it will carry, mass transit, etc. But remember roads have to carry trucks too. I would hope you would put a higher priority on any project that helps commerce. The Stafford road, particularly, where there's a large number of distribution centers and a large amount of truck traffic. Anything that would smooth that out would be appreciated by the motorists that drive around there. On the safety side, I drive out east a lot. I don't know about that Troutdale stuff or funding, but I've been trying to dodge the trucks on the Wood Village exit, theres a big problem out there. The trucks are increasing almost daily.

Finally, this will get some boos and hisses, but as a former bicyclist, and as a citizen that pays alot of taxes, I'm really against spending a lot of money on what is basically a recreational use. A large majority of people don't ride bicycles, and a large majority of those that do only ride them for recreational purposes. I view a bike path as a swimming pool. If you're physically able to swim if you like to swim, if the weathers good and you don't have anything else to do, you might go out and take a swim. The only difference is that a lot of pools charge fees, and bike paths don't. I'm not aware of any fees coming in from the bikes for licensing or taxes to help support their recreational use. I'm all for bicycles, I think they are great to commute on and I rode them a lot. But people get old and become physically infirm and they still need cars. So in times of constricting funds I would hope that you wouldn't spend money on swimming pools."

Rex Burkholder, Bicycle Transportation Alliance. "Thanks, this is a great process, I'm proud that you're doing this in public. Sometimes we're feel like we are groping in the dark trying to figure out how all this stuff works and how to make contact with the right people, and now you are sitting down in front of everybody. The thing I think we need to look at is that these are draft criteria, we're in a period of transition so you can't expect the criteria to be consistent internally, which they are not. That is something I expect everyone in this room to help Metro and the city work on. I know I'll be there, and the comments tonight and in the future will help get criteria that work together so that we can analyze these projects in an intelligent way. Thanks for doing this."

Rod Park, Vice-President, Mt. Hood Parkway Citizens Advisory Committee. "Our committee has been functioning since December 1989. We have had many public meetings and debate. Many of those meetings were not pleasant experiences. Some thought our committee would never come to agreement on any of the proposed routes. However, after much deliberation, the CAC finally recommended two routes for consideration. The committee is now concerned, however, that the Mt. Hood Parkway will not be funded. We feel the Mt. Hood Parkway project should continue for the following reasons: 1) There is regional consensus on one of the two proposed routes. 2) Even though the Parkway is regional in nature, it has state wide implications. This will be a major tie to I-84 and Highway 26. 3) Mt. Hood Parkway is interrelated to two other projects in the region, the widening of I-84 at Troutdale and an upgrade of the interchange at 238th. Delaying the project would further reduce return on these other two investments. 4) Completion of the Parkway would relieve East Multnomah County of the dubious honor of being unique in Oregon as the only major metropolitan area without a clear route or link between two major highways. 5) Further delays of the Parkway project will make systematic planning efforts in all the effected communities extremely difficult as a large gap will exist in the transportation system. Finally, this has been a controversial project, and a long process. We feel the questions about the Mt. Hood Parkway need to be answered during this generation of policy makers. Added delays only serve to invalidate hundreds of hours of consensus built in community forums, making any intelligent informed decision all the more difficult. You should hold the Mt. Hood Parkway as a high priority and take the next step and begin a draft environmental impact statement. Thank you."

Mike Cook, Facilities Planning Manager, Mentor Graphics. "I've been asked by our management to try to do something about the safety problems we've been having at Stafford road interchange. When we heard about the potential funding loss, we were very much concerned. We have 1000 employees, 75 percent take that offramp in the morning, and at 8:00 a.m. we feel like we're taking our life in our hands when we make that turn. Its very

important. Also in support of the Westside Bypass analysis funding and the Kruse Way interchange, our business is very much dependant on access to employment throughout the region. We feel trapped sometimes by the thinking that we hear that everybody should live where they work, but a lot of people are married and work in two different places, its not always possible. We urge continued planning of the Westside Bypass analysis and also the 217, I-5 interchange."

**ODOT 1995-1998 Transportation Improvement Program (TIP):  
Summary of ODOT and Metro Program Development and Review Processes**

[Following is a description of the key steps in the ODOT and Metro processes for development of ODOT's 1995-1998 TIP. As required by ISTEA, the Metro regional TIP is required to be included in the State TIP. The process initially focuses on ODOT's funding shortfall, however the overall process will develop a complete regional TIP for inclusion in the State TIP. An open question is whether a remaining \$20 million of regional STP funds should be programmed through this exercise.]

**A. ODOT Process**

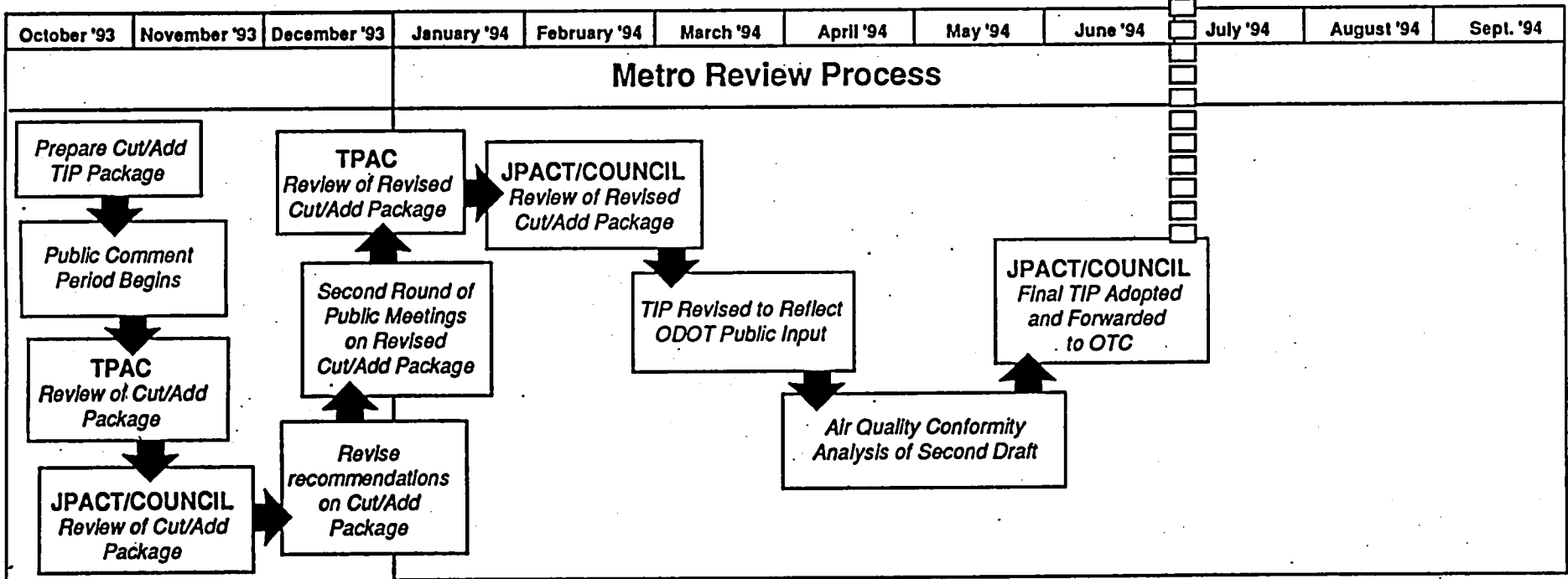
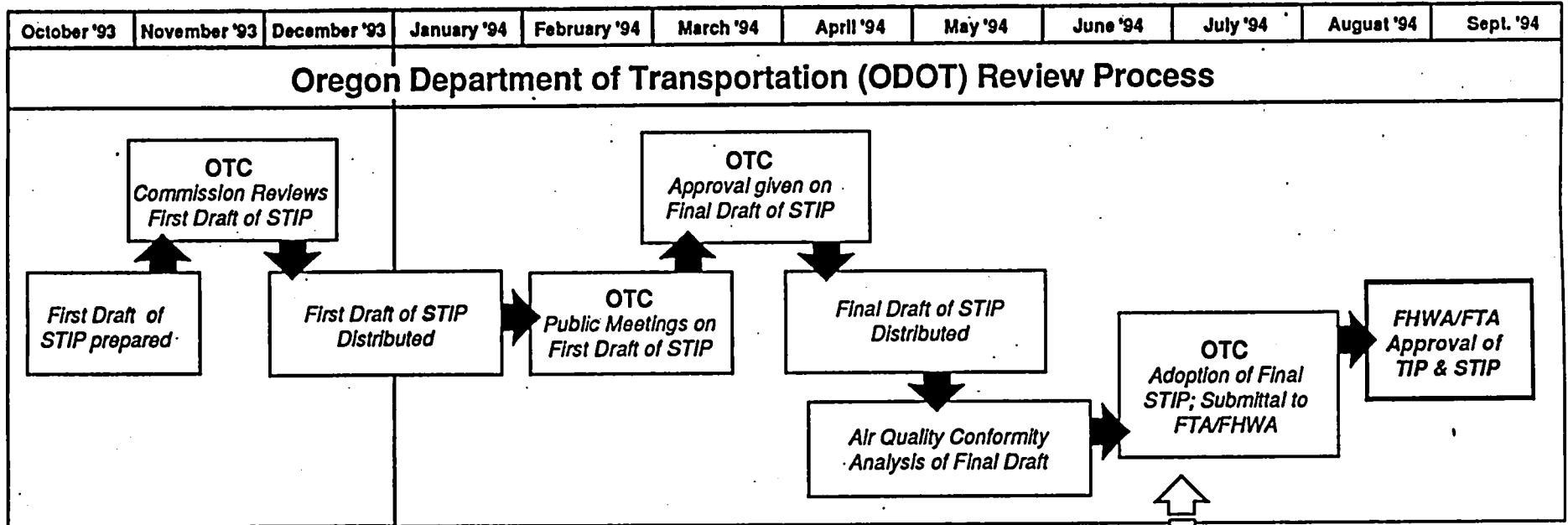
- A.1. November 1, 1993. ODOT prepares preliminary recommendations for Oregon Transportation Commission (OTC) review prior to preparation of First Draft TIP.
- A.2. November 16, 1993. OTC review of preliminary recommendations on funding shortfall. OTC direction on First Draft TIP.
- A.3. December, 1993/January, 1994. Distribution of First Draft TIP.
- A.4. February, 1994. OTC public meetings on First Draft TIP.
- A.5. March, 1994. OTC provides direction for ODOT development of Second Draft TIP.
- A.6. April/May, 1994. Air quality conformity analysis and review on Second Draft TIP.
- A.7. Mid-July, 1994. OTC adoption of Final TIP; Submittal to FTA/FHWA for 60-day review.
- A.8. Late September, 1994. FTA/FHWA TIP approval.

**B. Metro Process**

- B.1. Early October, 1993. Metro/TIP Subcommittee prepares preliminary "cut" and "add" packages. Cut package prioritizes highway/arterial program cuts ranging from \$126 million to \$156 million. Add package prioritizes alternative mode projects from \$0 to \$30 million.
- B.2. October 21, 1993. Metro public meeting on existing funding commitments; cut/add package; process/schedule; criteria. Initiate public comment on preliminary cut/add package (written and oral).
- B.3. October 29, 1993. TPAC review of preliminary cut/add package, review public meeting comment.

- B.4. November 7, 1993. Close public comment period on criteria and cut/add package.
- B.5. November 10, 1993. JPACT review of preliminary cut/add package and public comment. JPACT preliminary recommendations forwarded to OTC for their November 16 consideration (item A.2., above).
- B.6. November 9, 1993, Metro Council Planning Committee review/November 10, 1993 Metro Council review of preliminary cut/add package and public comment. Combined with JPACT recommendation for OTC November 16 consideration.
- B.7. Late November, 1993. Metro/TIP Subcommittee revise recommendations on cuts/adds; develops recommendation on level of cuts and level of adds; develops recommendations on projects in the "Development" program; incorporates Tri-Met Section 9/Section 3 program; as an option develops recommendation on final two years of Regional STP funds; and forwards for public review/comment.
- B.8. December 7, 1993. Second round of public meetings on revised Metro/TIP Subcommittee recommended TIP (including cuts/adds). These meetings will be jointly sponsored by Metro and local governments; to be held concurrently throughout the region.
- B.9. December 31, 1993. TPAC review and recommendations on revised Metro/TIP Subcommittee recommended TIP.
- B.10. January 10, 1993. Close public comment on recommended TIP, including cuts/adds.
- B.11. January 13, 1994. JPACT review and recommendations on revised Metro/TIP Subcommittee recommended TIP.
- B.12. Late January, 1994. Metro Council review and recommendations on revised recommended TIP.
- B.13. March, 1994. Revise TIP, as necessary, based on ODOT public hearings.
- B.14. March/April, 1994. Simultaneous conformity analysis with item A.6., above.
- B.15. June, 1994. Final Metro Council/JPACT adopted TIP. Forward to OTC.

# REVIEW PROCESS FOR THE 1995-98 State Transportation Improvement Program (STIP)



**LIST OF ODOT CANDIDATE CUT PROJECTS:**

- CONSTRUCTION PROGRAM**
- DEVELOPMENT PROGRAM**

**AND**

**LIST OF METRO AND LOCAL JURISDICTIONS  
CANDIDATE ALTERNATIVE MODE ADD PROJECTS**

ODOT CANDIDATE CUT PROJECTS ODOT REGION 1 (URBAN PORTION) CONSTRUCTION PROGRAM			
METRO ID NO.	CATEGORY OF WORK	WORK DESCRIPTION	CONSTR
	<b>CONSTRUCTION</b>		
225	I-84: Gateway Park & Ride Lot	construct new park & ride at 82nd Ave.	0.960
227	I-205: @ Glisan N&S Bound	turn lanes	0.370
233	US 30B: Columbia Blvd. - I-205 (Turn Lanes)	turn lanes	0.440
234	TV Hwy: 160th Avenue - 110th Avenue	reconstruct	8.400
242	217: NB Off-Ramp @ Scholls Hwy	widen for left turn lane	0.270
253	US 26: Sylvan Interchange - Highlands Interchange	construct climbing lane;	9.400
254	US 26: Camelot Interchange - Sylvan Interchange	widen, reconstruct, construct new interchange	66.200
255	US 26: Beaver/Trigard Hwy - Camelot Interchange	widen & reconstruct hwy	7.240
256	US 26: Murray Road - 217	widen & reconstruct hwy	20.300
320	I-5: E. Marquam Grand Avenue/MLK Jr. Ramps	construct new I-5 NB, SB access ramps	50.000
345	I-5: Water Avenue Ramps	construct new I-5 SB access ramp	19.000
403	I-5: Stafford Interchange	widen OXing, reconstruct approaches	7.900
828	TV Hwy: Shute Park - 21st	widen	4.650
865	I-205: @ Sunnybrook Interchange	construct new interchange	18.200
893	I-5: @ 217/Kruseway	reconstruct interchange	43.600
914	99W: @ 124th	New signal & intersection	1.000
922	I-84: 223rd - Troutdale	widen to 6 lanes; interstate completion	23.000
934	Farmingington: 167th - Murray Blvd.	widen	5.180
942	OR-47: Council Creek - Quince (Hwy 47 Bypass)	new arterial	7.130
	VAR: Metro Advance Warning Signs	transportation systems management	1.210
	VAR: Metro Area Freeways (Detection System)	transportation systems management	1.430
	VAR: Motorist Information System	transportation systems management	1.100
	VAR: TSM Reserve	TSM and MACS projects	4.880
	BV/Tualatin Hwy:		
	Lower Boones Ferry Rd. - Tualatin/Shenwood	bikeway	0.240
	BV/Tualatin Hwy: 99W - SW McDonald St.	bikeway	0.390
	OR-43: Mcvey Avenue - Burnham (Bikeway)	bikeway	0.440
<b>GRAND TOTAL</b>			<b>302.930</b>
<b>MANDATED CUT AMOUNT</b>			<b>125.000</b>
<b>CONSTRUCTION PROGRAM TARGET</b>			<b>175.930</b>

ODOT CANDIDATE CUT PROJECTS ODOT REGION 1 (URBAN PORTION) DEVELOPEMENT PROJECTS				
METRO ID#	CATEGORY OF WORK	YEAR	WORK DESCRIPTION	CONSTR (millions)
na	ROW			
	34 Mt. Hood Parkway: I-84 - US 26	97	Construct limited access hwy	27,596
	156 Sunrize Corridor: I-205 - Rock Creek Jct	96	Construct limited access hwy	85,300
	161 Sunrize Corridor: Rock Creek Jct - Mt. Hood Hwy	98	Construct limited access hwy	31,360
	164 I-205: Sunrize Interchange	96	Reconstruct Interchange	64,900
	258 217: Sunset - T.V. Hwy	96	Widen highway and structure and complete	20,600
	893 I-5: 217/Kruse Way Interchange (Unit 2)	98	Construct Collector Roads Adjacent to I-5	37,000
	934 Farmington: 209th-Murray Phase 2	94	Widen to 4 lanes w/ continuous left turn lane	2,665
	MP 4.1 - Dabney Park (Rockfall)	95	Cut back slope; build bench and rockfall a	3,860
	ROW Subtotal			273,281
971	FINAL DESIGN			
	I-5: Wilsonville Interchange	94	Reconstruct Interchange including structure	12,600
	Final Design Subtotal			12,600
32 33 394 915 969	E.I.S.			
	99E: SE Harold-SE Tacoma Interchange	96	Construct 6-lane divided hwy	6,440
	99E: MLK/Grand Viaduct-SE Harold	97	Construct new traffic lanes	6,420
	I-5: Greeley Ramp- No. Banfield Interchange (Unit 2)	96	Add lanes, rebuild structures, modify stre	33,500
	217: TV Hwy-72nd Ave Interchange	96	Construct new travel and auxiliary lanes	38,200
	Western Bypass Corridor EIS	93	To Be Determined	0,000
E.I.S. Subtotal				84,560
GRAND TOTAL				370,441
MANDATED CUT AMOUNT				69,441
TARGET PROGRAM AMOUNT				307,000

**CANDIDATE BIKE PROJECTS  
FOR ADDITION TO THE STATE PROGRAM**  
(TOTAL COST OF \$14.03 MILLION; METROID# REFERENCES TO MAP LOCATION)

**CLACKAMAS CO**

**METROID#**

- 990 CLACK/WILL RIVER PED/BIKE PATHS  
- 82 DRIVE BRIDGE/McLOUGHLIN
- 991 WILL FALLS DRIVE PED/BIKE PATH  
- HWY 43/10TH AVE INTERCHANGE (I-205)
- 972 CONCORD RD BIKE LANE- OATFIELD/RIVER RD
- 992 A ST. (LAKE OSWEGO) BIKE/PED/TRAN

**WASHINGTON CO**

- 975 MURRY BLVD - ALLEN/TERMAN
- 976 158TH BIKE LANE - WALKER TO MERLO
- 978 170TH BIKE LANES - T/V/BASELINE
- 979 185TH BIKE LANE - T.V HWY TO FARMINGTON
- 980 CORNELL BIKE LANE - 158TH/185TH

**TIGARD**

- 982 NB OR 99W - 72ND/64TH (TIGARD)

**BEAVERTON**

- 983 DAVIS ROAD BIKE LANE - MURRAY/160TH
- 986 DENNEY RD BIKE LANE - CITY LIMITS/HALL ST.
- 981 ALLEN BLVD - SCHOLL'S FERRY/MURRAY RD

**CITY OF PORTLAND**

- 984 CAPITOL HWY BIKE LANES - THREE SEGMENTS
- 987 SW MULTNOMAH BIKE LANE - SW 22ND/CO LINE
- 993 SW BARBUR - HAMILTON/I-405
- NA SE BIKEWAY IMPROVEMENTS (PLNG ONLY)

**PORT OF PORTLAND**

- 995 MARINE DRIVE BIKE PATH - 47TH/I-205
- 996 SWAN IS. (GOING STREET) PATH  
- INTERSTATE/WATERFRONT (WIL RIVER)

**MULTNOMAH CO**

- 988 SE 202ND BIKE LANE - BURNSIDE/STARK
- 997 TROUTDALE RD/SE 192ND BIKE LANE
- 989 201ST BIKE/PED - NE THOMPSON/SANDY BLVD

**ODOT CURRENTLY PROGRAMMED (BEING CONSIDERED FOR ELIMINATION)**

- 973 BV-TUAL. HWY - LOWER BOONES FERRY/TUAL. RD
- 974 BV/TUAL. HWY - I-5/SW MACDONALD
- 977 OR 47 - McVEY/BURNHAM

**CANDIDATE TRANSPORTATION SYSTEM MANAGEMENT PROJECTS  
FOR ADDITION TO THE STATE PROGRAM  
(TOTAL COST OF \$675,000)**

**CITY OF PORTLAND**

ADVANCED TRANSPORTATION MANAGEMENT SYSTEM (\$300,000 PE COST - 1ST YEAR)

- TSM PROJECT TO PROVIDE FOR CONGESTION MONITORING FOR ENTIRE PORTLAND AREA

PORTLAND SIGNAL RETIMING PROGRAM (\$125,000)

- FUNDS SECOND YEAR OF CMAQ FUNDED PROJECT. DESIGN AND ENGINEERING FOR CITYWIDE SIGNAL RETIMING.

CENTRAL CITY CONGESTION MONITORING PROGRAM (\$250,000)

- PE COST FOR IMPLEMENTING A MONITORING PROGRAM WITHIN THE BOUNDARIES OF THE CENTRAL CITY TRANSPORTATION MANAGEMENT PLAN PROJECT.

**CANDIDATE  
TRANSPORTATION DEMAND MANAGEMENT PROJECTS  
FOR ADDITION TO THE STATE PROGRAM  
(TOTAL COST OF \$15 MIL)**

**METRO**

TWO TRANSIT ORIENTED DEVELOPMENT (TOD) PROJECTS

- SEED FUNDING OF A REGIONAL REVOLVING FUND FOR SITE ASSEMBLY OF KEY LRT STATION AREA LAND. (\$10 MILLION)
- SEED FUNDING FOR SITE PREPARATION AND IMPROVEMENTS ASSOCIATED WITH LRT STATION IMPROVEMENTS. (\$5 MILLION)

**CANDIDATE  
INTERMODAL TRANSPORTATION SYSTEM PROJECTS  
FOR ADDITION TO THE STATE PROGRAM  
(TOTAL COST OF \$1.19 TO 15.59 MIL)**

**PORT OF PORTLAND**

NORTH RIVERGATE RAILROAD TRACK "WYE" (\$3.9 MIL, OR \$590,000 PE COST)

**CITY OF PORTLAND**

UNION STATION SWITCHES (\$600,000)

**CANDIDATE PEDESTRIAN PROJECTS  
FOR ADDITION TO THE STATE PROGRAM  
(TOTAL COST OF \$7.74 MILLION)**

**CLACKAMAS CO**

CLACK/WILL RIVER PED/BIKE PATHS (\$1.16 MIL)

- 82 DRIVE BRIDGE/MCLOUGHLIN

WILL FALLS DRIVE PED/BIKE PATH (\$2.50 MIL)

- HWY 43/10TH AVE INTERCHANGE (I-205)

**WASHINGTON CO**

185TH - KINNAMON/BLANTON (\$95,000)

170TH - B&NRR TRACKS TO BANY (\$638,000)

173RD- WALKER/BASELIN (\$145,000)

**BEAVERTON**

DAVIS ROAD (OFF-STREET) BIKE & PEDESTRIAN PATH - MURRAY/160TH (\$200,000)

CENTRAL BEAVERTON LRT PED ACCESS AND ESPLANADE (1.5 MIL)

**CITY OF PORTLAND**

CAPITOL HWY PEDESTRIAN IMPROVEMENTS - THREE SEGMENTS (\$675,000)

NE & SE 122ND AVE SIDEWALK IMPROVEMENTS (\$675,000)

- SAN RAFAEL TO SANDY

- STARK TO FOSTER

BURNSIDE BRIDGE/ ESPLANADE RAMP CONNECTION (\$400,000)

**MULTNOMAH CO**

201ST BIKE/PED - NE THOMPSON/SANDY BLVD (\$150,000)

TRI-MET PROPOSED "ADD" PROJECTS  
Federal Fiscal Year 1995-1998  
(Millions, Total \$, YOY)

	FY95	FY96	FY97	FY98	Total
<b><u>CORE PROGRAM</u></b>					
<b><u>Preservation/Replacement</u></b>					
1. 160 Standard Buses	\$9.0	\$4.16	\$11.826	\$7.5	\$32.486
2. 44 Paratransit Vehicles	.333	.433	1.8	.468	3.034
<b><u>ADA Requirements</u></b>					
3. Banfield Stations Low Floor Vehicles Retrofit		10.7			10.7
4. Paratransit Info System	.119	.124	.129		.372
5. 25 Paratransit Vehicles	1.055	.731			1.786
<b><u>Light Rail System Completion</u></b>					
6. Communications Retrofit	8.1				8.1
7. Ruby Junction Modifications	6.9				6.9
8. Type 1 LR Vehicle Mods	1.9				1.9
<b><u>Reliability/Safety Requirements</u></b>					
9. Automatic Vehicle Locator System	.950				.950
10. Closed Circuit TV on Buses		1.052			1.052
<b>Total</b>	<b>28.357</b>	<b>17.200</b>	<b>13.755</b>	<b>7.968</b>	<b>67.280</b>
<b><u>STRATEGIC PLAN INITIATIVES</u></b>					
<b><u>10-Minute Corridor Service</u></b>					
11. Preliminary Engineering	.750				.750
12. 22 Standard Buses		4.5			4.5
13. Transit Priority/TSM		.648	.432		1.08
14. Stations/Shelters		2.85	1.9		4.75
<b><u>Community-Based Demand Responsive Service</u></b>					
15. Minibuses, 4 projects	.325	.325	.325	.325	1.3
<b>Total</b>	<b>\$1.075</b>	<b>\$8.323</b>	<b>\$2.657</b>	<b>\$0.325</b>	<b>\$12.380</b>

PROJECT	TOTAL SCORE	VOLUME TO CAPACITY RATIO FACTORS			ACCIDENT FACTOR		ECONOMIC DEVELOPMENT FACTORS										
		1990 V/C		SCALE	2000 V/C	ACCIDENT RATE	SCALE	'88-'95 JOBS			SCALE		'95-2010 JOBS				
		SCALE	1990	2000			'88 JOBS	'95 JOBS	NET	SCALE	87-95	TOP 1/3 = 10	MID 1/3 = 5	BOT 1/3 = 0	'95-2010 JOBS	NET	2010 JOBS

COST/BENEFIT FACTOR					MULTI-MODAL FACTOR				
VHD	VHD	DELTA	PROJECT	SCALE	BIKEPED	INTERMODAL	TRANSIT	TOTAL	
2000 BLD	1990	DELTA	COST		REG SYS-5			MULT-MODE	
					TOP 1/3 - 15			POINTS	
					MID 1/3 - 8				
					BOT 1/3 - 0				
69.95	129.53	59.68	8,400	0.140	15	5	0	5	10
24.92	70.19	24.33	43,000	1.767	8	5	5	5	15
10.53	103.45	92.92	7,240	0.078	15	5	5	5	15
67.99	82.02	14.03	20,300	1.447	8	5	0	0	5
13.62	23.78	10.16	50,000	4.921	8	0	5	5	10
0.18	0.22	0.04	19,000	475.000	0	0	5	5	10
0	1.61	1.61	7,900	4.907	8	2	5	0	7
0	13.2	13.2	1,000	0.078	15	0	0	5	5
10.69	19.28	8.59	18,200	2.119	8	5	5	5	15
0	4.82	4.82	0.370	0.077	15	0	5	0	5
49.01	26.556	-22.46	66,200	-2.947	0	5	5	5	15
0.31	34.91	34.6	5,180	0.150	15	5	0	5	10
0	29.85	29.85	9,400	0.315	15	5	5	5	15
0	0	0	0.270	NA	0	0	5	0	5
0	0	0	4,650	NA	0	5	0	5	10
0	0	0	7,130	NA	0	2	5	0	7
1.17	1.4	0.23	0.440	1.913	8	0	5	0	5
0	0	0	23,000	NA	0	5	0	0	5
Total Cost of Projects				291.68					

BIKE PROJECT RANKING	PROJECT	PTS RANK
	SE BIKEWAY IMPROVEMENTS (PLUG ONLY)	92
	CAPITOL HWY BIKE LANES - THREE SEGMENTS	90
	SW MULTNOMAH BIKE LANE - SW 22ND/CO LINE	89
	MURRY BLVD - ALLENTERMAN	83
	BV/TUAL HWY - 89W/SW MACDONALD	83
	SW BARBUR - HAMILTON/405	80
	188TH BIKE LANE - WALKER TO MERLO	75
	CONCORD RD BIKE LANE- OATFIELD/RIVER RD	70
	DAVIS ROAD BIKE LANE - MURRAY/180TH	69
	185TH BIKE LANE - T.V HWY TO FARMINGTON	67
	NB OR 99W - 72ND/84TH (TRGARD)	66
	BV-TUAL HWY - LOWER BOONES FERRY/TUAL RD	65
	170TH BIKE LANES - TIV/8 BASELINE	60
	MARINE DRIVE BIKE PATH - 47TH/205	60
	CLACKWILL RIVER PED/BIKE PATHS	60
	CORNELL BIKE LANE - 188TH/185TH	59
	OR 43 - MAYEY/BURNHAM	54
	SWAN IS. (GOING STREET) PATH -	50
	WILL FALLS DRIVE PED/BIKE PATH	49
	SE 202ND BIKE LANE - BURNSIDE/STARK	48
	A ST. (LAKE OSWEGO) BIKE/PED/TRAN	47
	DENNEY RD BIKE LANE - CITY LIMITS/HALL ST.	40
	TROUTDALE RD/SE 192ND BIKE LANE	25
	201ST BIKE/PED - NE THOMPSONS/SANDY BLVD	25
	ALLEN BLVD - SCHOLL'S FERRY/MURRAY RD	25

PROJECT	BOORE STANDARD	REQ. BYS.	LOCALITYS	COST/MILE			
	scale	link/ complete=18 full=16 inter=10 min=5	link/ complete=18 full=16 inter=10 min=5	length	cost	cost/ml	scale
	PTS	PTS	PTS	PTS	PTS	PTS	PTS
CLACKAMAS CO							
CLACKWILL RIVER PED/BK PATHS	60	15	15	1.80	1.160	0.644	<100K=18 100-200=12 200-500=9 500-1mil=4 >1mil=0
- 82 DRIVE BRIDGE/CLOUGH LN							
WILL FALLS DRIVE PED/BK PATH	60	15	15	2.50	1.010	0.404	
- HWY 43/10TH AVE INTERCHANGE I-205							
CONCORD RD BKE LANE - OATFIELD/RIVER RD	75	15	15	1.00	0.160	0.160	
A ST. LAKE OSWEGO BKE/PED/TRAN	48	15	10	0.50	2.000	4.000	
WASHINGTON CO							
MURRY BLVD - ALLEN/THERMAN	59	15	15	1.65	0.437	0.285	
165TH BIKE LANE - WALKER TO MERLO	50	15	6	0.80	0.167	0.209	
170TH BIKE LANES - TV/BASELINE	55	15	4	1.75	0.250	0.166	
195TH BIKE LANE - T.V HWY TO FARMINGTON	59	15	15	1.30	1.118	0.860	
CORNELL BKE LANE - 168TH/165TH	60	15	15	1.19	0.514	0.432	
TIGARD							
NB OR 99W - 72ND/64TH (TIGARD)	67	15	10	0.34	0.200	0.588	
BEAVERTON							
DAVIS ROAD BIKE LANE - MURRAY/160TH	70	10		0.66	0.200	0.303	
DENNEY RD BKE LANE - CITY LIMITS/HALL ST.	47	10	4	1.33	1.540	1.158	
ALLEN BLVD - SCHOLL'S FERRY/MURRAY RD	25	10	2	3.00	2.100	0.700	
CITY OF PORTLAND							
CAPITOL HWY BIKE LANES - THREE SEGMENTS	92	15	15	2.40	0.300	0.125	
SW MULTNOMAH BKE LANE - SW 22ND/CO LINE	90	15	15	2.60	0.217	0.083	
SW BARBUR - HAMILTON/405	83	15	15	1.10	0.655	0.595	
SE BIKEWAY IMPROVEMENTS (PLNG ONLY)	NA						
PORT OF PORTLAND							



FACILITY USER FACTORS				ROAD WIDTH FACT		USERB		SAFETY
d.u. with 1.75 mile radius	daily use (d.u. .05)	scale	pop. with 1.75 mile radius	scale	scale	scale	scale	scale
		top 1/3-10 mid 1/3-5 bot 1/3-0		top 1/3-10 mid 1/3-5 bot 1/3-0	scale	scale	scale	scale
		PTS		PTS	PTS	PTS	PTS	PTS
11639	581.95	0	29146	0	3	5	15	
	0							
11214	680.7	0	28465	0	3	5	0	
	0							
14932	747.6	5	37580	5	3	5	15	
11884	579.2	0	28911	0	3	5	15	
	0							
	0							
27281	1353.05	10	65544	10	5	5	15	
20268	1013.4	10	49790	10	4	4	15	
14798	739.9	5	38056	5	4	5	15	
16875	843.75	5	45528	5	5	5	15	
16514	825.7	5	41610	5	3	5	0	
	0							
13841	652.05	5	31819	5	5	5	15	
	0							
	0							
23542	1177.1	10	58159	10	4	5	15	
27865	1593.25	10	65214	10	3	5	0	
	0				5	4	0	
	0							
37140	1857	10	83695	10	5	5	15	
29944	1497.2	10	68237	10	3	4	15	
31070	1553.5	10	58195	10	5	4	15	
	0							
	0							
	0							

8753	437.65	0	25043	0	3	0	15
19329	968.48	5	46587	5	3	4	0
	0						
	0						
	0						
15460	772.5	5	39257	5	3	4	0
9244	462.2	0	25092	0	4	5	0
10931	546.55	0	27576	0	0	4	0
	0						
	0						
12276	613.8	5	28487	0	4	5	15
20460	1022.5	10	48039	10	5	4	15
12143	607.15	5	30116	5	5	4	15

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736  
TEL 503 797 1700 | FAX 503 797 1797



**METRO**

### **ODOT Program "Cuts;" Potential "Adds" Questionnaire**

This questionnaire is intended to help Metro, through its Council and the Joint Policy Advisory Committee on Transportation (JPACT) decide on which projects are "cut" from the Oregon Department of Transportation (ODOT) 1995-1998 Transportation Improvement Program (TIP). The cuts are necessary in order to meet Federal requirements for a balance between programmed expenditures and committed revenue.

In addition, Metro is considering additional cuts to the TIP in order to possibly fund alternative projects such as transit, bicycles, pedestrian, and intermodal facilities. Information on issues associated with the cuts were distributed at a Metro public meeting on October 21. For a copy of the information, or if you have questions about the need for cuts or the questionnaire, please call Metro's Terry Whisler or Jenny Kirk 797-1700.

### **INSTRUCTIONS**

Please forward completed questionnaires to: Jenny Kirk, Metro, 600 N.E. Grand Avenue, Portland, OR, 97232.

Questionnaires and any other written comments must be received by November 7, 1993.

The questionnaire is broken into two sections. The first attempts to get your opinion on technical criteria which rank projects within a particular mode of travel or by road function (for example, highway criteria, bicycle criteria, etc.). The second section is intended to garner opinion on how transportation dollars should spread over those modal and functional categories during the next five years. Specific instructions vary by question. Please read carefully.

The questionnaire begins on the following page.

## **SECTION ONE: Technical Criteria**

Within each of the following modal/functional categories, please indicate in the blank your opinion as to how important a particular objective is relative to the purpose of the mode. Please use a scale of 1 to 5, with 1 being very important; 2 important; 3 neutral/no opinion; 4 not important; and 5 should not be a factor. You may use each factor more than once.

The criteria are consistent with Metro's adopted Regional Transportation Plan (RTP) and other state and regional objectives. However, please feel free to add other modal/functional criteria, if any, you feel are also important.

### **A. Highway/Arterial Expansion Criteria (for new or widened roads).**

1. Project ability to reduce congestion over twenty years. \_\_\_\_\_
2. Project ability to improve safety. \_\_\_\_\_
3. Project ability to enhance economic development. \_\_\_\_\_
4. Project ability to enhance mobility at a reasonable cost. \_\_\_\_\_
5. Project ability to enhance multi-modal system, e.g., also includes bike, pedestrian, transit aspects. \_\_\_\_\_
6. Other/Comment: \_\_\_\_\_

### **B. Highway/Arterial Reconstruction Criteria (for reconstructed roads without significant capacity improvements).**

1. Project ability to provide long-term maintenance or bring facility to urban road standards, e.g., provide curbs, sidewalks, drainage. \_\_\_\_\_
2. Project ability to improve safety. \_\_\_\_\_
3. Project ability to enhance economic development. \_\_\_\_\_
4. Project ability to enhance mobility at a reasonable cost. \_\_\_\_\_
5. Project ability to enhance multi-modal system, e.g., also includes bike, pedestrian, transit aspects. \_\_\_\_\_
6. Other/Comment: \_\_\_\_\_

**C. Bikeway Criteria (includes on- and off-street facilities).**

1. Does the project meet current standard for bikeways. \_\_\_\_\_
2. Is the project consistent with State, regional, and local bike plans. \_\_\_\_\_
3. Is the project part of the regional bike network. \_\_\_\_\_
4. Is the project part of a local bike network. \_\_\_\_\_
5. Project cost/mile. \_\_\_\_\_
6. Type of use:
  - Commuter/Work Trips \_\_\_\_\_
  - Recreational \_\_\_\_\_
  - School (particularly children) \_\_\_\_\_
  - Shopping \_\_\_\_\_
7. Existing safety problem within the corridor, e.g., traffic conflicts. \_\_\_\_\_
8. Number of potential users. \_\_\_\_\_
9. Record of bike accidents. \_\_\_\_\_
10. Other/Comment: \_\_\_\_\_

**D. Pedestrian Criteria (on-road and urban trails).**

1. Does the project meet current standard for sidewalks. \_\_\_\_\_
2. Proximity to light-rail and other major transit stations. \_\_\_\_\_
3. Proximity to major shopping areas/downtowns. \_\_\_\_\_
4. Is the project part of a local pedestrian network. \_\_\_\_\_
5. Project cost/mile. \_\_\_\_\_
6. Type of use: \_\_\_\_\_

- Commuter/Work Trips \_\_\_\_\_
  - Recreational \_\_\_\_\_
  - School (particularly children) \_\_\_\_\_
  - Shopping \_\_\_\_\_
7. Existing safety problem within the corridor, e.g., traffic conflicts. \_\_\_\_\_
  8. Number of potential users. \_\_\_\_\_
  9. Record of pedestrian accidents. \_\_\_\_\_
  10. Other/Comment: \_\_\_\_\_  
\_\_\_\_\_

**E Transportation Demand Management (TDM) Criteria (carpool/ride share programs; flex-time; telecommuting)**

1. The cost of the program relative to the number of trips taken off the system. \_\_\_\_\_
2. The actual number of vehicle miles of travel removed from the system. \_\_\_\_\_
3. The level of congestion within the corridor. \_\_\_\_\_
4. Other/Comment: \_\_\_\_\_  
\_\_\_\_\_

**F. Transportation System Management (TSM) Criteria (signal timing; low-cost intersection improvements, etc.).**

1. Cost efficiency based on a project's ability to reduce delay or decrease congestion. \_\_\_\_\_
2. Project ability to improve safety. \_\_\_\_\_
3. Project ability to improve bus operations. \_\_\_\_\_
4. Project ability to reduce overall delay. \_\_\_\_\_
5. Other/Comment: \_\_\_\_\_  
\_\_\_\_\_

**G. Transit Criteria (buses, transit stations, shelters/waiting areas, park and ride facilities, etc.).**

1. Project achieves Federal, state, other mandate (safety, Americans with Disabilities Act, etc.). \_\_\_\_\_
2. Project replaces or rehabilitates bus fleet. \_\_\_\_\_
3. Project allows for system completion. \_\_\_\_\_
4. Project provides direct support for service expansion or improvements. \_\_\_\_\_
5. Project achieves a key regional objective. \_\_\_\_\_
6. Other/Comment: \_\_\_\_\_

**H. Intermodal Criteria (state, national, and international freight and passenger movements).**

1. Project ability to rapidly move goods or passengers. \_\_\_\_\_
2. Project promotes efficient movement of goods and/or passengers. \_\_\_\_\_
3. Project ability to enhance safety of goods/passenger movements. \_\_\_\_\_
4. Project ability to support regional economic development and livability objectives. \_\_\_\_\_
5. Other/Comment: \_\_\_\_\_

**I. Special Considerations**

Are there any other special considerations which should be considered when prioritizing projects by their mode or function?: \_\_\_\_\_

---



---



---



---

## **SECTION TWO: Overall Allocation of Funds by Mode or Function**

Please consider the following when answering questions within this section:

- \$126 million out of \$302 million must be cut from the highway/arterial construction program; plus \$63 million of \$84 million "development" (projects in environmental, design, or right-of-way phases) program must be cut. Metro is considering up to an additional \$30 million in cuts to the highway/arterial program in order to fund alternative mode projects such as public transit, bikeways, pedestrian improvements, and intermodal facilities. The purpose of this section is to ascertain public opinion on whether additional funds should be pursued, at the expense of roads, to fund alternatives.
- Federal and state directives are oriented at reducing single-occupant vehicle trips within the context of an overall regional plan. Plans must reflect that orientation, but are not required to be completed until late 1994 (federal) and mid-1995 (state).
- Federal and state directives are also oriented at providing balanced urban systems within the overall regional plan. The plan must enhance mobility and access to jobs, housing, and shopping, while be sensitive to the environment and neighborhoods. These directives place a high value on the free flow of commercial goods and freight, at all times, to enhance national economic competitiveness.
- Other funds are programmed for alternative modes between 1995-1998, including over \$20 million in Congestion Mitigation/Air Quality funds (all alternative modes); roughly \$5 million for Transportation Enhancement projects (mostly bicycle trails); \$11 million of regionally controlled Surface Transportation Program (STP) funds in FY 95 for Westside LRT; plus annual operating and capital assistance to Tri-Met.
- \$2.7 million of regionally controlled STP funds are also programmed for local arterials in 1995; and almost \$21 million is unallocated (and can be used for any mode) for 1996 and 1997.
- The Oregon Transportation Commission's top priority is on maintaining existing roads and enhancing safety.

## Section Two Questions:

1. Do you agree preservation and maintenance of existing roads should be the top priority of the OTC and that all cuts and any potential adds should be at the expense of new/wider highways? Yes \_\_\_\_\_  
No \_\_\_\_\_
2. Do you feel Metro should pursue additional highway/arterial cuts for alternative modes? Yes \_\_\_\_\_ No \_\_\_\_\_
3. If you answered yes to Number 2, how much do you feel is appropriate? (check one)
  - \$1-\$10 million \_\_\_\_\_
  - \$10-\$20 million \_\_\_\_\_
  - \$20-\$30 million \_\_\_\_\_
  - More \_\_\_\_\_
4. If alternative mode funding is provided, and based on the list of needs that was handed out at the October 21 meeting, indicate what percent should go to each mode.
  - Public Transit \_\_\_\_\_
  - Bicycles \_\_\_\_\_
  - Pedestrians \_\_\_\_\_
  - TDM \_\_\_\_\_
  - TSM \_\_\_\_\_
  - Intermodal \_\_\_\_\_
5. Understanding that all the needs cannot be met, how should bicycle funds best be spent? (choose one)
  - On a regional network \_\_\_\_\_
  - On access to a regional network \_\_\_\_\_
  - For local networks \_\_\_\_\_
  - Near schools \_\_\_\_\_

6. Should the \$21 million of regionally controlled STP funds be programmed now, either to meet the highway/arterial shortfall or for alternative modes; or after an updated plan is ready in 1995 (the funds cannot be used until 1996 and 1997)? Yes \_\_\_\_\_ No \_\_\_\_\_

Additional Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. Please provide:

Your name \_\_\_\_\_

Affiliation \_\_\_\_\_

Address \_\_\_\_\_

Meeting Date: November 10, 1993  
Agenda Item No. 4.1

**MINUTES**



## METRO

DATE: November 4, 1993

TO: Metro Council  
Executive Officer  
Interested Parties

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

RE: AGENDA ITEM NO. 4.1; MINUTES OF OCTOBER 28, 1993

The Metro Council minutes of October 28, 1993, will be provided under separate cover to Councilors on or before Tuesday, November 9, 1993, and will be available to the public at the Council meeting November 10, 1993. Persons who wish to obtain a draft copy before that date may contact the Clerk at 797-1534.

Meeting Date: November 10, 1993  
Agenda Item No. 4.2

**RESOLUTION NO. 93-1867**

## SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 93-1867, FOR THE PURPOSE OF REVISING THE INITIAL TERM COMMENCEMENT DATES FOR MEMBERS OF THE SOLID WASTE RATE REVIEW COMMITTEE TO ALLOW FOR A MORE ORDERLY TRANSITION BETWEEN TERMS

-----

Date: November 3, 1993

Presented by: Councilor Washington

Committee Recommendation: At the November 2 meeting, the Committee voted 4-0 to recommend Council adoption of Resolution No. 93-1867. Voting in favor: Councilors McFarland, McLain, Washington and Wyers. Chair Buchanan was excused.

Committee Issues/Discussion: Roosevelt Carter, Solid Waste Budget and Finance Manager, explained that the original resolution establishing the present rate review committee was adopted in February. While the length of the terms of the initial committee members was staggered, all terms were scheduled to expire in February of each year. Because this expiration falls during the height of the budget and rate review process, the committee would be losing experienced members and having in indoctrinate new members at the most critical time of its deliberations.

This resolution would change the expiration date of the initial terms of the rate review committee members from February to September to facilitate an easier transition.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF REVISING THE )  
INITIAL TERM COMMENCEMENT DATES )  
FOR MEMBERS OF THE SOLID WASTE )  
RATE REVIEW COMMITTEE TO ALLOW )  
FOR A MORE ORDERLY TRANSITION )  
BETWEEN TERMS )

RESOLUTION NO. 93-1867

Introduced by Rena Cusma  
Executive Officer

WHEREAS, Metro Code Section 5.08.030 provides for appointment by the Executive Officer and confirmation by the Metro Council of members of the Solid Waste Rate Review Committee; and

WHEREAS, On February 27, 1992, by Resolution No. 92-1572, the Metro Council confirmed Executive Officer appointments to the Rate Review Committee; and

WHEREAS, Due to the date of the appointments, members of the Rate Review Committee now begin their terms in the middle of the Metro budget development cycle; and

WHEREAS, To provide for a more efficient and orderly transition between Rate Review Committee membership terms, terms should be deemed to begin and end on September 1 rather than on February 27; 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 initial terms of the members of the Solid Waste Rate Review Committee shall be deemed to have begun on September 1, 1992, for the purpose of calculating the length of the initial terms and each subsequent term.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 1993.

\_\_\_\_\_  
Judy Wyers, Presiding Officer

## STAFF REPORT

### CONSIDERATION OF RESOLUTION NO. 93-1867 FOR THE PURPOSE OF REVISING THE INITIAL TERM COMMENCEMENT DATES FOR MEMBERS OF THE SOLID WASTE RATE REVIEW COMMITTEE TO ALLOW FOR A MORE ORDERLY TRANSITION BETWEEN TERMS

Date: October 14, 1993

Presented by: Bob Martin  
Roosevelt Carter

#### FACTUAL BACKGROUND AND ANALYSIS

The six non-council members of the Rate Review Committee were appointed by the Executive Officer by Resolution No. 92-1572 dated February 27, 1992. Due to the date of the appointments, the terms for the Rate Review Committee members begin and end in February, in the middle of the budget and rate-setting process.

A starting date in September would provide for smoother transitions when committee members change because new members would join the committee shortly after the establishment of the new budget and rate for the following fiscal year.

#### PROPOSED ACTION

The initial terms are specified to have begun on September 1, 1992.

#### EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends Resolution No. 93-1867 be adopted.

Meeting Date: November 10, 1993  
Agenda Item No. 4.3

RESOLUTION NO. 93-1861

## FINANCE COMMITTEE REPORT

---

### RESOLUTION NO. 93-1861 CONFIRMING THE APPOINTMENT OF CHRISTOPHER D. CASSARD TO THE INVESTMENT ADVISORY BOARD

---

Date: November 1, 1993

Presented By: Councilor Monroe

**COMMITTEE RECOMMENDATION:** At its October 27, 1993 meeting the Committee voted unanimously to recommend Council adoption of Resolution No. 93-1861. Committee members present and voting were Councilors Buchanan, Kvistad, Monroe and Van Bergen. Councilor Devlin was absent.

**COMMITTEE DISCUSSION/ISSUES:** Mr. Howard Hansen, Investment Manager, presented the Staff Report. He indicated that Ms. Cynthia Mulfur found it necessary to resign as a member of the Board. The Executive Officer is recommending Mr. Cassard to serve as a member for the remainder of the term which ends on October 31, 1993 and for the next term which ends on October 31, 1996.

He pointed out that Mr. Cassard is the Assistant Treasurer for Oregon Steel Mills, Inc. and has direct experience in investing assets, both long and short-term for, the Company.

In response to a question from the Committee, Mr. Hansen said he was not aware of any conflict of interest that Mr. Cassard might have regarding the potential for Oregon Steel Mills to borrow funds from the Oregon State Investment Council.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING ) RESOLUTION NO. 93-1861  
THE APPOINTMENT OF CHRISTOPHER D. )  
CASSARD TO THE INVESTMENT ADVISORY ) Introduced by Rena Cusma  
BOARD ) Executive Officer

WHEREAS, The Metro Code, Section 2.06.030, provides that the Council confirms members to the Investment Advisory Board; and,

WHEREAS, Cynthia R. Mulflur has been serving as a member of the Investment Advisory Board since October 1991; and,

WHEREAS, demands of additional personal responsibilities force her resignation from the Board; and,

WHEREAS, The Investment Officer recommends Christopher D. Cassard to serve the remaining term of Cynthia R. Mulflur, as well as the appointment for the following three year term; and,

WHEREAS, The Council finds that Christopher D. Cassard is exceptionally qualified to carry out these duties, now, therefore,

BE IT RESOLVED,

That Christopher D. Cassard is hereby confirmed for appointment as a member of the Investment Advisory Board for the term ending October 31, 1996.

ADOPTED by the Metro Council this \_\_\_\_ day of

\_\_\_\_\_, 1993.

---

Judy Wyers, Presiding Officer

## STAFF REPORT

### CONSIDERATION OF RESOLUTION NO. 93-1861 CONFIRMING THE APPOINTMENT OF CHRISTOPHER D. CASSARD TO THE INVESTMENT ADVISORY BOARD.

---

Date: October 7, 1993 Presented by: Howard Hansen

## FACTUAL BACKGROUND AND ANALYSIS

Metro Code, Section 2.06.030, includes the creation of the Investment Advisory Board. One provision of this Code requires the Investment Officer to recommend to the Council for confirmation those persons who shall serve as a forum for discussion and act in an advisory capacity for investment strategies, banking relationships, the legality and probity of investment activities, and the establishment of written procedures for the investment operation.

On October 24, 1991 Cynthia R. Mulflur was appointed to the Investment Advisory Board, however, due to additional demands on her time, she found it necessary to resign August 9, 1993.

The Executive Officer, acting as the Investment Officer, recommends confirmation of appointment for Christopher D. Cassard to serve the remaining term for Ms. Mulflur, which ends October 31, 1993, and to extend his term for the next three years to October 31, 1996.

Mr. Cassard is employed as Assistant Treasurer of Oregon Steel Mills, Inc. where he has been since 1992. His duties include direct responsibility for investing over \$60 million of long-term pension assets and short-term cash balances, supervising the treasury operations of Oregon Steel subsidiary companies, managing company-wide banking and investment banking, preparation of the consolidated annual operating budget, as well as acting as the SEC compliance officer for stock trading.

Prior to joining Oregon Steel, he spent 17 years in various financial management positions in the Portland area. Mr. Cassard holds a Bachelor of Science degree in Accounting, an MBA, has been an Oregon licensed CPA since 1978, and is an active member of the Oregon Society of CPAs, the American Institute of CPAs, Columbia-Willamette chapter of the National Association of Business Economists, and the Portland Treasury Managers Association.

Mr. Cassard's educational, employment, and professional experience confirm his ability to assist in the efforts of the Investment Advisory Board.

## EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 93-1861.

Meeting Date: November 10, 1993  
Agenda Item No. 5.1

ORDINANCE NO. 93-515

## STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 93-515 AMENDING ORDINANCE NO. 93-487A REVISING THE FY 1993-94 BUDGET AND APPROPRIATIONS SCHEDULE TO SUSTAIN MEMBERSHIP IN THE OREGON TOURISM ALLIANCE; AND DECLARING AN EMERGENCY

---

Date: October 26, 1993

Presented by: Don Rocks

## BACKGROUND AND ANALYSIS

Ordinance No. 93-515 authorizes a budget adjustment which would allow the sum of \$8,250 from the Contingency Fund to be used to pay Metro membership dues to the Oregon Tourism Alliance (OTA).

OTA dues were owing and payable on July 1 of the current year. No budget provision was made for dues payment because past practice has been to forward billings to the MERC for payment. Said practice was justified by the rationale that the Oregon Convention Center was the principle beneficiary of the OTA marketing strategy and as such were the logical source of funds to pay Metro OTA dues.

This practice began in FY 91-92 when the state Regional Strategies program required participants to begin covering staff and administrative costs; which costs were previously paid by state lottery funds.

MERC subsequently adopted a Resolution authorizing payment of Metro OTA dues for a two year period; which period expired June 30, 1993. Writer (Don Rocks) failed to take cognizance of that fact early enough to anticipate the withdrawal of MERC dues funding to assure the dues amount was made a part of the Executive Officer's proposed budget.

As the timing of noteworthy events (or shortcomings) would have it, the OTA dues "sunset" coincided closely with the MERC process which invited interested parties and organizations to present their present or proposed marketing efforts which complemented or enhanced the marketing efforts of POVA and MERC staff. Those proceedings resulted in a contract award to OTA. That award altered the relationship between MERC and OTA and the present judgment is that the rationale for MERC payment of Metro OTA dues is diminished, if not abolished, and that Metro should be responsible for its own dues obligation.

## IMPLICATIONS FOR THE FUTURE

SB 124 provides new guidelines and requirements which will change Regional Strategies substantially. Counties/Regions must by mid October select two, but not more than three that

they shall focus upon and determine with what other jurisdictions they should align themselves to form a region. Tourism may or may not be in the mix. If it is, the strategy may change from its present emphasis. OTA may become a contract administrative vehicle for a reformed northwest Oregon region. Or it may not. Until other jurisdictions make their sundry decisions, Metro is essentially an observer and shall defer judgment about whether or not there is a legitimate place and role for the agency under an altered Regional Strategies program.

**EXECUTIVE OFFICER'S RECOMMENDATION**

The Executive Officer recommends approval of Ordinance No. 93-515.

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING ORDINANCE )  
NO. 93-487A REVISING THE FY 1993-94 )  
BUDGET AND APPROPRIATIONS )  
SCHEDULE TO SUSTAIN MEMBERSHIP IN )  
THE OREGON TOURISM ALLIANCE; AND )  
DECLARING AN EMERGENCY )

ORDINANCE NO. 93-515

Introduced by Rena Cusma,  
Executive Officer

WHEREAS, Metro has been a member of the Oregon Tourism Alliance, a consortium of counties in Northwest Oregon together with the Port and City of Portland, since its creation under the state lottery funded Regional Strategies Program; and

WHEREAS, the Alliance has successfully implemented a regional tourism marketing strategy based on motivating convention delegates to arrive earlier and stay longer and tour the attractions of the region and Northwest Oregon; and

WHEREAS, the strategy emphasizes and complements the marketing and success of the Oregon Convention Center to the degree that the MERC has committed to contract with the OTA to perform certain marketing services; and

WHEREAS, said contract alters the nature of the relationship between MERC and the OTA , the past practice that MERC funds be used to pay Metro OTA dues is deemed inappropriate; and

WHEREAS, Metro continues to be a party to the OTA regional compact and endorses the present purpose and work of the Alliance as presently constituted for the balance of Fiscal Year 1993-94; and

WHEREAS, The Metro Council has reviewed and considered the need to transfer appropriations within the FY 1993-94 Budget; and

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

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

THE METRO COUNCIL HEREBY ORDAINS:

1. That Ordinance No. 93-487A, Exhibit B, FY 1993-94 Budget, and Exhibit C, Schedule of Appropriations, are hereby amended as shown in the column titled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring \$8,250 from the General Fund Contingency to Materials and Services in the Executive Management department to fund Oregon Tourism Alliance dues for FY 1993-94.

2. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 1993.

\_\_\_\_\_  
Judy Wyers, Presiding Officer

ATTEST:

\_\_\_\_\_  
Clerk of the Council

kn:ord93-94:catdues.ORD.DOC  
October 26, 1993

**Exhibit A**  
**Ordinance No. 93-515**

FISCAL YEAR 1993-94		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
<b>GENERAL FUND:Executive Management</b>							
<b>Total Personal Services</b>		<b>5.00</b>	<b>347,554</b>	<b>0.00</b>	<b>0</b>	<b>5.00</b>	<b>347,554</b>
<b>Materials &amp; Services</b>							
521100	Office Supplies		2,752		0		2,752
521310	Subscriptions		905		0		905
521320	Dues		17,400		8,250		25,650
524190	Misc. Professional Services		10,000		0		10,000
525640	Maintenance & Repairs Services-Equipment		460		0		460
526310	Printing Services		450		0		450
526320	Typesetting & Reprographics Services		120		0		120
526410	Telephone		2,100		0		2,100
526420	Postage		125		0		125
526440	Delivery Services		200		0		200
526500	Travel		21,300		0		21,300
526700	Temporary Help Services		2,080		0		2,080
526800	Training, Tuition, Conferences		4,640		0		4,640
528100	License, Permits, Payments to Other Agencies		10,000		0		10,000
529500	Meetings		5,800		0		5,800
529800	Miscellaneous		1,200		0		1,200
<b>Total Materials &amp; Services</b>			<b>79,532</b>		<b>8,250</b>		<b>87,782</b>
<b>TOTAL EXPENDITURES</b>		<b>5.00</b>	<b>427,086</b>	<b>0.00</b>	<b>8,250</b>	<b>5.00</b>	<b>435,336</b>

**General Fund:General Expenses**

<b>Total Interfund Transfers</b>			<b>3,324,770</b>		<b>0</b>		<b>3,324,770</b>
<b>Contingency and Unappropriated Balance</b>							
599999	Contingency		320,690		(8,250)		312,440
599990	Unappropriated Fund Balance		267,665		0		267,665
<b>Total Contingency and Unapp. Balance</b>			<b>588,355</b>		<b>(8,250)</b>		<b>580,105</b>
<b>TOTAL EXPENDITURES</b>		<b>16.00</b>	<b>5,915,414</b>	<b>0.00</b>	<b>0</b>	<b>16.00</b>	<b>5,915,414</b>

**Note:** This action assumes adoption of Ordinance No. 93-514, funding the Construction Manager position; Ordinance No. 93-518, funding personal computer replacements in the Office of General Counsel; Ordinance No. 93-516 funding a Greenspaces RFP; Ordinance No. 93-521 funding an IGA for a predicate study; and Ordinance No. 93-522 funding increases in elected official's salaries.

**Exhibit B**  
**Schedule of Appropriations**  
**Ordinance No. 93-515**

	Current Appropriation	Revision	Proposed Appropriation
<b>GENERAL FUND</b>			
Council			
Personal Services	1,029,669	0	1,029,669
Materials & Services	149,546	0	149,546
Capital Outlay	4,000	0	4,000
Subtotal	1,183,215	0	1,183,215
Executive Management			
Personal Services	347,554	0	347,554
Materials & Services	79,532	8,250	87,782
Capital Outlay	0	0	0
Subtotal	427,086	8,250	435,336
Office of Government Relations			
Personal Services	67,538	0	67,538
Materials & Services	74,450	0	74,450
Capital Outlay	0	0	0
Subtotal	141,988	0	141,988
Special Appropriations			
Materials & Services	250,000	0	250,000
Subtotal	250,000	0	250,000
General Expenses			
Interfund Transfers	3,324,770	0	3,324,770
Contingency	320,690	(8,250)	312,440
Subtotal	3,645,460	(8,250)	3,637,210
Unappropriated Balance	267,665	0	267,665
<b>Total Fund Requirements</b>	<b>5,915,414</b>	<b>0</b>	<b>5,915,414</b>

**Note:** This action assumes adoption of Ordinance No. 93-514, funding the Construction Manager position; Ordinance No. 93-518, funding personal computer replacements in the Office of General Counsel; Ordinance No. 93-516 funding a Greenspaces RFP; Ordinance No. 93-521 funding an IGA for a predicate study; and Ordinance No. 93-522 funding increases in elected official's salaries

**All Other Appropriations Remain As Previously Adopted**

Meeting Date: November 10, 1993  
Agenda Item No. 5.2

ORDINANCE NO. 93-521

## **STAFF REPORT**

CONSIDERATION OF ORDINANCE NO. 93-521 AMENDING ORDINANCE NO. 93-487A REVISING THE FY 1993-94 BUDGET AND APPROPRIATIONS SCHEDULE FOR THE PURPOSE OF FUNDING AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PORTLAND FOR A PREDICATE STUDY; AND DECLARING AN EMERGENCY

---

Date: October 26, 1993

Presented by: Neil Saling

### **BACKGROUND AND ANALYSIS**

Resolution No. 93-1860 for the purpose of authorizing the Executive Officer to execute an intergovernmental agreement with the City of Portland for a predicate study will be presented to the Council for consideration during the month of November. In September, 1992, the Metro Council authorized a Multi-Jurisdictional Statement of Mutual Understanding supporting and permitting a feasibility study to be pursued by Multnomah County as a precursor to a major predicate study. The intergovernmental agreement with the City of Portland for the predicate study is an outgrowth of the feasibility study. Participants in the IGA include the City of Portland, Multnomah County and Metro. A copy of Resolution No. 93-1860 and the accompanying staff report explaining the predicate study are attached.

This action amends the budget to allow for the cost of the intergovernmental agreement. The predicate study will be performed over two fiscal years. The total cost of Metro's contribution to the study is \$100,000, funded equally in each of FY 1993-94 and FY 1994-95. The study is necessary to respond to a Supreme Court decision which applies to government operations in general. It addresses a broad based social benefit for the long term social good and extends far beyond the contracting issues. As such, the study is proposed to be funded equally by the General Fund and the Support Service Fund. This action transfers \$25,000 from the General Fund to the Procurement division of the Regional Facilities Department in the Support Services Fund, and transfers \$25,000 from the Support Service Fund contingency to the Procurement division of the Regional Facilities Department.

### **EXECUTIVE OFFICER'S RECOMMENDATION**

The Executive Officer recommends approval of Ordinance No. 93-521.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING )	RESOLUTION NO. 93-1860
THE EXECUTIVE OFFICER TO )	
EXECUTE AN INTERGOVERNMENTAL )	
AGREEMENT WITH THE CITY OF )	Introduced by Rena Cusma,
PORTLAND FOR A PREDICATE STUDY )	Executive Officer

WHEREAS, a group of procurement professionals from various governmental agencies have met since October, 1991 to discuss and share information on their past and present minority and women-owned business enterprise (MBE/WBE) programs; and

WHEREAS, the group determined that, if MBE/WBEs were to receive preferential procurement treatment to remedy the present effects of past discrimination, a predicate study documenting past discrimination would be necessary; and

WHEREAS, the Metro Council in September, 1992 authorized a Multi-Jurisdictional Statement of Mutual Understanding supporting and permitting a feasibility study to be pursued by Multnomah County as a precursor to a major predicate study; and

WHEREAS, that study by Sara Glasgow Cogan & Associates outlined the requirements for and projected costs of such a multi-jurisdictional predicate study; and

WHEREAS, the City of Portland has endorsed a regional approach to such a predicate study, authorized \$175,000 in funding and directed the Mayor to seek funding partners to complete such a regional study; now, therefore,

BE IT RESOLVED,

That the Metro Council authorizes the Executive Officer to execute an intergovernmental agreement with the City of Portland in substantial conformance with Exhibit A attached, so as to support and promote a regional predicate study.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 1993.

---

Judy Wyers, Presiding Officer

## STAFF REPORT

### CONSIDERATION OF RESOLUTION NO. 93-1860, FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT (IGA) WITH THE CITY OF PORTLAND FOR A PREDICATE/DISPARITY STUDY

---

Date: September 29, 1993

Presented by: Neil Saling

## BACKGROUND

The ruling of the U.S. Supreme Court on January 23, 1989, in the case of Richmond v. J.A. Croson Co. has negated the use of set-aside programs and numerical goals for participation by minority and woman-owned enterprises (MBE/WBE) in procurement actions by regional political subdivisions. The standards by which the future use of such preferential programs will be judged is a "strict scrutiny" requirement whereby municipalities and state and local governments, when using racial or gender classifications, are required to show "compelling interest" which is a specific historic basis for the need for such programs. Under the "strict scrutiny" test, the court also requires that such programs be "narrowly tailored" to address specific areas of discrimination to ensure that a chosen program is designed to remedy the present effects of past discrimination.

Preferential programs for MBE/WBE must be based upon historical evidence of a trend of discrimination against a specific group of minorities or women before establishing an overt preferential requirement as with set-asides or numerical goals. Studies which are conducted to document trends of past discrimination are called disparity or predicate studies. ("Predicate study" is used herein as descriptive of the establishment of a basis for such narrowly tailored programs.)

In October 1991, a group of procurement professionals from within the region began discussing and sharing information on their MBE/WBE programs, activities, statistics and problems. The group was divided over the issue of whether agency programs should emphasize equal opportunity and outreach or return to the format of pre-Croson programs which incorporated set-asides and numerical goals. The members decided it was appropriate to address the issue of past discrimination as a means of shaping future MBE/WBE programs. Under the "strict scrutiny" required by the Croson decision, a study of past discrimination was deemed necessary in order to determine if programs to remedy the present effects of past discrimination are appropriate.

As a result, the participating jurisdictions including Metro agreed to a feasibility study designed to define the proper scope of a predicate study. The scope of that study included a definition of the essential elements of proof necessary to support a remedial program(s); the geographical area to be studied; the industry/commodity/service areas to be studied; a review of post-Croson programs and results; and an estimate of predicate study cost. Additionally, agency legal staffs were asked for input on Croson-derived legal requirements and a review of pre-Croson agency programs.

The multi-jurisdictional feasibility study performed by Sara Glasgow Cogan and Associates offered the following logic in citing the reasons for a disparity study:

- Governmental agencies must show a "compelling interest" to provide equitable opportunities to minorities and women in order not to perpetuate or reinforce past and present discriminatory practice;
- There has been evidence that higher participation rates for MBEs and WBEs result from mandated projects;
- A documented disparity study is necessary to sustain any race-based preference programs;
- Such studies are not only essential for establishing such programs, but a clear means of demonstrating governmental concern on discrimination issues.

In of June 1993, the City of Portland published a "Fair contracting and Employment Initiative," committed \$175,000 to institute a predicate study, and requested other governmental entities to become "funding partners" in this regional endeavor. Multnomah County has already responded by pledging \$100,000 over the next two years.

### ANALYSIS

The Metro Council first adopted Minority Business Enterprise Utilization Guidelines through passage of Ordinance No. 147629 on May 2, 1979. Even after the Croson decision ten years thereafter, Metro continued its goal based program until September 24, 1992 when it was replaced by the present outreach and good faith efforts program through Ordinance No. 92-466A.

The present program, implemented on January 1, 1993, has impacted a multitude of MBE/WBEs through its outreach provisions and has resulted in documented success stories. However, it was not designed to specifically remedy the impact of historical patterns of exclusion and discrimination or to specifically compensate for the passive barriers within the marketplace of today.

The proposed disparity study would specifically document Metro's "compelling interest," if any, in pursuing specific remedial action to include the use of objective goals, set-asides or other definite and certain preferences as means to ensure restitution and equitable representation.

As an expression of Metro's on-going and justifiable commitment both to the minority community and to overcoming and avoiding even passive discrimination now and in the future, the Executive Officer hereby proposes a \$100,000 Metro commitment to be budgeted and expended over the 1993-94 and 1994-95 fiscal years and pursuant to the terms of the attached intergovernmental agreement.

### POLICY IMPACT

1. Council action on this and all IGAs transferring or assuming a function of or to another governmental unit is required by Metro Code Section 2.04.033(a)(2).
2. Metro execution of this IGA should be interpreted as a continuation of Metro's commitment to the fair contracting practices of this community and on-going support for pre-Croson procurement policies including the use of numerical goals and set-asides when necessary to ensure MBE/WBE participation.

### FINANCIAL IMPACT

The predicate study will be financed half from the General Fund contingency (\$25,000) and half from the Support Services Fund contingency (\$25,000) in both the 1993-94 and 1994-95 fiscal year budgets for a total cumulative cost of \$100,000. This will require a budget amending Ordinance for the current fiscal year should this Resolution be adopted.

### RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 93-1860.

**INTERGOVERNMENTAL AGREEMENT  
FOR THE PURSUIT OF A  
REGIONAL MBE/WBE DISPARITY STUDY**

THIS Agreement is entered into between METRO, a metropolitan service district organized under the laws of the state of Oregon and the 1992 Metro Charter, located at 600 N.E. Grand Avenue, Portland, Oregon 97232-2736, and the City of Portland, hereinafter referred to as CITY, located at 1120 S.W. Fifth Avenue, Portland, Oregon 97204.

**W I T N E S S E T H**

WHEREAS, CITY has generated a "Fair Contracting and Employment Initiative " wherein it proposes to initiate the start-up funding for a Regional Disparity Study which would provide the "statistical underpinnings" for enforceable Minority and Women-Owned Business Enterprise (MBE/WBE) Opportunity Goals as outlined in Section Five of the draft attached hereto as Exhibit A (and hereinafter referred to as the Study); and

WHEREAS, METRO acting by a through its Executive Officer and Council concurs that those negatively impacted by past discrimination deserve immediate, preferential and remedial action, and the findings of a Regional MBE/WBE Disparity Study are essential to the establishment of such programs; and

WHEREAS, METRO supports a cooperative regional approach among governments to accomplish such a Study and seeks to contribute to the initial start-up funding as proposed by City; and

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the parties hereto as follows:

**CITY AGREES:**

1. To act as lead agency in the solicitation of funding partners to complete a regional disparity study including the Metropolitan Exposition Recreation Commission and Multnomah, Clackamas and Washington Counties; and
2. To act as a competent and professional independent contractor for all aspects of the Study and for all Study purposes without specific compensation save the Study contribution referenced herein; and
3. To secure all services, document all work products, and complete all tasks required for completion of a regional disparity study within METRO boundaries and in accordance with METRO Study Requirements attached hereto as Exhibit B; and

4. To ensure that the CITY's Project Manager provides periodic written progress summaries and meets with the METRO Project Manager each month during the course of this Agreement to discuss all developments and outline the progress of all tasks related to the Study; and
5. To provide METRO with all documentation generated by the Study without further solicitation and at no additional cost; and
6. To document and acknowledge on all final documents arising from this Study that partial funding was provided by METRO; and
7. To hold harmless, indemnify, protect and defend upon request METRO and its officers, employees and agents from any and all claims, suits or actions of any nature, including, but not limited to all costs and attorney fees arising out of or related to CITY's study activities or those of its officers, subcontractors, agents or employees.

If CITY fails to defend or indemnify METRO, METRO may, at its option, bring an action to compel same or undertake its own defense.

In either event, CITY shall be responsible for all of METRO's costs, expenses and attorney fees including the reasonable market value of any services provided by METRO employees.

METRO agrees:

1. That it supports CITY's intent to pursue a Regional MBE/WBE Disparity Study as outlined hereinabove and seeks to facilitate the Study's immediate commencement; and
2. That METRO intends to contribute \$50,000 in both the 1993-94 and 1994-95 fiscal years for a total commitment to the Study cost of ONE HUNDRED THOUSAND AND NO/100THS (\$100,000.00) DOLLARS; and
3. That METRO's contribution will be strictly limited to the above amount and there are no further obligations expressed or implied by such action; and
4. That METRO neither intends or seeks any direct involvement, sponsorship privileges or supervisory responsibilities for this project except at the behest of CITY; and
5. That it will, from whatever records currently exist, provide information on its past competitive bidding, contracting and MBE/WBE activities; and
6. That METRO may withhold funding and terminate this Agreement in whole, or in part, at any time prior to Study completion, if METRO, in its sole discretion, determines that CITY has failed to comply with the terms and conditions of this agreement.

In the event of such action, METRO shall promptly notify CITY in writing as to the circumstances and the reasonable means, if any, for resolution.

**BOTH PARTIES AGREE:**

1. That METRO's Project Manager shall be Amha Hazen, MBE/WBE Advocate, acting on behalf of METRO's Liaison Officer, Neil E. Saling, who is specifically authorized to review and approve all activities and work products; and
2. That CITY's Project Manager shall be Madelyn Wessel, Deputy City Attorney or other person designated in writing by the Mayor, and she is specifically authorized to execute all project tasks and render all project services; and
3. That all legal notices provided under this Agreement shall be delivered personally or by certified mail to the individuals and addresses listed herein below and that they may only be changed by written notice delivered in accordance with this provision:

**CITY:**

Madelyn Wessel  
Deputy City Attorney  
City of Portland  
1120 S.W. Fifth Avenue  
Portland, Oregon 97204

**METRO:**

Neil E. Saling  
Director, Regional Facilities  
Metro  
600 N.E. Grand Avenue  
Portland, Oregon 97232

4. That both parties shall hold harmless, indemnify, protect and defend the other and its officers, employees and agents from any and all claims, suits or actions of any nature, including, but not limited to all costs and attorney fees arising out of or related to these Study activities or those of its officers and employees; and
5. That execution of this Agreement does not bind either party to the findings and recommendations of the Study; and
6. That this Agreement may be terminated in whole, or in part, whenever both parties agree that the continuation of the Study will not produce the beneficial results anticipated or results commensurate with the proposed level of funding; and

That if termination is required, the parties shall agree upon the terms, conditions and effective date(s) for such action, or in the case of partial termination, the specific Study aspects or activities to be abandoned; and

7. That this is the entire Agreement between the parties. There are no understandings, agreements or representations, oral or written, not specified herein.

No waiver, consent, modification or change of terms shall bind either party unless committed to writing and signed by both parties, and if such action is taken, it shall be effective only in the specific instance and for the specific purpose given; and

8. That if any portion of this Agreement is found to be illegal or unenforceable, this Agreement shall nevertheless remain in full force and effect and the offending provision shall be stricken; and
9. That this Agreement is binding on each party, its successors, assigns and legal representative and may not, under any circumstances or conditions, be assigned or transferred by either party; and
10. That the situs of this Agreement is Portland, Oregon. Any litigation over this Agreement shall be governed by the laws of the state of Oregon and shall be conducted in the circuit court of the state of Oregon, for Multnomah County, or, if jurisdiction is proper, in the U.S. District Court for the District of Oregon.

CITY, by signature of its duly authorized representative, hereby acknowledges that it has read, understands and agrees to be bound by the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands on the day and year set forth below.

CITY OF PORTLAND

METRO

By: \_\_\_\_\_

Vera Katz, Mayor

By: \_\_\_\_\_

Rena Cusma, Executive Officer

By: \_\_\_\_\_

Barbara Clark, Auditor

APPROVED AS TO FORM

By: \_\_\_\_\_

Madelyn Wessel  
Deputy City Attorney

By: \_\_\_\_\_

Daniel B. Cooper  
General Counsel

EXHIBIT " A "

**FAIR CONTRACTING AND EMPLOYMENT INITIATIVE**

**DISCUSSION DRAFT**

Proposed to  
the City Council  
City of Portland, Oregon  
by Mayor Vera Katz  
June 3, 1993

# INTRODUCTION

## FAIR CONTRACTING AND EMPLOYMENT INITIATIVE

The Council has recognized a critical need to set in motion a determined effort to help the City's economically distressed groups reclaim ground they lost during more than a decade of neglect of America's inner cities. Toward that end, I am recommending the attached package of reforms to begin to improve the City's minority contracting record and expand minority employment opportunities with the City's contractors. It is a step the Council has identified as one of its highest priorities.

This package of initiatives, taken as a whole, is intended to provide a policy framework for efforts that already are under way and other initiatives proposed for completion in the near future. It constitutes a set of administrative actions and new ordinances aimed at leveling the playing field in the competition for City contract dollars for those who have been economically impacted by the effects of discrimination and economic neglect. It is also intended to promote equal employment opportunities for those who seek work with the City's contractors.

It is our hope that this package, when approved and fully implemented, will provide clear policy direction to City bureaus and contractors regarding minority and female contractor issues. The reforms represent an integral part of a plan to make the City government more effective and more responsive to the needs of all our citizens. It does so by enhancing City government's role as a catalyst for action, by holding bureau managers accountable for achieving explicitly stated results, and by promoting a collaborative effort with community-based organizations and other local government agencies in the region.

The growing gap between the "haves" and "have-nots" in our society is as painfully evident in Portland as it is elsewhere in the country and shows itself in the widening disparity of incomes among many of our neighborhoods. City government can and must do a better job of addressing this problem. There is strong evidence that in recent years minorities and women, as groups, have lost much of what they gained in an earlier period of affirmative action efforts and have suffered disproportionately to their numbers from the policies of neglect.

African Americans, in particular, have complained that they have been shut out of business and employment opportunities in the local construction industry. A recent study by the City Attorney's Office supports their concerns. The study analyzed the employment patterns of all contractors awarded major City of Portland public works contracts in 1992.

The workforce records examined showed that of the 1535 people employed by the 50 companies receiving contracts of \$50,000 or more in value, only 4.8% were minorities and less than 1% African-Americans. That compares to a minority population in Portland in the neighborhood of 15%, and to a qualified minority construction workforce in the region ranging from an estimated 6% to 20%, depending on the craft or trade. Moreover, 54% of the minorities who were employed worked as laborers, which are among the lowest paid construction jobs.

These findings, while far from an indictment of any specific company, constitute serious evidence, says Deputy City Attorney Madelyn Wessel, that a systemic problem may exist. The study demonstrates that discrimination prohibited under federal, state and local laws may be prevalent in the industry and that concerns about equal employment opportunity are legitimate.

On the business contracting side, as you are aware, the opportunities for minority businesses have declined significantly since the 1989 U.S. Supreme Court decision in City of Richmond v. J.A. Croson Co., which held that state and local set-aside programs must meet a "strict scrutiny" test in the courts, must serve compelling government interests, and must be narrowly tailored to serve those interests.

Minority-owned businesses have lost ground since Croson in obtaining valuable sub-contracting work through the prime bidders on regional construction contracts. Most state and local programs aimed at assisting minority and women-owned businesses have been stopped in their tracks or thrown substantially off course because responding to the Croson requirements has been so difficult and expensive.

Ineffectual or inadequate government actions and programs have failed to address the economic pain of the neediest groups among us, despite the best of intentions and an array of "good faith efforts" programs. To ignore for too long the economic plight of these groups puts at risk our long-term survival as a diverse and functioning community.

As a community, we must find a better answer.

It is our hope that you will agree that the "Fair Contracting and Employment Initiative" discussion draft is an important first step in a four-year effort to find better answers. The proposed initiatives are clustered around seven sections targeting major issues which have been identified as the critical needs or barriers to equal participation in contracting and employment.

## Section One

### SET MBE AND WBE CONTRACTING TARGETS

This section establishes broad City-wide contracting goals coupled with quarterly monitoring systems. It is clear that such targets cannot be established as fixed requirements in individual City contracts (i.e. "set-asides") in the absence of a Croson disparity study. (This is one of the reasons I recommend moving forward with such a study in Section Five, below.) Nevertheless, I believe that establishing specific numerical standards will provide a benchmark against which to measure the overall success or failure of the new City programs, as well as measure the performance of individual City bureaus. These particular numerical targets were selected to be somewhat more ambitious than current federal targets as a means of setting a high level of expectations. I also believe it is important to articulate goals separately for minority business enterprises (MBE) and women business enterprises (WBE), unlike the federal government which, during the Reagan/Bush administrations, merged the two through a disadvantaged business enterprise (DBE) standard. This will enable the City to specifically identify the impact of its programs on these different groups of entrepreneurs whose needs and experiences are not always the same. (For the sake of comparison, in 1991, the City's figures translated to 5.6% MBE and 4.8% WBE in construction, 6.8% MBE and 5% WBE for professional services).

These goals must, of course, be reviewed by the Council on a yearly basis in light of actual performance to determine whether they are appropriate. The quarterly reports on the progress being made by the City as a whole and by individual City bureaus in reaching these targets will provide the Council with hard empirical data for measuring success and will provide Council with an indispensable diagnostic tool for determining what further efforts need to be made to improve performance.

#### **A. Council Establishes Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) Contracting Targets.**

1. Council approves the following targets for contracting and/or subcontracting with certified MBE and WBE contractors:

<u>MBE</u>	9%
<u>WBE</u>	5%
<u>TOTAL:</u>	14%

2. Only contractors and subcontractors certified by the State of Oregon Office of Minority, Women and Emerging Small Business (OMWESB) or who have applied for state certification may be counted towards meeting the city's MBE and WBE contracting targets established by Council.
3. Council will review appropriateness of established MBE/WBE contracting targets no later than June 30, 1994.

*See attachment A for copy of MBE and WBE contracting targets for Portland Development Commission.*

**B. Council Requests Quarterly Report on MBE/WBE City Contracting Targets**

1. The Auditor's Office, working with the Bureau of Purchases and Stores, will produce a quarterly report on the status of MBE/WBE contracting targets. The reports will include data indicating the number of contracts, the types of contracts and the value of contracts awarded to certified MBE and WBE contractors.
2. In her annual proposed budget, the Mayor will report the status of city-wide and individual bureau efforts to achieve the city's established MBE and WBE contracting targets.

## Section Two

# INCREASE MBE/WBE CONTRACTING OPPORTUNITIES

The initiatives in this section focus on the need to increase MBE and WBE contracting opportunities. As our work on the impediments to full and fair MBE/WBE contracting participation has made clear, there is a lot more the City and other regional governments can do to open our doors to the full community of which we are a part. The steps I am proposing here make it clear that business as usual no longer will be tolerated: The City's resources - which, after all, come from taxes that fall on all citizens regardless of gender, race or ethnic origins — must be dispensed in an evenhanded way for the benefit of all citizens and in a way designed to give all potential contractors a fair opportunity. All City bureaus will be required to address this issue in concrete ways and not simply give lip service to it. Prime contractors will be required to document their outreach efforts to the minority community if they wish to continue doing business with the City.

### A. Council Directs City Bureaus to Expand and Document PTE Contract Solicitation Outreach to Certified MBE and WBE Contractors.

1. At the Mayor's request, the City Attorney's Office developed amendments to the Portland City Code (PCC) Chapter 5.68 that require Professional, Technical and Expert (PTE) contracts to include at least one bid solicitation to MBE and WBE certified firm.

NOTE: City Council approved this ordinance (#166419) on April 7, 1993, effective May 8, 1993.

*See attachment B for copy of revised PTE ordinance and copy of contract cover sheet.*

### B. Council Requires City's Prime Contractors to Expand and Document Outreach to MBE and WBE Contractors and Subcontractors.

1. Working with the City's major contracting bureaus, the City Attorney's Office will revise PCC 3.100.080 - .089 to require the city's large potential prime contractors to take more comprehensive steps and to provide more systematic documentation of their outreach towards MBE and WBE contractors.

The current "Minority/Female Purchasing Program" outlined in PCC 3.100.080 - .089 will be replaced with a "good faith efforts" program modelled after Metro's recently enacted program.

The City Attorney's Office will submit their proposed PCC revisions to Council for consideration no later than August 31, 1993.

*See attachment C for copy of PCC 3.100.080 - .089 and attachment D for copy of METRO's "good faith efforts" program.*

**C. Council Authorizes Study to Create a Contracting Pilot Project in the North/Northeast Enterprise Zone**

1. The Council directs the City Attorney's Office to develop policy guidelines that would create a pilot project in the N/NE Enterprise Zone to provide bidding advantages to eligible contractors based in that area. The purpose of the project will be to provide better opportunities to current businesses who have demonstrated a commitment to Northeast Portland.

Criteria to be examined will include location of the work, the size of the city contract, the location of the contractor's business, the EEO status of the contractor's workforce, and other criteria.

The Oregon Legislature has provided for affirmative action innovations (ORS 279.059) and granted authority to local jurisdictions to limit bidding for selected affirmative action purposes.

The City Attorney's Office will submit a set of proposed policy guidelines and a proposed program description to Council for consideration no later than November 1, 1993.

*See attachment E for copy of ORS 279.059 which grants bidding specifications for affirmative action purposes.*

**D. Council Establishes City Policy to Support Special Outreach to Minority Community on Individual Projects**

1. The City Attorney's Office, working with the appropriate city bureaus, will draft a policy to require an examination of each significant public works project in the inner North/Northeast area to determine whether special community needs are present. Some of these projects may allow for special provisions for mandatory inclusion of MBE and/or WBE contractors when compelling need exists.

The City Attorney's Office will submit their proposed policy guidelines and program description to Council for consideration no later than November 1, 1993.

### Section Three

## PROVIDE BUSINESS AND FINANCIAL ASSISTANCE TO EXISTING AND EMERGING MBE/WBE CONTRACTORS

This section addresses the technical and financial impediments to fuller participation by new and struggling businesses in the City. It is my hope that these initiatives will address key issues MBE/WBE contractors have identified as impediments in competing for City business. The initiatives making up this group also recognize the need for intergovernmental cooperation in funding programs to address the financial and technical needs of MBEs and WBEs, so that government resources are invested coherently, wisely, and economically. It obviously makes no more sense for different governments in the same region to separately fund and administer parallel programs than to expect the local MBE/WBE community to attempt to cope with competing and confusing systems. I envision the start of a functional intergovernmental system of "one stop shopping" for MBEs and WBEs seeking technical and financial assistance. I believe that the sooner we are able to establish streamlined programs delivering such assistance, the sooner MBEs and WBEs will have the ability to enter confidently into the economic mainstream.

#### A. Council Authorizes Creation of a Loan Program to Assist Contractors

1. The Portland Development Commission will create a loan guarantee program to be implemented in conjunction with local commercial banks and Multnomah County. The program will entail commercial bank financing of city and county contracts for materials, services and construction, underwritten by a 75% loan guarantee from the city and the county. The city's guarantee would be supported by existing budgeted contract dollars of the city bureau letting the specific contract. The council further endorses the transfer of approximately \$118,700 in residual funds from the Model Cities Economic Development Trust Fund to the Portland Development Commission, which will act as administrator of the program. The Council further directs all city bureaus to participate in this program.

*See attachment F for draft copy of "Opportunity Loan Fund," and authorizing memo.*

**B. Council Seeks Funding Partners to Establish Program to Enhance the Bonding Capacity of MBE and WBE Contractors**

1. The Mayor is authorized to negotiate with other local governments, including the Port of Portland, Tri-Met, Multnomah County and others, to establish a multi-jurisdictional coordinated program to improve the bonding capacity of existing and emerging MBE and WBE contractors.

The Mayor will submit to Council for consideration a proposed inter-governmental agreement establishing a multi-jurisdictional coordinated bonding assistance program.

*See attachment G for draft copy of "Advocacy Surety Support program for Minority and Women Subcontractors" proposed by the Port of Portland.*

**C. Council Seeks Funding Partners to Establish Program to Provide Technical Assistance to MBE and WBE Contractors, and Potential Contractors.**

1. The Mayor is authorized to negotiate with other local governments, including the Port of Portland, Tri-Met, Multnomah County and others, to establish a multi-jurisdictional program to provide coordinated technical business assistance, including Mentor-Protege programs, to current or potential MBE and WBE contractors.

The Mayor will submit to Council for consideration a proposed inter-governmental agreement establishing a multi-jurisdictional coordinated bonding assistance program.

*See attachment H for draft copy of "Mentor-Protege Program" Proposed By Association of General Contractors.*

2. The Bureau of Purchases and Stores, working with the City Attorney's Office, will develop technical training on the city's bidding, contracting and purchasing procedures and offer such training in settings accessible to the MBE/WBE community on a regular basis.

## Section Four

# EXPAND MINORITY/WOMEN EMPLOYMENT OPPORTUNITIES WITH CITY CONTRACTORS

The initiatives in this section stem from a dual premise: First, we have an obligation to use the market power we have available to us through the disbursement of the community's tax dollars to foster equal employment opportunities ("EEO") in the private sector through careful monitoring of those companies receiving the City's business. Second, the development of the City's internal workforce should be utilized, along with broader community training and apprenticeship programs, to extend the opportunities for jobs to a broader segment of the population.

These dual objectives are embodied in the initiatives aimed at better "EEO" monitoring of the City's contractors and vendors, in the proposed modifications to the existing Public Works First Source Program, and in the proposal that the City participate in proposed regional apprenticeship and training programs.

### A. Council Requires City's Contractors and Vendors to Make Enhanced Commitments to Equal Employment Opportunity

1. The City Attorney's Office will prepare revisions to PCC 3.100.030 - .040 to provide for more effective EEO monitoring of city contractors and vendors.

The City Attorney's Office will submit their proposed code revisions to Council for consideration no later than August 31, 1993.

*See attachment I for a copy of the PCC 3.100.030 - .040.*

2. The Bureau of Purchases and Stores has been provided with 1.5 FTEs for FY 93-94 to provide for additional contract compliance. One FTE staffer will monitor the ongoing EEO status of city contractors and vendors. The second part-time staffer will provide oversight for the city's amended PTE contracting program.
3. Within the next fiscal year, the Bureau of Purchases and Stores will develop a database, accessible to all city bureaus, which tracks an individual contractor's compliance with the city's EEO ordinance requirements.

## **B. Council Authorizes Six-month Extension of Modified Public Works First Source Agreement with CH2A, Inc.**

1. Public Works First Source Program contracts and specifications have been revised by the City Attorney's Office. The definition of "existing employee" has been changed from 400 hours to 800 hours or more over a nine-month period, mechanisms for exempting contractors from union hall requirements where appropriate developed, and mechanisms for enhanced monitoring by the Bureau of Purchases and Stores and City Attorney's Office initiated. Council endorses the revisions to the Public Works First Source Program's contracts and specifications.

*See attachment J for a copy of April 15, 1993 memo from Madelyn Wessel, Deputy City Attorney, recommending changes to First Source Construction Hiring Program documents.*

2. Council authorizes a six-month extension of a modified contract with CH2A, Inc. In six months, the Public Works First Source Program agent's contract will be put out for competitive bid. Interns already placed with bureaus will continue their assignments. New interns will be placed only at the request of bureaus specifically desiring such placements.

The Mayor's Office will submit Public Works First Source contract bid specifications for Council consideration no later than November 15, 1993.

*See attachment K for copies of correspondence detailing status and outcomes of Public Works First Source Program.*

## **C. Council Authorizes Development of New Intergovernmental Community-Based Pre-Apprenticeship and Apprenticeship Programs.**

1. The city will explore means of linking its Public Works First Source Program to apprenticeship efforts in the community, with the aim of implementing such a linkage by January 1, 1994.
2. The Portland Development Commission, Department of Economic Development, will coordinate the city's involvement in new pre-apprenticeship and apprenticeship training programs and present recommendations to the Council on city involvement with such programs.
3. The City Attorney's Office and the Bureau of Purchases and Stores will work to ensure that city construction contracts support and enforce any programs approved by Council, (i.e. through development of contract terms requiring contractors to register as certified training agents with the State of Oregon Bureau of Labor and Industries and mandating utilization of apprentices on city-funded projects.)

**D. Council Authorizes Development of Internship Program Accessible to all City Bureaus.**

1. The Bureau of Personnel, working with the Mayor's Office and the Portland Development Commission, Department of Economic Development, and city bureaus, will develop a comprehensive internship program targeting minorities residing in the city, using the existing resources of the city's JobNet program.

*See attachment L for a copy of correspondence detailing status and outcomes of Public Works First Source Internship Program.*

**E. Utilize City Inspectors to Monitor City Contracting and Employment Equity Programs.**

1. CH2A and the City Attorney's Office have worked with Bureau of Environmental Services inspectors to encourage broader monitoring of the Public Works First Source Program requirements. Council directs other bureaus employing inspectors who monitor construction projects, such as Transportation and Water, to work with CH2A and the City Attorney's Office to train inspectors to monitor First Source and similar programs.

## Section Five

# INVESTIGATE AND DOCUMENT DISCRIMINATION

The initiatives in this section recognize what we may wish away but cannot ignore -- that racism and sexism are real issues affecting many in our community. Such entrenched attitudes have a devastating impact on individual lives. As has been shown through the City's experience with the costly Public Works First Source Program, resistance to including minorities and women can also negatively affect the very programs we fund to facilitate positive change. I believe we must develop the legal tools to support the many positive actions included in this proposed package of reforms. I therefore propose that the City initiate the start-up funding for a regional Croson disparity study which will provide the statistical underpinning required to establish enforceable goals. As the City Attorney's Office has put it "what we can require without a Croson study are actions; what we can require with a Croson study are results."

I also believe it important to specifically endorse the concept that the City Attorney's Office may occasionally find it appropriate to investigate cases of potential discrimination affecting City programs aimed at minorities and women.

Finally, industry trade associations and labor groups will be encouraged to work cooperatively with the City in responding to questions of potential discrimination or other barriers to full participation of minorities and women in the regional construction industry.

### A. Council Recognizes the Need to Document the Status of Minorities and Women Participating in Public Contracting.

1. The Council endorses a regional approach to completing a Croson study and authorizes the expenditure of \$175,000 from the FY 1993-94 Approved Budget "Special Opportunity Programs" Special Appropriation line item to provide "seed money" to complete such a regional study.
2. The Council authorizes the Mayor to seek funding partners to complete a regional Croson study. Funding partners may include, but are not limited to, Clackamas County, Housing Authority of Portland, Metro, Metro E-R Commission, Multnomah County, Port of Portland, Portland Community College, Portland Public Schools, Oregon Department of Transportation, Oregon Department of General Services, Oregon State System of Higher Education, Tri-Met and Washington County.

The Mayor will report to Council the results of her partnering efforts on an ongoing basis.

*See attachment M for a copy of draft letter from Mayor Katz to potential regional funding partners. See attachment N for copy of final report dated December 4, 1992 "Multi-Jurisdictional Disparity/Predicate Feasibility Study." See attachment O for copy of memo from Wendy Robinson, Oregon Assistant Attorney General, on Croson dated October 27, 1992.*

3. Council authorizes the City Attorney's Office to investigate cases of potential discrimination affecting city programs such as the First Source Public Works Program, or other programs designed to assist minorities and women. In the event that legal proceedings should be initiated in order to protect rights secured under PCC Chapter 23.01.010 et seq., other civil rights laws, or to remedy harms suffered by the city under any of its programs, the City Attorney will propose such litigation to Council for its consideration.

**B. Council Encourages Industry and Labor Representatives to Increase Investigations into Questions of Discrimination in Employment and Contracting**

1. Council authorizes the City Attorney's Office and the Bureau of Purchases and Stores to work cooperatively with the Associated General Contractors, and other industry trade and organized labor groups to facilitate an increase in the number of investigations into questions of potential discrimination in employment and contracting.

**Section Six**  
**INCREASE THE NUMBER OF ELIGIBLE CERTIFIED**  
**MBE/WBE CONTRACTORS**

This section addresses the fact that reliable data about MBEs and WBEs in the State is unavailable. I believe that City bureau managers can play an important role in encouraging MBEs and WBEs with whom they have contact to initiate the state certification process. I am asking the Council to endorse the Mayor's Office, the City Attorney's Office and the Bureau of Purchases and Stores to work with the State to improve its MBE/WBE certification process and reduce the turnaround time for processing applications.

**A. Council Directs Bureau Managers to Encourage Non-Certified MBE and WBE Contractors Doing Business with the City to Be Certified.**

1. Bureau managers are encouraged to provide information to MBE and WBE contractors not certified as MBE or WBE with the State of Oregon to do so. The Bureau of Purchases and Stores will provide bureau managers with the necessary materials to provide contractors.

**B. Council Authorizes the Mayor's Office to Work with State of Oregon to Improve MBE/WBE Certification Process**

1. The Mayor's Office, City Attorney's Office and Bureau of Purchases and Stores are authorized to work with the State of Oregon to improve the MBE/WBE certification process, to reduce turnaround time of processing applications and to minimize paperwork.

*See attachment P for a copy of State of Oregon MBE/WBE certification application and process outline.*

## Section Seven INCREASE INTERNAL COORDINATION OF LOCAL MBE/WBE ISSUES

This final section recognizes the obvious -- that coming to grips with the myriad of complex concerns and issues surrounding contracting and employment issues must be an on-going process for the City. A criticism of the City has been the lack of coordination in responding to the issues raised by the minority community. To address this concern, I propose that Council establish a City MBE/WBE Contracting Coordinating Committee to coordinate our efforts in these areas and to push forward the initiatives articulated here.

### A. Council Authorizes Creation of a City MBE/WBE Contract Coordinating Committee

1. Council establishes a staff work group to coordinate efforts and push policy agenda forward. This committee will recommend, review and advise the city on how to improve MBE and WBE contractors' participation on city contracts.

Membership in the MBE/WBE Contract Coordinating Committee will include representatives from the Bureau of Environmental Services, Bureau of Water Works, Bureau of General Services, City Attorney's Office, Bureau of Purchases and Stores, the Portland Development Commission, Department of Economic Development, Office of Transportation and Office of Finance and Administration.

The MBE/WBE Contract Coordinating Committee will be chaired by the Mayor's Office.

## **Exhibit B**

### **Metro Study Requirements**

1. Address potential Metro disparity in contracting and anecdotal evidence of discriminatory practices by industry sectors.
2. Document available MBE firms annually since 1979 by industry sector.
3. Document all available firms annually since 1979 by industry sector.
4. Profile of Metro utilization of MBE firms by industry sector since 1979.
5. Develop a Utilization Percentage Ratio (UPR) for each industry sector based on Metro's contracting/purchasing history.
6. Provide anecdotal evidence of discriminatory practices by industry sector with emphasis on evidence of such practices on the part of Metro.
7. Recommend remedial measures by industry sector should a basis for such measures be justified based on statistical disparity in contracting practices and on discrimination which caused such disparity.

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING ORDINANCE )  
NO. 93-487A REVISING THE FY 1993-94 )  
BUDGET AND APPROPRIATIONS )  
SCHEDULE FOR THE PURPOSE OF )  
FUNDING AN INTERGOVERNMENTAL )  
AGREEMENT WITH THE CITY OF )  
PORTLAND FOR A PREDICATE STUDY; )  
AND DECLARING AN EMERGENCY )

ORDINANCE NO. 93-521

Introduced by Rena Cusma,  
Executive Officer

WHEREAS, The Metro Council has reviewed and considered the need to transfer appropriations within the FY 1993-94 Budget; and

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

WHEREAS, Oregon Budget Law, ORS 294.450(3), allows for the transfer of appropriation from the General Fund to any other fund during the fiscal year; and

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

THE METRO COUNCIL HEREBY ORDAINS:

1. That Ordinance No. 93-487A, Exhibit B, FY 1993-94 Budget, and Exhibit C, Schedule of Appropriations, are hereby amended as shown in the column titled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring \$25,000 from the General Fund to the Support Service Fund and transferring \$25,000 from the Support Service Fund contingency to the Procurement division of the Regional Facilities Department to fund an intergovernmental agreement with the City of Portland for a predicate study.

2. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 1993.

\_\_\_\_\_  
Judy Wyers, Presiding Officer

ATTEST:

\_\_\_\_\_  
Clerk of the Council

**Exhibit A**  
**Ordinance No. 93-521**

FISCAL YEAR 1993-94		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
<b>SUPPORT SERVICE FUND:Resources</b>							
	<u>Resources</u>						
305000	Fund Balance		133,936		0		133,936
321100	Contractors' License Fee		200,750		0		200,750
391010	Trans. of Resources from General Fund-Excise Tax		70,000		25,000		95,000
392010	Trans. Indirect Costs from General Fund		488,647		0		488,647
392120	Trans. Indirect Costs from Zoo Oper. Fund		1,048,727		0		1,048,727
392140	Trans. Indirect Costs from Planning Fund		1,005,862		0		1,005,862
392531	Trans. Indirect Costs from S.W. Revenue Fund		2,541,165		0		2,541,165
392550	Trans. Indirect Costs from OCC Operating Fund		299,249		0		299,249
392559	Trans. Indirect Costs from Conv. Ctr. Cap. Fund		66,580		0		66,580
392553	Trans. Indirect Costs from Spec. Fac. Fund		228,414		0		228,414
392160	Trans. Indirect Costs from Reg. Parks/Expo Fund		370,554		0		370,554
393010	Trans. Direct Costs from General Fund		40,000		0		40,000
393531	Trans. Direct Costs from S.W. Revenue Fund		56,181		0		56,181
393550	Trans. Direct Costs from OCC Operating Fund		153,556		0		153,556
393553	Trans. Direct Costs from Spec. Fac. Fund		61,772		0		61,772
393559	Trans. Direct Costs from Conv. Ctr. Cap. Fund		37,132		0		37,132
<b>TOTAL RESOURCES</b>			<b>6,802,525</b>		<b>25,000</b>		<b>6,827,525</b>

**Exhibit A**  
**Ordinance No. 93-521**

FISCAL YEAR 1993-94		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
<b>SUPPORT SERVICE FUND:Regional Facilities Department</b>							
<b>Total Personal Services</b>		<b>10.40</b>	<b>587,328</b>	<b>0.00</b>	<b>0</b>	<b>10.40</b>	<b>587,328</b>
<b><u>Materials &amp; Services</u></b>							
521100	Office Supplies		11,369		0		11,369
521110	Computer Software		2,030		0		2,030
521260	Printing Supplies		2,900		0		2,900
521310	Subscriptions		1,049		0		1,049
521320	Dues		2,050		0		2,050
521400	Fuels & Lubricants		9,252		0		9,252
524190	Misc. Professional Services		20,100		0		20,100
525630	Maintenance & Repairs Services-Vehicles		2,773		0		2,773
525640	Maintenance & Repairs Services-Equipment		6,750		0		6,750
525732	Operating Lease Payments-Vehicles		28,800		0		28,800
526200	Ads & Legal Notices		15,850		0		15,850
526310	Printing Services		200		0		200
526410	Telephone		61,982		0		61,982
526420	Postage		2,688		0		2,688
526440	Delivery Services		500		0		500
526500	Travel		5,825		0		5,825
526700	Temporary Help Services		2,400		0		2,400
526800	Training, Tuition, Conferences		7,745		0		7,745
528100	License, Permits, Payments to Other Agencies		121,253		50,000		171,253
529500	Meetings		4,920		0		4,920
529800	Miscellaneous		2,000		0		2,000
<b>Total Materials &amp; Services</b>			<b>312,436</b>		<b>50,000</b>		<b>362,436</b>
<b>Total Capital Outlay</b>			<b>5,000</b>		<b>0</b>		<b>5,000</b>
<b>TOTAL EXPENDITURES</b>		<b>10.40</b>	<b>904,764</b>	<b>0.00</b>	<b>50,000</b>	<b>10.40</b>	<b>954,764</b>

**SUPPORT SERVICE FUND:General Expenses**

<b><u>Interfund Transfers</u></b>							
581513	Trans. Indirect Costs to Bldg. Fund-Regional Center		507,283		0		507,283
581615	Trans. Indirect Costs to Risk Mgmt. Fund-Gen1		30,791		0		30,791
581615	Trans. Indirect Costs to Risk Mgmt. Fund-Workers' Comp		41,597		0		41,597
<b>Total Interfund Transfers</b>			<b>579,671</b>		<b>0</b>		<b>579,671</b>
<b><u>Contingency and Unappropriated Balance</u></b>							
599999	Contingency						
	* General		206,294		(25,000)		181,294
	* Builders License		23,165		0		23,165
599990	Unappropriated Fund Balance-Contractors License		151,566		0		151,566
<b>Total Contingency and Unappropriated Balance</b>			<b>381,025</b>		<b>(25,000)</b>		<b>356,025</b>
<b>TOTAL EXPENDITURES</b>		<b>85.12</b>	<b>6,802,525</b>	<b>0.00</b>	<b>25,000</b>	<b>85.12</b>	<b>6,827,525</b>

**Exhibit A**  
**Ordinance No. 93-521**

FISCAL YEAR 1993-94		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
<b><u>FOR INFORMATION ONLY</u></b>							
<b>Regional Facilities (Procurement)</b>							
<b>Total Personal Services</b>		<b>4.25</b>	<b>241,836</b>	<b>0.00</b>	<b>0</b>	<b>4.25</b>	<b>241,836</b>
<b><u>Materials &amp; Services</u></b>							
521100	Office Supplies		7,552		0		7,552
521110	Computer Software		1,480		0		1,480
521310	Subscriptions		624		0		624
521320	Dues		625		0		625
524190	Misc. Professional Services		10,100		0		10,100
526200	Ads & Legal Notices		14,800		0		14,800
526440	Delivery Services		500		0		500
526500	Travel		2,400		0		2,400
526700	Temporary Help Services		2,400		0		2,400
526800	Training, Tuition, Conferences		2,735		0		2,735
528100	License, Permits, Payments to Other Agencies		0		50,000		50,000
529500	Meetings		3,000		0		3,000
<b>Total Materials &amp; Services</b>			<b>46,216</b>		<b>50,000</b>		<b>96,216</b>
<b>TOTAL EXPENDITURES</b>		<b>4.25</b>	<b>288,052</b>	<b>0.00</b>	<b>50,000</b>	<b>4.25</b>	<b>338,052</b>

**Exhibit A**  
**Ordinance No. 93-521**

FISCAL YEAR 1993-94		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
<b>General Fund:All Other Expenditures</b>							
<b>Total Other Expenditures</b>			<b>1,955,479</b>		<b>0</b>		<b>1,955,479</b>
<b>General Fund:General Expenses</b>							
<u>Interfund Transfers</u>							
581513	Trans. Indirect Costs to Bldg. Fund-Regional Center		163,504		0		163,504
581610	Trans. Indirect Costs to Support Svcs. Fund		488,647		0		488,647
581615	Trans. Indirect Costs to Risk Mgmt. Fund-Gen1		2,173		0		2,173
581615	Trans. Indirect Costs to Risk Mgmt. Fund-Workers' Comp		8,238		0		8,238
582550	Trans. Resources to Oregon Conv. Ctr. Oper. Fund		0		0		0
583610	Trans.Direct Costs to Support Svcs. Fund		40,000		0		40,000
583615	Trans.Direct Costs to Risk Management Fund		14,429		0		14,429
<u>Excise Tax Transfers</u>							
582140	Trans. Resources to Planning Fund		1,780,738		0		1,780,738
582513	Trans. Resources to Building Mgmt. Fund		58,869		0		58,869
582610	Trans. Resources to Support Svcs. Fund		70,000		25,000		95,000
582160	Trans. Resources to Reg. Parks/Expo Fund-Greenspaces		593,172		0		593,172
582160	Trans. Resources to Reg. Parks/Expo Fund-Parks		80,000		0		80,000
<b>Total Interfund Transfers</b>			<b>3,299,770</b>		<b>25,000</b>		<b>3,324,770</b>
<u>Contingency and Unappropriated Balance</u>							
599999	Contingency		392,500		(25,000)		367,500
599990	Unappropriated Fund Balance		267,665		0		267,665
<b>Total Contingency and Unapp. Balance</b>			<b>660,165</b>		<b>(25,000)</b>		<b>635,165</b>
<b>TOTAL EXPENDITURES</b>		<b>16.00</b>	<b>5,915,414</b>	<b>0.00</b>	<b>0</b>	<b>16.00</b>	<b>5,915,414</b>

**Note: This action assumes adoption of Ordinance No. 93-514, funding the Construction Manager position; Ordinance No. 93-518, funding personal computer replacements in the Office of General Counsel; and Ordinance No. 93-516 funding a Greenspaces RFP**

**Exhibit B**  
**Schedule of Appropriations**  
**Ordinance No. 93-521**

	Current Appropriation	Revision	Proposed Appropriation
<b>SUPPORT SERVICES FUND</b>			
Finance and Management Information			
Personal Services	2,238,932	0	2,238,932
Materials & Services	794,941	0	794,941
Capital Outlay	77,891	0	77,891
Subtotal	3,111,764	0	3,111,764
Regional Facilities			
Personal Services	587,328	0	587,328
Materials & Services	312,436	50,000	362,436
Capital Outlay	5,000	0	5,000
Subtotal	904,764	50,000	954,764
Personnel			
Personal Services	534,856	0	534,856
Materials & Services	59,646	0	59,646
Capital Outlay	6,675	0	6,675
Subtotal	601,177	0	601,177
Office of General Counsel			
Personal Services	434,876	0	434,876
Materials & Services	23,715	0	23,715
Capital Outlay	1,500	0	1,500
Subtotal	460,091	0	460,091
Public Affairs			
Personal Services	669,686	0	669,686
Materials & Services	91,247	0	91,247
Capital Outlay	3,100	0	3,100
Subtotal	764,033	0	764,033
General Expenses			
Interfund Transfers	579,671	0	579,671
Contingency	229,459	(25,000)	204,459
Subtotal	809,130	(25,000)	784,130
Unappropriated Balance	151,566	0	151,566
<b>Total Fund Requirements</b>	<b>6,802,525</b>	<b>25,000</b>	<b>6,827,525</b>
<b>GENERAL FUND</b>			
Council			
Personal Services	987,165	0	987,165
Materials & Services	149,546	0	149,546
Capital Outlay	4,000	0	4,000
Subtotal	1,140,711	0	1,140,711
Executive Management			
Personal Services	343,248	0	343,248
Materials & Services	79,532	0	79,532
Capital Outlay	0	0	0
Subtotal	422,780	0	422,780

**Exhibit B**  
**Schedule of Appropriations**  
**Ordinance No. 93-521**

	Current Appropriation	Revision	Proposed Appropriation
<b>GENERAL FUND (continued)</b>			
Office of Government Relations			
Personal Services	67,538	0	67,538
Materials & Services	74,450	0	74,450
Capital Outlay	0	0	0
Subtotal	141,988	0	141,988
Special Appropriations			
Materials & Services	250,000	0	250,000
Subtotal	250,000	0	250,000
General Expenses			
Interfund Transfers	3,299,770	25,000	3,324,770
Contingency	392,500	(25,000)	367,500
Subtotal	3,692,270	0	3,692,270
Unappropriated Balance	267,665	0	267,665
<b>Total Fund Requirements</b>	<b>5,915,414</b>	<b>0</b>	<b>5,915,414</b>

**Note: This action assumes adoption of Ordinance No. 93-514, funding the Construction Manager position; Ordinance No. 93-518, funding personal computer replacements in the Office of General Counsel; and Ordinance No. 93-516 funding a Greenspaces RFP**

**All Other Appropriations Remain As Previously Adopted**

Meeting Date: November 10, 1993  
Agenda Item No. 5.3

ORDINANCE NO. 93-523

## STAFF REPORT

### CONSIDERATION OF ORDINANCE NO.93-523, FOR THE PURPOSE OF APPROVING THE REVISION OF METRO CODE CHAPTER 2.02, PERSONNEL RULES.

Date: November 1, 1993

Presented by: Paula Paris

**BACKGROUND:** The following goals were established for the Code revisions to Chapter 2.02, Personnel Rules:

1. To distinguish policy and benefits between represented employees and non-represented employees in compliance with the PECBA (Public Employees Collective Bargaining Act).

The personnel chapter of the Code has not been revised in its entirety since 1981. Since that time, formation of bargaining units at Metro has occurred making revisions necessary so that this chapter of the Code pertain to non-represented, temporary, and seasonal employees, and represented employees where specified. A long term goal is to include wages, hours, and working conditions for represented employees in the collective bargaining contracts and not in the Code, but this will only occur over time through negotiations.

2. To remove distinct procedural processes from Code policy and include them in the Personnel Procedures Manual.

3. To bring the Code into compliance with the Charter by removing the Office of the Executive Officer and staff, the Council Department and staff, and the Office of the Auditor and staff from the Code unless otherwise specifically included by the Executive Officer, the Council, or the Auditor.

4. To incorporate federal and state statutes regarding Family Medical Leave policy, Pregnancy Leave policy, Parental Leave policy, and Drug/Alcohol Policy into the Code.

5. To advocate fiscal responsibility in the Code personnel policies.

**HIGHLIGHTS OF REVISIONS:** Some major policy changes have been incorporated into these Code revisions in addition to #3 above:

1. Historically, Metro employees, not unlike the majority of employees in the public sector, have received both merit increases and cost of living increases annually. The Code has been revised to reflect what we believe is public sentiment regarding increases to public employee salaries.

It is proposed that non-represented employees receive annual salary increases based only on performance (merit increases). Any other annual revisions to the Pay Plans (such as COLA,

market comparability, and internal comparability) will be added to the salary ranges only, and will not be automatically given to employees.

This proposed revision is a reasonable and workable solution in that it does two important things; 1) it allows employees to be compensated based on their performance at Metro rather than on external constraints, and 2) it allows the Pay Plan and salary ranges to continue to be competitive in the job market for purposes of recruitment and retention of employees.

Represented employee salaries must be negotiated through the collective bargaining process and cannot be revised in the Code. Therefore, the proposed revision is only applicable to non-represented employees.

2. Prior to the advent of collective bargaining at Metro, the Code included "just cause" for disciplinary actions for all employees. However, since the establishment of bargaining units, represented employees now have just cause incorporated into collective bargaining agreements.

It is common personnel policy for an employer to have an "at will" standard, rather than just cause, for non-represented employees. This is primarily because non-represented employees are generally management employees who are considered agents of the employer, and a higher standard of responsibility and management teamwork is required and expected.

It is proposed that the "just cause" standard for disciplinary actions be removed from the Code for non-represented employees. To that end, however, and for the sake of retaining fairness, we have included a strong "due process" policy which requires certain specific steps to occur, including the right of an employee to present mitigation or refutation, prior to the implementation of disciplinary action.

3. Historically, temporary employees at Metro have enjoyed a wide variety of benefits ranging from vacation leave accrual and use, sick leave accrual and use, and personal holidays, to having the ability to apply as internal applicants under a very permissive standard. These practices and policies originated when Metro employed temporary employees for two to three years at a time based on program needs and grants, rather than hiring for established positions.

Again however, since the advent of collective bargaining at Metro, temporary employment is limited from 720 hours to 1044 hours per year depending on the bargaining unit, thus not allowing the continuation of temporary employees for long periods of time. It is customary for temporary employees to be used for the purpose of meeting emergency, nonrecurring, or short-term workload needs, or to replace an employee during an approved leave of absence. By definition "temporary" means a short-term situation, and benefits in these instances are costly to an employer are usually not given.

It is proposed that a more strict definition of temporary employees be adopted, that no benefits other than those required by law (such as workers' compensation and social security) be paid or given to temporary employees, and that temporary employees only be allowed to apply as internal candidates if they have been hired from a recruitment through Personnel. Thus, temporary appointments cannot be used to defeat the open competitive recruitment and selection process.

4. Historically, Metro has allowed the transfer of sick leave hours from one employee to another under a permissive standard. However, sick leave is a form of insurance for an employee and should not be transferrable to another employee. Vacation leave, on the other hand, is transferrable into cash upon separation of employment and is generally viewed as a monetary benefit to employees. Additionally, vacation leave is capped at 250 hours and is a more limited and finite liability, while accrued sick leave hours are not capped and can accrue to any maximum amount allowable under determined accrual rates.

The proposed revision of the voluntary transfer of vacation leave hours, rather than sick leave hours, from one employee to another is a more appropriate approach with regard to employees who may become afflicted with a catastrophic, long-term, or chronic illness which may result in them using all of their accrued sick and vacation leave balances. This policy allows Metro to continue to be a compassionate, yet fiscally responsible, employer.

5. Other revisions reflect the status quo and other accepted personnel practices by deleting redundant and contradictory language and by adding clearer and more concise language.

**CODE PROVISIONS PERTAINING TO REPRESENTED EMPLOYEES:** Collective bargaining is an evolving process, and as such not all conditions of employment for represented employees are included in collective bargaining agreements at any given time. Therefore, a number of conditions of employment for represented employees remain in the Code, some changed and some unchanged. The union's representatives must follow the required statutory bargaining process in the PECBA to address those subjects that represent changes to current conditions of employment for represented employees. The following sections of the Code still apply to represented employees with the specific caveat, "This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern":

2.02.030 - Definitions	2.02.150 - Family Medical Leave
2.02.035 - Classification Plan	2.02.155 - Pregnancy Leave
2.02.060 - Salary Administration	2.02.160 - Parental Leave
2.02.065 - Pay Policies	2.02.180(a)(c)(d) - Disciplinary Actions
2.02.070 - Affirmative Action	2.02.190 - Resignation
2.02.075 - Nepotism	2.02.195 - Personnel Records
2.02.080(b) - Internal Recruitment	2.02.205 - Service Awards
2.02.085 - Probationary Period	2.02.210 - Education Opportunities
2.02.095 - Job Share	2.02.215 - Drug/Alcohol Policy
2.02.100 - Orientation	2.02.220 - Smoking Policy
2.02.105 - Worker's Comp Insurance	2.02.225 - Conferences, etc.
2.02.115 - Transfers and Demotions	2.02.235 - Political Activity
2.02.145(f) - Transfer of Leave Credits	2.02.240 - Ethical Requirements

#### **FISCAL IMPACT:**

1. Annual pay plan revisions (COLA's, CPI, market adjustments) proposed to be added to salary ranges only and no longer given automatically on July 1 of each fiscal year; salary

increases for non-represented employees will be based only on performance and merit. This will eliminate the annual 85% of CPI cost of living adjustment cost, ranging from 3% - 5% depending on annual CPI figures.

2. Temporary employees are redefined more clearly, and benefits for temporary employees are eliminated. Cost savings will be based on the elimination of vacation leave and sick leave accruals, and of the 2 personal leave days per temporary employee.

3. Overtime is currently paid by time reported which includes vacation days, holidays, and sick days. Overtime pay is changed to be computed by actual time worked only. Cost savings will depend on the day or week an employee is assigned to work overtime, and other paid but not worked time, during that day or week.

4. The current ability to transfer sick leave hours from one employee to another creates an unlimited liability. The policy change allowing the transfer of vacation leave hours, rather than sick leave hours, more clearly defines the process and establishes a more finite liability.

**RECOMMENDATION:** We believe these revisions to the Code are necessary for consistent and balanced personnel services. It is, therefore, recommended by the Executive Officer that Ordinance No.93-523 be adopted.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE	)	ORDINANCE NO. 93-523
REVISION OF THE METRO CODE	)	Introduced by Rena Cusma,
CHAPTER 2.02, PERSONNEL RULES	)	Executive Officer

THE METRO COUNCIL HEREBY ORDAINS:

Chapter 2.02, Personnel Rules, is amended to read as follows:

CHAPTER 2.02

PERSONNEL RULES

SECTIONS:

2.02.005	Purpose
2.02.010	Administration of the Rules
2.02.015	Amendment
2.02.020	Separability
2.02.025 [230]	Exemptions
2.02.030 [030]	Definitions
2.02.035 [115]	Position Classification Plan
2.02.040 [125]	New Positions
2.02.045 [130]	New Classifications
2.02.050 [135]	Reclassification of Existing Positions
2.02.055 [145]	Pay Plans
2.02.060 [160]	Salary Administration [Guidelines]
2.02.065 [165]	Pay[rol] Policies [Procedures]
2.02.070 [260]	Affirmative Action Policy
2.02.075 [095]	Nepotism
2.02.080 [040]	Recruitment and Appointment
2.02.085 [045]	Probationary Period
2.02.090 [265]	Temporary Employees
2.02.095 [055]	Job Share
2.02.100 [225]	Orientation
2.02.105 [215]	Workers' Compensation Insurance
2.02.110 [220]	Insurance and Retirement
2.02.115 [065]	Transfers and Demotions
2.02.120 [050]	Work Schedules [Attendance: Hours of Work]
2.02.125 [170]	Overtime Compensation

2.02.130 [475]	Holidays
2.02.135 [480]	Vacation
2.02.140 [485]	Vacation Credit and Accrual Rate
2.02.145 [490]	Sick Leave
2.02.150	Family Medical Leave
2.02.155	Pregnancy Leave/Transfer
2.02.160	Parental Leave
2.02.165 [495]	Leave of Absence Without Pay
2.02.170 [200]	Other Leaves of Absence With Pay
2.02.175 [400]	Preamble: Conduct, Discipline, Termination and Appeal
2.02.180 [405]	Disciplinary Actions
2.02.185 [070]	Layoff
2.02.190 [075]	Resignation
2.02.195 [060]	Personnel Records
2.02.200 [410]	Grievance Procedure
2.02.205 [250]	Service Awards
2.02.210 [210]	Educational, Training and Development Policy [Opportunities]
2.02.215	Drug/Alcohol Abuse Policy
2.02.220 [285]	Smoking Policy
2.02.225 [205]	Conference, Memberships, Conventions
2.02.230 [085]	Employee Organizations and Representation
2.02.235 [090]	Political Activity
2.02.240 [280]	Ethical Requirements for Employees, Officers, Elected and Appointed Officials
2.02.245 [275]	Zoo Visitor Services Employees
2.02.250	Volunteers
2.02.255	Acknowledgement of Receipt of Personnel Policies
[2.02.025	Variances] (included in 2.02.010)
[2.02.035	Legal Interpretations] (included in 2.02.010)
[2.02.080	Travel Expense] (to be included in Executive Order)
[2.02.120	Titles and Specifications] (included in 2.02.030)
[2.02.140	Effect on Incumbents of Positions Being Reclassified] (included in 2.02.055)
[2.02.150	Analysis of Pay Plan] (included in 2.02.050)
[2.02.155	Administration of Pay Plan] included in 2.02.050)
[2.02.235	Positions Exempt] (included in 2.02.020)
[2.02.240	Conditions of Exemptions] (included in 2.02.020)
[2.02.245	Safety Program] (included in Risk Management Procedures)
[2.02.270	Employment Contracts] (included in 2.02.005)

2.02.005 Purpose: The purpose of this chapter is:

(a) ~~[(t)]~~ To provide ~~[systematic and equitable procedures and regulations relating to the hiring, compensation, hours of work, leave, safety, training, working conditions, promotions, transfer, discipline, removal and other matters affecting the status of employees of Metro. This chapter is provided to maintain uniformity and equity in personnel matters, and to encourage each employee to give his/her best service to the organization and citizens served by Metro.]~~ and maintain a system of personnel administration for all non-represented employees, seasonal employees, temporary employees, and represented employees where specified, in which the appointment and retention of persons in Metro employment shall be achieved on the basis of promoting the public welfare and implementing Metro's responsibilities,

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

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

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

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

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

(g) Nothing contained in this section or elsewhere in the chapter shall be construed as any guarantee of hours worked per day or per week. This chapter shall apply to all employees of Metro except in the following circumstances:

(1) Employees who are in certified or recognized bargaining units shall have all aspects of their wages, hours, and other terms and conditions of employment determined by collective bargaining agreements, except with regard to the recruitment and selection of applicants for initial appointment to a position, and

except as clearly identified within a specific provision of this chapter that a specific provision does apply to such employees.

(2) Where a collective bargaining agreement contains any type of grievance resolution procedure, that procedure, including any procedural and/or substantive limitations placed upon it by the collective bargaining agreement, shall be the sole and exclusive remedy for employees in that bargaining unit, and the grievance procedure established by this chapter shall not apply to those employees for any purpose.

(Ordinance No. 81-116, Sec. 1)

2.02.010 Administration of the Rules: ~~[Except as provided in subsection (d) below.]~~

(a) The Executive Officer shall be responsible for:

(a1) Administering or delegating the administration of all the provisions of this chapter, and whenever a question arises as to the meaning or interpretation of provisions of this chapter, the interpretation given by the Executive Officer or his/her designee shall be final and binding.

(b2) Reviewing and recommending to the Council necessary changes to this chapter;

(e3) Publishing a Personnel Procedures Manual to implement the provisions of this chapter;

(db) ~~[Until such time as the Metropolitan Exposition Recreation Commission adopts personnel rules pursuant to the authority granted by Section 6.01.040(h), the Commission shall be responsible for the administration of these Personnel Rules for employees of the Commission. After the adoption of such rules by the Commission, t]The Metro Exposition Recreation Commission shall adopt personnel rules consistent with and subject to Sections 6.01.040(h)(m) of the Code [administer its personnel system in accordance with its duly adopted personnel rules]~~ notwithstanding any provision of this chapter to the contrary. For this purpose, the authority and duties of the Executive Officer to employ, manage and terminate employees referred to in this chapter shall reside with the Commission for employees of the Commission.

(Ordinance No. 81-116, Sec. 2; amended by Ordinance No. 87-232, Sec. 1; amended by Ordinance No. 89-325A, Sec. 3)

2.02.015 Amendment: This chapter shall be amended solely by the Council~~[-A]~~, however, administrative amendments which deal solely with correcting grammatical or typographical errors, or correcting position titles to reflect properly processed reclassifications and title changes~~[-or correcting departmental name changes to accurately reflect current organizational structure]~~ may be approved by the Executive Officer. All proposed amendments to this chapter

~~[dealing with policy] and/or benefit changes will be required to be adopted by the Council. [This ordinance shall provide means to recruit, select, develop and maintain an effective and responsive work force, and shall include policies and procedures for hiring and advancement, training and career development, job classification, salary administration, retirement, employee benefits, discipline, discharge and other related matters which are pertinent to the maintenance and effective operation of the Metropolitan Service District (Metro). Furthermore, this chapter shall be implemented and, if necessary, revised in a spirit of good faith, and shall be subject to review and comment by Metro employees prior to any amendment. If practical, proposed amendments shall be posted in each general work area ten (10) working days in advance of the Council meeting in which they are to be considered. Employee access to] If practical, copies of [the] proposed amendments shall be provided [by their distribution] to all Directors of departments[, Personnel Office and to the Chairman of the Employees Association, in addition to the posting required above. Employee responses, if any, shall be reported to Council coincidental with Council consideration of the proposed amendments.] at least ten (10) days in advance of the Council meeting in which they are to be considered.~~

(Ordinance No. 81-116, Sec. 3)

2.02.020 Separability: If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter.

(Ordinance No. 81-116, Sec. 4)

~~[2.02.025 Variances: The Executive Officer shall have the power to vary or to modify the strict application of the provisions of this chapter in any case in which the strict application of said provisions would result in practical difficulties or unnecessary hardships on either the agency or employee or both. All approved variances shall be subject to Council ratification, and shall be reported to the Council in written summary form at the next regular meeting following the date of approval. [The chairperson of the Employees' Advisory Committee shall receive a written summary of the variance prior to this meeting.]~~

(Ordinance No. 81-116, Sec. 5)

~~[2.02.035 Legal Interpretations: When it is found necessary to seek a legal opinion as to the interpretation or intent of this chapter, it shall be incumbent upon the Executive Officer to respond to said requests as soon as is practicable.]~~

(Ordinance No. 81-116, Sec. 7)

2.02.025 [230] Exemptions:

(a) Notwithstanding any provision of this chapter, [certain] Council employees shall be exempt from and shall not be subject to [the following portions of] this chapter [unless:] except as expressly determined by a resolution adopted by the Council, limited however to budgeted funds allocated to the Council Department.

~~[(a) Sections 2.02.040, 2.02.045 and 2.02.070.]~~

~~[(b) Sections 2.02.100 through 2.02.110.]~~

~~[(c) Sections 2.02.115 through 2.02.140.]~~

~~[(d) Sections 2.02.145 through 2.02.170.]~~

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

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

~~(Ordinance No. 81-116, Sec. 46)~~

~~[2.02.235 Positions Exempt: The exemptions designated in Section 2.02.230 herein shall apply to the following positions:~~

~~(a) Executive Aide to the Executive Officer (1).~~

~~(b) Administrative Aide to the Executive Officer (1).~~

~~(Ordinance No. 81-116, Sec. 47)~~

~~2.02.240 Conditions of Exemptions: Notwithstanding exemptions provided in Section 2.02.230, employees in exempt positions (a) and (b) of Section 2.02.235 shall receive such salaries or compensation as may be determined by the Executive Officer, limited however, to budgeted funds allocated to the Executive Management Department for personnel designated in Section 2.02.235 of this chapter.]~~

~~(Ordinance No. 81-116, Sec. 48)~~

~~2.02.030 Definitions of Personnel Terms: [As used in this chapter, as well as in day-to-day personnel matters, the following terms shall have the meanings indicated:]~~

~~(1) "Auditor" means the elected Auditor of Metro or his/her designee.~~

~~[(1) "Administrative Leave" means leave with pay granted by the Executive Officer for employees who work in classifications which are exempt from overtime pay.~~

~~(2) "Appointment" includes all means of selecting or employing any person~~

~~to hold any positions subject to this chapter. Appointment does not include promotion.~~

~~(3) "Anniversary Date" means the anniversary of the date on which an employee reached the Entry Merit Rate described in the Salary Plan for the position currently held.~~

~~(4) "Appeal" means an oral or written request to a department head or the Executive Officer for reconsideration of a decision adverse to an employee's interests.~~

~~(5) "Appointing Power" means the Executive Officer or his/her designee.]~~

~~[(6) "Central Personnel File" means a file which contains complete personnel records of all Metro employees.] (moved to #22)~~

~~[(7) "Class" means a group of positions sufficiently alike in responsibilities and authorities to require similar qualifications.~~

~~(8) "Class Specification" means a written description of each class of positions including a class title and a statement of objectives, duties, responsibilities, recruiting requirements and minimum qualifications as required by uniform selection guidelines. Positions, not individuals, are classified.~~

~~(9) "Continuous Service" means uninterrupted employment with Metro. Reasonable absences due to sick leave, disability, layoffs, military leave or other approved leaves as provided for in this chapter, do not constitute an interruption in continuous service. Continuous service shall only apply to regular and regular part time employees.]~~

~~(10)~~ **2** "Council" means the elected governing body of Metro.

~~[(11) "Days" means calendar days unless specifically provided otherwise.~~

~~(12) "Demotion" means a transfer of an employee from a position in one class to a position in another class having a lower maximum salary rate. Demotion during probation in a promotive position does not reflect discredit upon the employee.]~~

~~(13)~~ "Department" means a major functional unit of Metro.

~~(14)~~ "Department [Head] **Director**" means a person responsible for the administration of a department or his/her designee.

~~[(15) "Deputy Executive Officer" means the appointed Deputy Executive Officer selected by and responsible to the Executive Officer for the administration of the Metro organization.]~~

~~(16) "Disciplinary Action" means imposition of certain personnel actions (e.g., reprimand, warning, suspension, dismissal, reduction in pay or demotion) as a result of conduct in violation of this chapter.~~

~~(17) "Dismissal" means the termination of employment of a regular employee for cause or of a probationary employee as specified in these rules.]~~

(185) "Division" means a major functional unit of a department.

~~[(19) "Division Head" means a person responsible for the administration of a division.]~~

(206) "Employee" means [anyone] an individual who is salaried or who receives wages for employment with Metro.

~~[(21) "Examination" means a test for the purpose of evaluating an applicant for an employment vacancy. "Examination" includes completion of employment application forms.]~~

(227) "Executive Officer" means the elected Executive Officer of Metro or his/her designee.

(238) "Exempt Position" means a position exempt from mandatory overtime compensation.

(249) "Fiscal Year" means a twelve (12) month period beginning July 1, and ending June 30.

(2510) ~~["Flex-time"]~~ "Flexible Work Schedule" means an alternative work schedule [of a full-time salaried employee] other than the [regular 8:00 a.m. to 5:00 p.m., Monday through Friday, workday and workweek] established normal work schedule, but which includes the same number of total hours per pay period as other full-time positions. [Approval of a supervisor is required.]

(2611) "Full-time" means a position in which [has daily, weekly and monthly hours as established by the Council for full-time work and which position is provided for in the adopted budget.] the scheduled hours of work are forty (40) hours per week and which is provided for in the adopted budget.

- ~~[(27) "Grievance" means an oral or written expression of dissatisfaction with some condition of employment or management decision affecting such employment, submitted by an employee or group of employees for the purpose of obtaining adjustment of said cause of dissatisfaction.]~~
- (28)12 "Hourly Rate" means the rate of compensation for each hour of work performed. ~~[It is determined by dividing the annual regular salary by the regular number of hours worked each year (2,080).]~~
- (29)13 "Immediate Family" means the husband, wife, son, daughter, father, mother, brother, sister, father-in-law, mother-in-law, grandparents or any relative living in the employee's household.
- ~~[(30) "Interview" means a formal consultation to evaluate the qualifications of an employee or a prospective employee. The consultation includes the employee or prospective employee and the employer.]~~
- (31) ~~"Jobshare" means a full time position designated by the Executive Officer which is or may be shared by two employees.~~
- (32) ~~"Labor Organization" means the certified representative of employees in a recognized bargaining unit.]~~
- (33)14 "Layoff" means a separation from employment because of organizational changes, lack of work, lack of funds, or for other reasons not reflecting discredit upon the employee.
- ~~[(34) "Leave of Absence" means time off from work for reasons within the scope and purpose of this chapter and regulations upon prior approval of the Executive Officer.]~~
- (35) ~~"Merit Salary Increase" means an increase based on performance from one pay rate to a higher rate within the established merit salary range for the class or position occupied by the employee.~~
- (36) ~~"Month" means one (1) calendar month.~~
- (37) ~~"Nonoccupational Disability" means disability from an accident or sickness suffered or contracted by the employee which cannot be attributed to the performance of assigned duties with Metro.~~
- (38) ~~"Occupational Disability" means disability from an accident or sickness suffered or contracted as a result of the performance of assigned duties.~~

- (39) ~~"Open Competitive List" means a list of persons who have been found qualified by an open competitive recruitment and examination for the job classification for which they have applied and their level of qualification in that class.~~
- (40) ~~"Overtime" shall be considered as time worked by an employee in excess of the scheduled workday or workweek for full-time employment (8 hours in one day or 40 hours in one week). If an employee is scheduled for a 10-hour and 4-day work week, the payment of overtime must be based on work in excess of 10 hours per day or 40 per week. (ORS 279.340)]~~
- (15) "Non-Exempt" position means a position that is eligible for overtime compensation.
- (16) "Non-Represented Employee" means an employee who is not in a recognized or certified bargaining unit.
- (41)17 "Part-time" means a position in which the ~~[daily, weekly or monthly hours of which are less than the hours established for full-time positions but]~~ scheduled hours of work are less than forty (40) hours per week but at least twenty (20) hours or more per week and which is provided for in the ~~[annual]~~ adopted budget.
- [(42) "Pay Plan" means the compensation plan formally adopted by the Council annually as the Pay Plan for employees of Metro.]
- (43)18 "Permanent Employee" means an employee ~~[appointed for more than six (6) months duration as provided for in the annual budget]~~ who is appointed to fill a budgeted position and who is not temporary or seasonal. However, the term permanent does not confer any form of tenure or other expectation of continued employment.
- (19) "Permanent Position" means a budgeted position which is not temporary or seasonal. However, the term permanent does not confer any form of tenure or other expectation of continued employment.
- (44)20 "Personnel Action" means ~~the written record of any action taken [with reference to appointment, compensation, promotion, transfer, layoff, dismissal or other action-affecting]~~ affecting the employee or the status of his/her employment.
- (45)21 "Personnel ~~[Manager]~~ Director" means the employee appointed by the Executive Officer to administer the provisions of this chapter.

- (22) "[Central] Personnel File" means an employee's official personnel file which [contains complete personnel records of all Metro employees] is kept in the Personnel Department.
- (4623) "Personnel Procedures Manual" means a manual developed [or to be developed] by the Personnel [Division] Department and approved by the Executive Officer to implement the policies and provisions of this chapter.
- ~~[(47) "Position Number" means the line item number in the budget assigned to each position listed under Personal Services. Position number change means a change in the line item number in the budget assigned to each position listed under Personal Services. Such change may include a transfer from one division or department to another.]~~
- (4824) "Probationary Period" means a continuation of the screening process [working test period] during which an employee is required to demonstrate fitness for the position to which the employee is appointed or promoted. Successful completion of any probationary period is for Metro's internal screening process only and does not confer any form of tenure or other expectation of continued employment. [by actual performance of the duties of the position.]
- (4925) "Probationary Employee" means an employee serving any period of probation.
- (5026) "Promotion" means the change of an employee from a position in one classification to a position in another classification having a higher maximum salary rate.
- ~~[(51) "Promotional List" means a list of persons presently in the employ of Metro who have been qualified by promotional examination for appointment to a position in a particular class.]~~
- ~~(52) "Provisional Appointment" means an appointment, pursuant to this chapter, to a position in the absence of an open competitive list.~~
- ~~(53) "Range" means a level in the Pay Plan. Each classification is allocated to one of the ranges in the Plan. "Range change" means the action of moving a classification from one pay range to another pay range. This action requires Council approval.]~~
- (5427) "Reclassification" means a change in classification of a position by raising it to a class with a higher rate of pay, reducing it to a class with a lower rate of pay, or changing it to another class at the same rate of pay, based

upon ~~[an evaluation of]~~ the duties currently assigned to ~~[an incumbent in]~~ an existing position or to be assigned for a vacant position. ~~[, relative to the duties associated with other positions in the appropriate classes.]~~ If the position is filled, the incumbent employee is reclassified along with the position.

~~[(55) "Reemployment" means the appointment of a former employee to a position in a class where the employee held regular status.]~~

(5628) "Regular Employee" means an employee who has successfully completed the required initial probationary period occupying ~~[or appointed to a full-time or part-time position which is included in the Classification and Compensation Plan for regular employees and which position is provided for in the annual Budget]~~ a permanent position.

~~(5729) "Reinstatement" means the return of an employee to a [previous] position following a separation of employment [an approved leave of absence or when ordered by the Executive Officer or a court of competent jurisdiction].~~

(30) "Represented Employee" means an employee who is in a recognized or certified bargaining unit.

(5831) "Resignation" means voluntary separation from employment.

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

(5933) "Separation" is the cessation of employment with Metro ~~[This action does]~~ not reflecting discredit upon the employee.

~~(6034) "Status" refers to the [rank] standing of an employee [relative to the probation period].~~

~~[(61) "Suspension" means the temporary separation of an employee from employment with Metro.]~~

(6235) "Temporary Employee" means a[n] nonstatus employee appointed for the purpose of meeting emergency, nonrecurring, or short-term workload needs, or to replace an employee during an approved leave period, ~~[to perform a specific task, or to participate in a series of projects]~~ for a period not to exceed 1,0440 hours ~~[over a six (6) month period]~~ within a fiscal year. ~~[This definition] exclud[es]~~ing interns, work-study students,

and CETA employees, or similar federal and state employment programs.

(6336) "Termination" means the cessation of employment with Metro [employee is relieved of the duties of a position which had a specified duration or existed for a period of need].

[(64) "Transfer" means a change of an employee from one position to another in the same class, or to a position in a comparable class within the same salary range (subject to rule on appointment) and may include a change from one department or geographic location to another.

(65) "Underfill" refers to the affirmative action appointment of a candidate to a position in a classification for which the candidate does not possess the minimum experience qualifications for the purpose of allowing the candidate to gain the necessary experience to qualify. Underfill applies to internal promotional opportunities only.

(66) "Voluntary Demotion" means a demotion requested by an employee in order to retain employment when a layoff is imminent or for other reasons where the action is entirely voluntary on the part of the employee.]

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

(38) "Work Schedule" means the assignment of hours of work by a supervisor.

[(67) "Workday" means the regularly scheduled 8-hour workday from 8:00 a.m. to 5:00 p.m. with one (1) hour off for lunch except where flexible hours are approved by the supervisor. "Flexible hours" in this context are those hours scheduled as an alternative to the regular 8:00 a.m. to 5:00 p.m. workday. "Workday" or "working days" as used in this chapter in relation to notice and filing requirements shall mean business days rather than days actually worked.

(68) "Workweek" means the regularly scheduled forty (40) hour workweek from Sunday through Saturday.]

This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

(Ordinance No. 81-116, Sec. 6)

## 2.02.035 [445] Position Classification Plan:

(a) The purpose of the classification plan is to provide an inventory of specifications for

each classification. The plan shall be developed and maintained so that all positions substantially similar with respect to duties, responsibilities, authority and qualifications are included within the same class, and so that the same range of compensation will apply. Each permanent position shall be allocated to an appropriate classification on the basis of the duties and responsibilities of the position.

(b) Classification titles shall be used in all personnel, budget and financial records.  
(moved from 2.02.120)

(ac) ~~[A-Position] The Classification Plan [covering Regular, Regular] shall cover permanent full-time and permanent part-time positions, [and Temporary Employees shall be] as adopted and amended by the Council [to provide an equitable and logical arrangement of job classifications which will facilitate the identification, compensation and filling of positions].~~

(d) ~~[Administrative procedures to implement the Classification and Pay Plans will be established by the Executive Officer or designee(s). Classification specifications, titles and classification numbers may be changed by the Executive Officer.] The Executive Officer or his/her designee shall establish administrative procedures to implement the Classification and Pay Plans. The Executive Officer may change classification specifications, title, and classification numbers. (moved from 2.02.120(c).~~

~~This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.~~

~~[(b) The Classification Plan shall consist of positions in Metro defined by class specifications, and identified by the class titles. The Classification Plan shall be developed and maintained so that all positions substantially similar with respect to duties, responsibilities, authority and character of work are included within the same class, and that the same schedules of compensation may be made to apply with equity under like working conditions to all positions in the same class.~~

~~(e) Copies of the Classification Plan shall be made accessible to employees by distribution to all department directors, the Chairperson of the Employees Association and the Personnel Office.]~~

(Ordinance No. 81-116, Sec. 23)

~~2.02.120 Titles and Specifications:~~

~~(a) The Position Classification Plan shall include titles for the various classifications as a guide toward equal pay for equal work. [Classification titles shall be used in all personnel, budget and financial records. (moved to 2.02.115(b).]~~

~~[(b) — Each position shall be allocated to an appropriate class on the basis of the duties and responsibilities of the position.]~~

~~(e) — The Classification Plan shall include a Class Specification containing the class title, the class code, the principal duties, the knowledge and abilities required as minimum qualifications and the education, training and/or experience required for successful performance in the job.] [Classification titles and code numbers may be changed by the Executive Officer. (move to 2.02.115(d).] [Changes in the duties and minimum qualifications require Council approval.]~~

(Ordinance No. 81-116, Sec. 24)

2.02.040 [125] New Positions: ~~[New positions are authorized by the Council.] Any new positions added to the Budget require Council approval. [Procedures for processing requests for new positions shall be contained in the Personnel Procedures Manual.]~~

(Ordinance No. 81-116, Sec. 25)

2.02.045 [130] New Classifications: ~~[New classifications are authorized by the Council.] Any new classification added to the classification plan requires Council approval. [Procedures for processing requests for new classifications shall be contained in the Personnel Procedures Manual.]~~

(Ordinance No. 81-116, Sec. 26)

2.02.050 [135] Reclassification of Existing Positions: ~~Reclassification of an existing position from one existing classification to another existing classification may be approved by the Executive Officer provided the reclassification can be accomplished with the limitations of the current budget. [Procedure for processing requests for reclassification of existing positions shall be contained in the Personnel Procedures Manual.]~~

(Ordinance No. 81-116, Sec. 27)

~~[2.02.140 Effect on Incumbents of Positions Being Reclassified:~~

~~(a) — Should a permanent incumbent of a position that has been reclassified upward not qualify for the new class, upon continuing approval of the appointing authority, the incumbent may remain in the position.~~

~~(b) — When a position is reclassified downward, upon continuing approval of the appointing authority, a permanent incumbent may remain in the position in his/her former class by overfilling for a period not to exceed six (6) months from the effective date of the reclassification. If, at the expiration of the six (6) month period, the incumbent still remains in the position, the employee, at his/her option, shall either take a voluntary demotion to the~~

~~new class, or be laid off.~~ (moved to 2.02.055(E))

~~[(e) — When a group of positions in the same class are reclassified downward as a part of an agency-wide class study, the rates of the incumbents in the positions shall be continued and no change in salary shall occur until the annual adjustments to the Pay Plan bring the employees' rates in the new class within the new range. At that time, incumbents will become eligible for salary adjustments.] (moved to 2.02.055(F))~~

(Ordinance No. 81-116, Sec. 28)

2.02.055 [145] Pay Plans:

(a) The Executive Officer shall prepare Pay Plans for ~~[regular, regular part-time]~~ permanent positions and seasonal appointments ~~[-, and temporary employees]~~ which shall ~~[prescribe]~~ establish a salary range with a minimum and a maximum ~~[range]~~ salary rate of pay appropriate for each class. ~~[Said]~~ The Pay Plans shall be approved by the Council. The Pay Plans shall ~~[identify]~~ establish the ~~[status]~~ eligibility of each ~~[position-relating]~~ classification to receive overtime compensation as indicated by exempt or non-exempt status.

(b) The ~~[rate or range for each class]~~ Pay Plans shall equitably reflect the difference in duties and responsibilities, and shall be related to compensation for comparable positions within the ~~[same]~~ job market.

(c) ~~[The Pay Plan shall be made accessible by the Personnel Office to employees by distribution to all department directors and the Employees Association.]~~ The Executive Officer shall ~~[study Metro employee compensation at least once]~~ review the Pay Plans annually and include recommended revisions within his/her proposed budget. Said ~~[study]~~ review may cover such items as changes in the Consumer Price Index and in salaries and benefits received by employees in the labor market.

(d) The Executive Officer shall administer the Pay Plans based on the need and expectations of Metro along with suitable employee performance.

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

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

(Ordinance No. 81-116, Sec. 29)

~~[2.02.150 — Analysis of Pay Plan:] [The Executive Officer shall study Metro employee compensation at least once annually. Said study may cover such items as changes in the~~

~~Consumer Price Index and salaries and benefits received by employees in the labor market. The Executive Officer will report the findings of said study at least once annually to the Council with recommended actions.] (moved to 2.02.145(c))~~

(Ordinance No. 81-116, Sec. 30)

~~[2.02.155 Administration of Pay Plan:] [Upon initial appointment to a position, each employee should receive a salary at the beginning step of the salary range for the class to which the position is allocated. Appointment at the beginning step should be the rule, with appointments above that level being the exception for outstanding qualifications and experience, and subject to approval of the Executive Officer.](moved to 2.02.160)~~

(Ordinance No. 81-116, Sec. 31)

#### 2.02.060 [460] Salary Administration [Guidelines]:

(a) ~~[The salary plan is designed to allow an employee the opportunity for growth and adjustment to a new position, and to earn salary increases on a planned basis. Except as provided in subsections(d)(4) and (d)(12) of this section, or as a result of a change pursuant to other sections of these rules, employees'] [e]Current salary shall be used to calculate merit increases. Merit increases shall be the only regular annual additions to an individual employee's rate of pay. [and cost-of-living adjustments] Any annual revisions to the pay plans shall be added only to the salary range of a classification, shall be cumulative, and shall not be added to an employee's individual rate of pay. However, no employee's rate of pay shall be lower than the beginning rate of a salary range after a fiscal adjustment is made.~~

~~[(b) — All salary increase personnel actions require the supervisor's recommendation, and the approval of the department head and Personnel Manager prior to providing such increase to the employee.~~

~~[(c) — Payroll procedures and policies are established and maintained by the Manager of Accounting.]~~

#### (db) Administrative Policies [Procedures]:

(1) (moved from 2.02.155) Upon initial appointment to a position, each employee should receive a salary at or 5 percent above the beginning salary rate [step-up to the entry merit step] of the salary range for the class to which the position is allocated. Appointment at or 5 percent above the beginning salary rate [step] should be the [rule] general practice, with appointments above that level being the exception for outstanding qualifications and experience, and subject to departmental personal services budget resources and approval of the hiring Department Director with concurrent notification to the Executive Officer.

(42) Employees hired at or promoted to the beginning salary rate [step] of a

salary range ~~[or between the beginning step and the entry merit rate are eligible to]~~ shall receive a 5 percent salary increase ~~[to the entry merit rate]~~ after successful completion of six (6) continuous months of probationary service. The ~~[First Step]~~ increase of five (5) percent ~~[to the entry merit rate]~~ shall be initiated by the Personnel Department on the appropriate date. ~~[unless the department head provides Personnel with a negative performance evaluation and a request to temporarily withhold said increase. This does not absolve the appointing authority from performing an evaluation at the point the employee reaches the entry merit rate.]~~ When an employee is appointed ~~over the 5 percent~~ above the beginning salary rate ~~[the entry merit rate]~~ he/she is not eligible for a salary increase for one year, unless the Executive Officer approves an extra meritorious salary increase based on outstanding performance after successful completion of six (6) consecutive months of probationary service.

(3) After an employee has reached 5 percent above the beginning salary rate, ~~[the entry merit rate,]~~ he/she is eligible for annual ~~[salary]~~ merit increases in one (1) percent increments up to and including the maximum salary rate shown for the assigned salary range based on satisfactory performance which shall be effective on his/her anniversary date only. ~~[Criteria for providing the increases are in the following subsections.]~~

~~[(4) The Incentive Salary Rate increases of 1 percent to 3 percent is to be administered by the Executive Officer in conjunction with the Personnel Manager and the appropriate department head. This salary rate is to be used to reward outstanding employees and/or to assist in retaining employees. Incentive salary increases require the approval of the Executive Officer.]~~

~~[(54) All merit increases have to be authorized and approved by the Department [head] Director and reviewed as to form by the Personnel [Manager] Director prior to implementation. A decision by the Department Director to grant or withhold a [salary] merit increase will be communicated to the employee in writing. [by the Department head.]~~

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

~~[(7) The Merit Rate is the rate which is set annually by the Council according to agency salary policies relating to comparable and competitive rates of~~

~~pay found in the labor market for similar work, and which rate reflects the impact of the cost of living for the Portland metropolitan area. When the Maximum Merit Rate is adjusted, the entire salary range must be adjusted and the individual's salary should be adjusted by the same rate. This adjustment will maintain the internal balance between salary ranges for each class and maintain the employee's salary within the assigned salary scale.]~~

~~[(8) It will be general practice to hire new employees at the beginning step, but promoted employees may be assigned a salary within the appropriate range in line with Metro Personnel Rules and policies.]~~

(96) Criteria to be considered in recommending and granting merit [salary] increases should include but not be limited to:

- ~~[Length of service]~~ Planning and organizing work, and meeting deadlines
- Competency and judgment
- Growth in and ability to handle[ing] job responsibilities
- Attitude
- Specific actions toward self-improvement, as necessary
- Recognition of excellence
- Productivity increases of tangible quantities and/or qualities
- Creative and innovative contributions
- Cost and budgetary savings realized, if any
- Affirmative Action & EEO responsibilities
- Safety practices

~~(107) [This criteria shall apply to salary increases given in the merit range of the salary schedule.] The Personnel [Manager] Director shall review [the supervisor's and department head salary increase actions, and shall assure that the criteria on the] performance evaluations [forms are followed] to assure that appropriate criteria are included. [Employees will be considered for merit increases upon the anniversary date on which they reached the entry merit rate for the position currently held.]~~

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

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

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

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

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

~~[Appointment at the beginning step or an adjusted 5 percent rate should be the rule, with appointments above that level being the exception for outstanding qualifications and experience and subject to the approval of the Executive Officer. If such 5 percent increase places the employee between the beginning step and the entry merit rate, the employee will be placed at the entry merit rate after completion of six (6) months of satisfactory service.]~~

~~[(12) The Executive Officer, upon request by the department head and supported with proper documentation of all relevant issues, may reduce an employee's merit salary. Such decrease shall be no more than five (5) percent the amount awarded on the last anniversary date and in no case shall go below the entry merit rate for the classification in which the employee is working. The salary decrease will occur on the employee's anniversary date in conjunction with a performance evaluation. An evaluation shall be made of the employee's performance after six (6) months with the opportunity to reinstate the merit increase if performance warrants it. All such reductions shall be subject to the Grievance Procedure.] (moved to discipline section).~~

(c) A Department Director may assign an employee, in writing, to work "out of class". Whenever an employee is assigned to work temporarily in a higher classification for a period

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

(d) ~~[Bonus:]~~ A ~~[one-time]~~ non-cumulative award of a bonus of up to ~~[\$300]~~ \$500 may be ~~[made]~~ approved by the Executive Officer, upon written recommendation of the employee's supervisor and ~~[d]Department [head] Director~~ supported by facts establishing reasonable justification for the award and subject to departmental personal services budget resources. A bonus award shall not be made in lieu of an employee's annual merit ~~[salary]~~ increases and shall not be given more than once in a fiscal year.

(de) (Moved from 2.02.165(e) When, as part of a classification/compensation study, the salary range for any classification is increased ~~[or-decreased]~~, individual employees ~~[salary rates]~~ shall be placed within the new range at their current rate of pay or on the beginning salary rate ~~[step]~~ of the new salary range if the beginning salary rate is higher than his/her current rate of pay. ~~[or-receive-an-increase-of-5%, whichever is greater, [adjusted in proportion to the amount of increase [or-decrease]~~ without a change in the employees established anniversary date.

(ef) (moved from 2.02.140(c) When the salary range for ~~[a-group-of-positions-or-for]~~ an entire classification ~~[in-the-same-class-are-reclassified-downward]~~ is decreased as a part of a ~~[n-agency-wide]~~ classification/compensation study, the rates of the incumbents in the positions shall be continued (red-circled) and no change in salary shall occur until the annual adjustments to the Pay Plan bring the employee's rates in the new class within the new range. At that time, incumbents will become eligible for salary adjustments.

This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

(Ordinance No. 81-116, Sec. 32)

#### 2.02.065 [165] Pay~~[roll]~~ Policies [Proceedures]:

(a) Permanent ~~[Metro]~~ employees shall be paid according to the Pay Plan adopted by the Council and administered by the Executive Officer. ~~[Adjustments to the Pay Plan may be made upon recommendation of the Executive Officer and approval by the Council.]~~ (moved to 2.02.145(a)

(b) Employees shall be paid ~~twice monthly~~ [biweekly or monthly with a mid-month draw].

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

(d) Payroll procedures shall be established by the Finance and Management Information Department, Accounting Division.

This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

~~[(Section (d)(1-4) to be included in a new Executive Order) (d) Payroll deductions will be made for income tax withholding, Workers' Compensation insurance and employee contributions to employee benefits, and may be made for the United Way Fund, payments to the Employee's Credit Union and other agencies as approved by the Executive Officer at the request of the employee.]~~

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

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

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

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

~~(B) Disburse funds only to agencies whose charitable activities~~

are primarily in the geographical areas of the Metropolitan Service District and which have an office located within the District.

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

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

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

~~(F) Provide an audited annual financial report to the Metropolitan Service District for distribution to its employees sixty (60) days prior to the charitable campaign.~~

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

~~[(e)] (moved to 2.02.055(d) [When the salary range for any classification is increased or decreased, individual employees salary rates shall be adjusted in proportion to the amount of increase or decrease without change in the employees established anniversary date.]~~

~~[(f) Bonus:] (moved to 2.02.055(c) [A one time award of a bonus of up to \$300 may be made by the Executive Officer, upon written recommendation of the employee's supervisor and department head supported by facts establishing reasonable justification for the award. A bonus award shall not be made in lieu of an employee's annual merit salary increase.]~~  
(Ordinance No. 81-116, Sec. 33; amended by Ordinance No. 89-302A, Sec. 1, 2, 3 and 4)

#### 2.02.070 [260] Affirmative Action Policy:

(a) Policy Statement: ~~[The Council recognizes that it has a responsibility to provide equal employment opportunities regardless of race, color, national origin, religion, physical or mental handicaps, sex or age, so as to eliminate waste in the utilization of human resources.]~~  
Metro states as its policy a commitment to provide equal employment opportunities without regard to race, color, religion, national origin, sex, age, disability, sexual orientation, or marital or familial status, except where a bona fide occupational qualification exists.

(b) Affirmative Action Program: The Council has adopted an affirmative action policy and program which is set forth in a separate document which is available throughout Metro facilities. All employees are encouraged to familiarize themselves with Metro's affirmative action policies.

This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

(Ordinance No. 81-116, Sec. 53)

2.02.075 [095] Nepotism: Notwithstanding Metro's affirmative action policy and program, no member of an employee's family (husband, wife, son, daughter, mother, father, brother, sister, in-laws of any kind, aunt, uncle, niece, nephew, stepparent, or stepchild) shall be employed in a position of exercising supervisory, appointment, or grievance adjustment authority over the other family member.

This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

~~[(a) No appointing authority shall make, approve or continue the employment, appointment, promotion or transfer of an otherwise eligible candidate or employee to a position in which the candidate or employee would be subject to or responsible for the direct or indirect supervision or review, including personnel evaluation, salary or position changes, discipline and any other personnel action, of a person related as closely as a first cousin, whether the relationship is by blood or through marriage, and shall include husbands of sisters-in-law and wives of brothers-in-law. Any candidate or employee employed, appointed, promoted or transferred to a position in violation of this rule shall be immediately transferred or terminated from such position. These provisions shall not apply to any person appointed prior to date of adoption of this chapter.]~~

~~(b) No relative shall be employed if such action would constitute a violation of any law of the state of Oregon, or of the United States, or any rule promulgated pursuant thereto with which Metro is required to comply.]~~

(Ordinance No. 81-116, Sec. 19)

2.02.080 [040] Recruitment and Appointment:

~~(a) All promotions and appointments to vacancies shall be made solely on the basis of merit, efficiency and fitness. These qualities shall be job related and shall be determined through careful and impartial evaluation of the following:~~

- ~~(1) — The duties and responsibilities to be performed;~~
- ~~(2) — The applicant's level of training relative to the requirements of the position;~~
- ~~(3) — The applicant's level of education relative to the requirements of the position;~~
- ~~(4) — The applicant's level and amount of experience relative to the requirements of the position;~~
- ~~(5) — The results of an oral interview and examination; and~~
- ~~(6) — The results of reference checks.~~

~~(b) — Except for purposes of Affirmative Action, no question in any examination, in any application form, or by any Metro employee, official or department head shall be so framed as to attempt to elicit information concerning race, color, ancestry, national origin, sex, sexual orientation or political or religious affiliation.~~

~~(c) — All statements submitted on the employment application or attached resume shall be subject to investigation and verification prior to appointment.]~~

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

~~(db) Internal Recruitments: A regular [and temporary full-time] employee who has successfully completed his/her initial probationary period may [are encouraged to] apply for [any] vacant positions and will be considered as an internal applicant [for which they are qualified]. Temporary [full-time] employees must have completed a competitive recruitment and selection process through the Personnel Department [and have been employed at least three (3) months] to be considered [for] as an internal [in-house] applicant. [promotional hiring preference.] All applications will be considered without prejudice to their present positions. Regular, regular part-time and temporary [full-time] employees who apply will be given first consideration in filling a vacant position. [(moved to General Recruitment) If the position is not filled as a result of promotional recruitment, recruitment outside the agency will commence.] Notice of [promotional] internal recruitment shall be posted not less than five (5) working days to allow for receipt of applications. [Promotional applicants will be provided with a written response on the status of their application by the division or department head in whose division the vacancy exists before outside recruitment is commenced.]~~

~~This subsection shall also apply to employees who are in certified or recognized~~

bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

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

(ed) Pursuant to the terms and intent of ORS 268.180(5), ORS 268.210 and ORS 268.215, all appointments of employees shall be the sole responsibility of the Executive Officer subject to the provisions of this chapter. However, ~~[because the duties associated with certain positions include an independent and concurrent policy impact on both the Council and the Executive Officer,]~~ the appointment of all Department Directors and the General Counsel, or other positions who report to both the Council and the Executive Officer, ~~[or promotion of persons to fill the following positions]~~ must be confirmed by a majority of the Council prior to the effective date of each such appointment or promotion:

- ~~(1) General Counsel~~
- ~~(2) Government Relations Officer (lobbyist)~~
- ~~(3) Public Affairs Director~~
- ~~(4) Deputy Executive Officer~~
- ~~(5) Solid Waste Director~~
- ~~(6) Zoo Director~~
- ~~(7) Convention Center Project Director~~
- ~~(8) Planning & Development Director~~
- ~~(9) Transportation Director~~
- ~~(10) Director of Finance & Management Information~~
- ~~(11) Director of Regional Facilities]~~

(e) All appointments of employees to the Office of the Executive Officer shall be the sole responsibility of the Executive Officer.

(f) All appointments of employees to the Council Department shall be the sole responsibility of the Presiding Officer of the Council.

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

(h) Direct appointments of, staff in the Office of the Executive Officer, Department Directors, staff in the Office of the Auditor, and staff in the Council Office, may be made without going through the normal recruitment and selection process. All appointed staff in the Office of the Executive Officer and appointed Department Directors shall serve at the pleasure of the Executive Officer. All appointed staff in the Office of the Auditor shall serve at the pleasure of the Auditor. All appointed staff in the Council Department shall serve at the pleasure of the Council.

~~[(f) "Provisional Appointment" means an appointment, pursuant to this chapter, to a position in the absence of a list of eligibles. Provisional appointments cannot exceed ninety (90) days. A person appointed provisionally is eligible to compete for the position when recruitment is opened during the aforementioned ninety (90) day period.]~~

(Ordinance No. 91-378A, Sec. 5)

(Ordinance No. 81-116, Sec. 8; amended by Ordinance No. 84-183, Sec. 1; amended by Ordinance No. 87-218, Sec. 1; and Ordinance No. 88-255, Sec. 1)

**2.02.085 [045] Probationary Period:** The probationary period shall be a continuation of the screening process and shall provide the supervisor an opportunity to observe the employee's work, to instruct and aid the employee in adjustment to the position, and to reject any employee who does not demonstrate fitness for the position. The successful completion of probation is for Metro's internal screening process only, and does not confer any form of tenure or other expectation of continued employment.

(a) ~~[Except as provided in subsection (B) of this section,]~~ ~~a~~All [original] initial appointments and all promotions to [regular and regular] permanent full-time and permanent part-time positions shall be subject to a standard probationary period of six (6) consecutive months of service. ~~[Such period shall not apply to transferees who are transferred after satisfactory completion of their probationary period.]~~

(b) ~~[In cases where a probationary employee is transferred prior to the end of the probationary period, the employee must complete his/her initial probationary period. [Or where a period longer than six (6) months is necessary to demonstrate an employee's qualifications, the probationary period may be extended by the Executive Officer; however, no probationary period shall be extended beyond twelve (12) months from the date of appointment. The employee shall be notified in writing of any extension and the reasons therefore.]~~ Promotions: Employees who do not successfully complete their promotional six month probationary period, may be demoted at any time during the promotional period, and be reinstated into the position held prior to promotion if that position is vacant or if that position is filled by an employee in an initial probationary period. If that position is not filled by a person in his/her initial probationary period, the employee may be reinstated into any vacant position in the classification held prior to the promotion and the employee will serve a probationary period of three months in the new position. If no such positions are available, the employee shall be laid off.

(c) ~~[During the probationary period the employee shall not be eligible for vacation leave but shall earn vacation credit during probation to be taken after probation.]~~ Reclassifications: No employee's position shall be reclassified until such time as he/she has successfully completed his/her initial six month probationary period in the classification into which he/she was hired. Employees whose positions are reclassified, upon successful completion of the initial probationary period, shall not serve an additional probationary period.

(d) ~~[During the probationary period, the employee will be provided with a work plan~~

~~and guidance from the supervisor in carrying out the plan. The employee's performance will be reviewed periodically to determine how the employee is progressing in meeting the performance standards of the particular position. Upon satisfactory completion of the probationary period, the employee shall be considered as having demonstrated qualifications for the position, shall gain regular status and shall be so informed on a Completion of Probationary Performance Evaluation rating form.]~~ **Transfers:** Transfers to another position in the same classification with the similar duties, do not require an additional probationary period. Transfers to a position in the same classification with significantly different duties shall require a three month probationary period. Employees who do not successfully complete the three month probationary period, may be reinstated into the position held prior to transfer, if the position is vacant or if the position is filled by an employee in an initial probationary period. If that position does not exist as described above, the employee may be reinstated into any vacant position in the classification held prior to the transfer. If no such positions are available, the employee shall be laid off. In cases where a probationary employee is involuntarily transferred prior to the end of the probationary period, the employee must complete his/her initial probationary period. (moved from (b) above)

(e) ~~[In the case of an original appointment, a probationary employee may be terminated without cause at any time without hearing or appeal and without previous, lesser disciplinary action. The employee shall be given fourteen (14) days written notice of termination pursuant to Section 2.02.105(g).]~~ **Demotions:** An employee must have completed his/her initial six month probationary period prior to requesting a voluntary demotion, and shall not serve a new probationary period upon demotion.

(f) ~~[In the case of promotional appointments, the promoted employee may be demoted at any time during the probationary period, and be reinstated in a position in the class from which he/she was promoted, even though this may necessitate the layoff of the employee occupying the position.]~~ (moved to (b) above). Vacation leave credits based upon or earned in connection with time worked shall accumulate during an employee's initial probationary period. Upon successful completion of the initial probationary period, employee will be credited with vacation leave accumulated during the probationary period and will be eligible to take accrued vacation leave with pay as authorized. An employee who terminates for any reason during the initial probationary period shall not be entitled to vacation leave payment.

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

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

This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining

agreement, the collective bargaining agreement shall govern.

(Ordinance No. 81-116, Sec. 9)

~~[2.02.080 Travel Expense: When employees are required to travel on official business, Metro will pay the actual cost of travel and the actual cost of meals or per diem as set by the Executive Officer, whichever is less. No such payment shall be made without receipts for actual expenses. Reimbursement for expenses incurred shall be determined and paid as follows:~~

~~(a) — Travel on official business by a single individual should be via public carrier or Metro owned vehicle. If the employee is authorized to use a private vehicle, mileage shall be paid at the same rate set by the Council for Councilors. This rate includes insurance, but not storage expense of the vehicle, which is an eligible expense.~~

~~(b) — When travel by Metro owned vehicle or by public carrier is practical, but the employee elects to use the employee's own vehicle, the employee shall not be reimbursed.~~

~~(c) — Reimbursement for travel and subsistence on official trips outside the metropolitan area by bus, train or airplane shall only be the amount of actual and reasonable expense incurred during the performance of official duty as a Metro employee for the benefit of Metro. Metro will pay the actual costs of travel and meals or per diem as set by the Executive Officer. The actual cost of conference registration fees will be paid. The actual costs of accommodations will be paid as well as taxi or bus fare. Metro will not pay for first class air travel unless tourist class is not available. Airline tickets should be ordered and paid for directly by Metro. Advances for anticipated trip costs may be made upon approval of the Executive Officer or the person designated by the Executive Officer.~~

~~(Ordinance No. 81-116, Sec. 16; Ordinance No. 90-334)] (included in current Executive Order)~~

#### 2.02.90 [265] Temporary Employees:

~~(a) Temporary employees appointed prior to the effective date of this Ordinance and who are still employed as temporary employees without a break in service after the effective date of this Ordinance, shall [be eligible for] continue to receive all employee benefits [according to the Metro Temporary Employment Program adopted August 1979.] granted to them since their current appointment as a temporary employee, not to exceed 1044 hours.~~

~~[(b) — Definition: Temporary Employee means any employee appointed to perform a specific task or to participate in a series of projects for a period not to exceed 1,040 hours over a six (6) month period. This definition excludes interns, work study students, and CETA employees.]~~

~~(eb) Status of Temporary Employees: Temporary employment [will be expected to~~

~~terminate upon completion of the task or project. No commitments will be made by Metro to retain the employee past the termination date of the project in question]~~ shall be used for the purpose of meeting emergency, nonrecurring, or short-term workload needs, or to replace an employee during an approved leave of absence. A temporary employee may be given a nonstatus appointment without open competition and consideration only for the purposes enumerated in this section. Temporary appointments shall not be used to defeat the open competitive recruitment and selection process. Temporary employment shall not be used as any portion of a required probationary period.

(c) Term of Appointment: The term of temporary employment may not exceed [six (6) months] 1044 hours within a fiscal year without approval of the Executive Officer who may grant up to a [six (6)-month] 1044 hour extension. A temporary employee shall not become a permanent employee upon working more than 1044 hours. [provided, however, accrued hours shall not exceed 2,080 over a twelve (12) month period. Continuation of employment beyond one (1) year may only occur upon appointment to a regular position authorized under a currently approved budget.]

(d) Benefits: Benefits required by law such as Workers' Compensation and Social Security will be paid for all temporary employees. [Temporary employees are allowed vacation leave and sick leave according to the same rules as regular employees.] No additional benefits will be paid or given to temporary employees. [except for designated holidays as provided for in this chapter.]

[(e) — A newly employed temporary employee shall receive pay for an observed holiday if the employee has worked at least 30 consecutive work days prior to the occurrence of a legal holiday or if the employee has worked all of the working days of the month in which the holiday occurs; and a temporary employee leaving Metro employment will receive a paid holiday for any legal holiday provided the employee has worked five consecutive days or more beyond the occurrence of the said legal holiday.]

(e) Eligibility for Regular Employment: Temporary employees may [will be allowed to] compete for regular positions on the same basis as applicants from outside the agency. Temporary [full-time] employees [who have been employed at Metro three (3) consecutive months and who have gone through a competitive recruitment and selection process through the Personnel Department for the current temporary [full-time] position will be [given] considered as in-house [promotional hiring preference] applicants for vacant positions for which they apply through the internal recruitment process. [possess the qualifications. If appointed into a regular position, employment time spent in previous full-time temporary positions may be counted toward the accumulation of vacation and personal holiday time if there has been no break in service.]

[(g) — All sections of this chapter not inconsistent with the terms of the section including the pay and classification procedures will apply to temporary employees.]  
(Ordinance No. 81-116, Sec. 54)

2.02.95 [055] Job Share: Any full-time position may be designated as a job share position by the Executive Officer at the request of a Department Director. A job share position is a full-time position which is shared by two employees. Benefits for such position shall be apportioned between the position occupants in proportion to time worked by each; however, such apportioning may be altered upon written agreement of position occupants and approval by the Personnel [Manager] Director. In no event, however, shall the benefits of a job share position exceed the benefits of any other full-time position.

This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

(Ordinance No. 81-116, Sec. 11)

2.02.100 [225] Orientation: ~~[There shall be an orientation program.]~~ All new represented and non-represented permanent employees shall be provided with a copy of this chapter and insurance plans and Metro shall periodically provide them with orientation sessions.

(Ordinance No. 81-116, Sec. 45)

2.02.105 [245] Worker's Compensation Insurance:

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

(b) Payment of medical expenses and lost time disability benefits is determined by the worker's compensation administration in accordance with ORS 656 ~~[insuree carrier, State Accident Insurance Fund, on the basis of the doctor's statement and the Workers' Compensation Insurance schedule of the State of Oregon.]~~

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

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

This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

(Ordinance No. 81-116, Sec. 43)

## 2.02.110 [220] Insurance and Retirement:

(a) ~~[All probationary, regular and regular part-time] Permanent~~ employees shall receive ~~[health, life, disability, vision and dental] insurance [, and shall be members of one of Metro's retirement plans]~~ benefits, as provided in the budget, on the first day of the month following their first full month of employment. Co-payments by employees may be required. Job share positions are eligible for one set of benefits which are split between the two employees sharing the position. ~~[Continuous service as defined in this chapter shall apply in determining length of service for purposes of an employee's retirement plan, except as otherwise required by each such plan.]~~

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

(Ordinance No. 81-116, Sec. 44)

## 2.02.115 [065] Transfers and Demotions:

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

(1) Involuntary Transfer: ~~[If] A lateral transfer [is] of an incumbent employee without the consent of the incumbent employee may be made due to operational needs or as a result of disciplinary action, but the [employer] incumbent employee must be given [the employee] ten (10) calendar days prior notice. The incumbent shall be transferred with the position. [Upon written request of the employee, the Personnel Manager may investigate the transfer to determine if it is being made for reasons other than the good of the service. Transfers must be completed with no more than a ten (10) day break in service.]~~

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

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

~~[(b) Disability Reassignment: As an alternative to appointment from an open competitive or promotional list, a position may be filled for the duration of an employee's disability (temporarily or permanently) by the reassignment of a regular or probationary employee to another position upon request, with the consent of the Executive Officer and department heads involved and the Personnel Division, if the employee is unable to perform the duties of the position because of an on-the-job accident or disability. An employee so disabled may be reassigned to a position in a different classification, if it is determined by the Personnel Manager that the employee is both capable and qualified to perform the duties of the new position.]~~

This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

(Ordinance No. 81-116, Sec. 13)

## 2.02.120 [050] [Attendance: Hours of Work] Work Schedules:

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

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

(c) Meals and Breaks: Full-time employees shall be allowed at least a thirty (30) minute, not more than an hour, meal break. Such meal breaks shall be scheduled in the middle of a work day as practicable. All employees are entitled to at least a ten (10) minute break period when working a continuous four (4) hour work period.

~~[(a) Employees shall be in attendance at their work in accordance with the sections of this chapter regarding hours of work, holidays and leaves of absence.~~

~~[(b) Employees shall not absent themselves from work for any reason, other than those specified in this chapter authorizing sick leave, without making prior arrangements with their supervisor. Supervisors may authorize employees to work a flexible schedule which does not require continuous attendance during the workday or a report on each absence, when appropriate to the nature and level of the position.~~

~~[(c) Any unauthorized absence of an employee from duty may be deemed to be an~~

~~absence without pay and may be cause for disciplinary action. Absence without approval in excess of three (3) workdays shall constitute abandonment of position.~~

~~(d) Meals: All employees shall be granted a non paid lunch period of one (1) hour during each full work shift subject to past practice. Whenever possible, such meal periods shall be scheduled in the middle of a shift.~~

~~(e) Rest Periods: A rest period of ten (10) minutes shall be permitted for all employees for each full half shift subject to the workload of the department. Such rest periods shall normally be on a scheduled basis so that activities of the department shall be staffed at all times.]~~

(Ordinance No. 81-116, Sec. 10)

## 2.02.125 [170] Overtime Compensation:

(a) ~~When [O]vertime [may be allowed, and] is authorized, overtime compensation shall be paid[, both pursuant to ORS 279.340 and 279.342, and pursuant to this section. Compensation for overtime shall be paid] only to employees who are not exempt[ed] from [the provision of ORS 279.340 by ORS 279.342] overtime as established in the Pay Plan.~~

~~[(b) Except as a result of shift rotation, overtime shall be considered time worked by an employee in excess of the scheduled workday or workweek for full time employment. Time worked beyond their regular schedules by employees on schedules of less than full time shall be considered as additional time worked rather than overtime until such time exceeds the regular schedules for full time employment.~~

~~(c) Department and division heads shall assign to each employee regular work duties and responsibilities which normally can be accomplished within the established workday and workweek. No overtime shall be worked by nonexempt employees without the approval of the department head or his/her designee.]~~

~~(d) [Exempt employees who work more than forty (40) hours in one week shall be eligible for equal time off not to exceed eight (8) hours in one week upon approval of their supervisor and provided it can be accommodated with their workload.] No overtime shall be paid to overtime exempt employees. Time worked on a holiday may be taken at a later date. It is understood that an overtime exempt employee may have to work on occasion beyond normal business hours, and that some extra work hours beyond a usual work day or work week are part of the job expectations for an overtime exempt employee. At the Department Director's discretion, flexible work hours may be utilized to accommodate a reasonable balance of work hours. Recorded time off shall be consistent with Administrative Leave.~~

~~[(e) Working during the lunch hour and during coffee breaks is not considered as overtime and no overtime payment shall be made for such time worked as defined in ORS 279.340; provided however that if a non-exempt employee is required by the supervisor to work through the lunch hour, he or she shall be entitled to leave work at the conclusion of eight (8)~~

~~hours work or be eligible for overtime compensation pursuant to the provisions of this section.~~

~~(f) No person shall be discriminated against or disciplined for refusing to work overtime where in the opinion of the department head another qualified employee is available to perform the work.~~

~~(g) Designation of eligibility for overtime compensation shall be included in the pay plan for each position and revised annually based on the duties and responsibilities outlined in the class specification.]~~

(hc) For purposes of computing overtime, hours worked shall include only time actually worked by the employee, and shall not include holiday pay, vacation pay, sick pay, or other compensable leaves. ~~[For the purposes of computing overtime, hours worked shall include observed holidays, vacation leave, compensatory time, paid sick leave and time on the job.]~~

(id) Compensation for authorized overtime shall be at the rate of time-and-one-half for time actually worked in excess of the forty (40) hours in a workweek or eight (8) hours in a workday and may be paid [either] in cash if budgeted funds are available or, if the employee agrees as compensatory time off, at the discretion of the [d]Department [head] Director. Compensatory time must be taken as leave within six (6) months or paid in cash within the fiscal year that it is earned. Such payment shall be at the employee's rate of pay being earned at the time of payment. When a non-exempt employee is terminated, the employee shall be given cash compensation for the overtime the employee has accrued and not used.

~~[(j) When cash payment for overtime is authorized, such payment shall be made no later than the next pay day following the pay period in which the overtime is worked.]~~

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

(Ordinance No. 81-116, Sec. 34)

## 2.02.130 [175] Holidays:

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

- (1) New Years Day;
- (2) [~~Washington's Birthday~~] Martin Luther King Jr. Birthday;
- (3) President's Day
- (34) Memorial Day;

- (45) Independence Day;
- (56) Labor Day;
- (67) Veterans Day;
- (78) Thanksgiving Day;
- (89) Christmas Day;

(910,11) Two floating holidays are allowed each fiscal year on days of each employee's choice, subject to schedule approval of the supervisor. ~~[Employees hired after January 1 of each fiscal year shall be entitled to one such holiday in that fiscal year.]~~ For purposes of this section, a floating holiday is any day chosen by the employee and approved by the supervisor which would otherwise be a regular scheduled work day. The floating holidays are non-cumulative from fiscal year to fiscal year and must be taken by the employee within the fiscal year in which they accrue. No payment for floating holidays accrued and not taken shall be provided for any employee upon termination of employment for any reason. ~~[If the employee's supervisor does not schedule the holiday leave prior to the last week of the fiscal year, the employee shall be allowed to take the holiday leave within the last week of the fiscal year. The employee may determine which day of the last week he/she will be absent. Such absence will not reflect discredit on the employee.]~~

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

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

(d) ~~[Additional days designated by the Congress of the United States as legal holidays for all citizens shall be observed by Metro.]~~ Regular part-time employees shall receive holiday pay on a prorated basis, based on their hours of work.  
(Ordinance No. 81-116, Sec. 35)

2.02.135 [180] Vacation: ~~[(a)]~~ The following provisions are applicable to ~~[non-represented regular and non-represented regular part-time]~~ permanent employees only. ~~[Appropriate contract provisions shall apply to those employees represented by an employee union.]~~

~~[(ba)]~~ ~~[Subject to the provision on probation, a]~~ All regular and regular part-time employees shall be granted annual vacation leave with pay.

~~[(eb)]~~ ~~[Regular and regular part-time employees who have been employed by Metro for more than six (6) consecutive months]~~ Upon successful completion of their initial probationary period, employees may be granted accrued vacation leave by approval of the Department ~~[head or his/her designee]~~ Director. Department ~~[head]~~ Director vacations shall be approved by the Executive Officer. ~~[Special consideration of vacation needs of employees can be considered by]~~

~~the department head or the Executive Officer upon request.]~~

(dc) Employees shall not accumulate more than 250 hours of vacation leave. If the operating needs of the department prohibit granting a vacation leave request, additional hours in excess of the 250 hour limit, may be accrued or may be compensated, at the discretion of the Department Director, and with the written approval of the Executive Officer. Such written authorization shall be filed in the Finance and Management Information Department, Accounting Division with a copy to Personnel.

~~[(e) Any employee who is about to lose vacation credit because of accumulation limitations may, by notifying the department head five (5) days in advance, absent themselves to prevent loss of this time. Such action taken by the employee shall not constitute a basis for disciplinary action or loss of pay. Vacation leave shall not accrue during a leave of absence without pay, or educational leave with pay, the duration of which exceeds fifteen (15) consecutive calendar days. Any employee who is granted a leave of absence without pay shall first be scheduled for any vacation leave and/or compensatory time that has accrued to the employee before commencing leave without pay.]~~

(fd) Department Directors ~~[heads or their designees]~~ shall schedule vacation ~~[for their respective staff with consideration for seniority, the desires of the staff and for the work requirements]~~ requests consistent with the operational needs of the department. Vacation schedules may be amended to allow the department to meet emergency situations.

(ge) An employee who has successfully completed his/her initial probationary period, and terminates for any reason, shall be entitled to payment for accrued unused vacation leave. In no case shall payment be more than the maximum allowable 250 hour accrual limit. An employee who terminates for any reason during the initial probationary period shall not be entitled to any accumulated vacation leave payment. ~~[Any regular or regular part-time employee who resigns, retires, is laid off or dismissed from employment with Metro shall be entitled to immediate lump sum payment for accrued and unused vacation at his/her existing salary rate provided, however, that such lump sum payment shall not be made if separation occurs prior to the completion of the initial probationary period including any extensions.]~~

(Ordinance No. 81-116, Sec. 36; amended by Ordinance No. 91-426, Sec. 1)

2.02.140 [485] Vacation Credit and Accrual Rate: The vacation credit and accrual schedules for ~~[regular and regular part-time]~~ permanent employees are as follows:

<u>Total Years of</u> <u>Continuous Service</u>	<u>Accrual Rate</u> <u>Per Pay Period</u>	<u>Equivalent</u> <u>Annual Hours</u> <u>for Full-Time Employees</u>
Date of Hire through completion of 3rd years	5.00 hours	120 hours

4<sup>th</sup> years through  
completion of 7<sup>th</sup> years      6.00 hours      144 hours

8<sup>th</sup> [plus] years through  
completion of 11<sup>th</sup> years      7.00 hours      168 hours

12<sup>th</sup> [plus] years or more      8.00 hours      192 hours

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

(Ordinance No. 81-116, Sec. 37; amended by Ordinance No. 82-139, Sec. 1; Ordinance No. 91-426, Sec. 2)

2.02.145 [190] Sick Leave:

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

(b) [Regular] Permanent part-time employees shall earn sick leave with pay proportionate to the amount of time worked; such sick leave shall accrue in an unlimited amount.

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

~~(1) Personal illness or physical disability;~~

~~(2) Illness or physical disability in the employee's household requiring the employee to remain at home.~~

~~(3) Medical appointments and office visits.]~~

~~[(d) Sick leave shall be charged as follows: Employees working a regular workweek shall be charged leave on the basis of one (1) day sick leave for each duty day absent; except when such absence is the result of quarantine, in which case no charge shall be made. Not less than one (1) hour of sick leave may be charged for any portion of workday missed due to sickness.]~~

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

subsection of this section shall report the reason for his/her absence to his/her supervisor. Sick leave with pay may not be allowed unless such report has been made. The supervisor may require sick leave [~~beyond three (3) days~~] to be supported by a physician's statement attesting to the illness.

(fe) [Regular] Permanent full-time employees who use twenty-four (24) hours or less of sick leave within one (1) fiscal year period, and who are not at the 250 hour vacation accrual limit, shall accrue eight (8) additional hours of vacation leave in exchange for eight (8) hours of sick leave at the end of the fiscal year period. [Regular] Permanent part-time employees who use [~~twenty-four (24)~~] twelve (12) hours or less of sick leave within one fiscal year, and who are not at the 250 hour vacation accrual limit, shall accrue four (4) additional hours of vacation leave in exchange for four (4) hours of sick leave. Permanent employees must work a full fiscal year in order to be eligible for this exchange of accrued hours.

(gf) Transfer of Leave Credits: Under normal circumstances leave accruals are not transferrable. However, upon written request of a regular employee to the Executive Officer, the voluntary transfer of vacation leave hours may be authorized on a limited, carefully monitored basis as follows:

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

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

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

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

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

(A) the transferring employee's Director must authorize the transfer of hours by signature, such authorization will indicate the transfer of hours can be accomplished within the departmental fiscal year budget;

(B) the transfer of accrued vacation leave hours cannot exceed a total of 40 hours per transferring employee for each individual requesting employee for each fiscal year;

(C) if the transferring employee's vacation leave balance has reached the capped limit, the employee cannot uncapped his/her accrued hours to allow for a transfer of hours; transferred hours must be deducted from accrued hours at or below the allowable cap.

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

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

(8) Copies of approved requests and approved transfers of hours must be sent to the Finance and Management Information Department, Accounting Division for implementation and to the Personnel Department. ~~[Sick leave is provided as a benefit to each employee as insurance for periods of illness. Under normal circumstances benefits are not transferrable; however, upon request of an employee, the Executive Officer may authorize transfer of sick leave credits on a limited, carefully monitored basis when extenuating circumstances exist. Each request will be reviewed and approval granted on a case by case basis.]~~

This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

(Ordinance No. 81-116, Sec. 38; amended by Ordinance No. 82-139, Sec. 2)

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

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

(b) An employee returning from family medical leave shall be reinstated with no greater or lesser right in employment than if the employee has not taken the leave (pursuant to Chapter 939, Oregon Laws 1991).

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

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

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

(f) When the employee can anticipate that the serious health situation is going to arise, the employee must submit a written request to the Department Director and Personnel Department at least fifteen (15) days prior to taking the leave. When the employee cannot anticipate the serious health condition of the family member, an oral request can be made to the Department Director to be confirmed in writing to the Department Director and Personnel Department within three (3) working days.

The employee's written request must contain the following:

- (1) The relationship of the employee to the person needing care,
- (2) The health condition of the family member necessitating the leave, along with a doctor's certification stating such health condition,
- (3) The anticipated length of absence, not to exceed twelve (12) weeks,
- (4) Other family members who are taking family medical leave and when they are taking it, or are otherwise available to care for the family member.

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

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

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

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

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

This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

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

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

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

(c) An employee returning from pregnancy leave or temporary transfer shall be reinstated with no greater or lesser rights in employment than if the employee had not taken the leave (pursuant to ORS 659.389).

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

(e) **Temporary Transfer:**

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

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

(A) The specific duties affected by the pregnancy;

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

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

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

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

**(f) Pregnancy Leave:**

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

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

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

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

(C) A doctor's opinion/certificate confirming (a) or (b) above.

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

(4) Employees have the option of using their accumulated leave balances during pregnancy leave. If the employee chooses to take leave without pay, benefits will be paid through the last day of the month following the month in which the leave without pay commences. If the employee chooses to utilize accumulated balances, benefits will be continued as long as the leave is continued on paid status.

(5) If, during the course of the leave, another position which the employee is qualified to perform becomes available, Metro will, within three (3) working days, offer the available position to the employee, unless a physician has determined that the employee must remain on leave for a fixed or minimum period of time and the job becomes available during that period of time, or unless a physician has determined that the employee is disabled from performing any job duties for an indefinite period of time.

(g) If, during the course of pregnancy leave or transfer, the employee regains the ability to perform the duties of her former position, she shall, within three (3) working days of her knowledge of her regained ability, notify Metro. Metro shall restore the employee to her former position within ten (10) working days of notification by the employee, unless the position has been eliminated due to changed circumstances, in which case the employee will be reinstated to an available equivalent position. If no equivalent positions are available, the employee shall be reinstated to an available and suitable position.

(h) If, at any time during the course of pregnancy leave or transfer, the employee is released by her treating physician to perform the duties of her regular position, she must provide the written release to her Department Director and the Personnel Department with three (3) working days of the release. Metro will, within ten (10) working days of receipt of notice of release, restore the employee to her former position, unless the position has been eliminated due to changed circumstances, in which case the employee will be reinstated to an available equivalent position. If no equivalent positions are available, the employee shall be reinstated to an available and suitable position.

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

This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

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

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

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

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

(d) Employees have the option of using their accumulated leave balances during the parental leave. If the employee chooses to take leave without pay, benefits will be paid through the last day of the month following the month in which the leave without pay commences. If the employee chooses to utilize accumulated balances, benefits will be continued as long as the leave is continued on paid status.

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

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

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

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

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

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

(5) Failure to submit a written request in accordance with (1) above may result in a reduction of leave time by 3 weeks as a penalty for untimely notice of leave.

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

This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

## 2.02.165 [195] Leave of Absence Without Pay:

~~[(Now covered by Family Medical Leave) (a) — Disability Leave: Upon application, supported by a statement of a physician, a leave of absence will be granted without pay for a period not to exceed six (6) months in cases of the physical disability of a regular or regular part-time employee. Any employee requesting such leave shall file such request in writing with the department head and attach thereto a statement of the attending physician. Such statement must indicate that the duration of leave requested is necessary for recovery from the disability. Such disabled employee, upon ceasing work, may use such vacation and sick leave as he/she may have earned, except that such vacation must have been regularly available to him/her during the calendar year, and the sick leave shall not exceed the amount which has been earned up to the time the leave of absence begins. The leave of absence without pay shall commence immediately upon completion of the vacation and sick leave. During the first three (3) months of disability leave, Metro shall continue to provide health, dental, life insurance, accidental death and dismemberment and long term disability benefits, to the same extent provided other employees, and shall pay all appropriate premiums. If the leave extends beyond three (3) months, the employee may elect to continue such benefits for up to six (6) months from the date the leave began and, upon such election, the gross premiums for such extended coverage shall be paid by the employee. Such extension of coverage beyond the first three (3) months shall be subject to any restrictions in each applicable benefit policy or plan.]~~

~~[(Now covered under Pregnancy Leave statute) (b) — Maternity Leave: — All provisions in subsection (a) of this section relating to disability leave shall apply equally to regular and regular part-time employees who are disabled for reasons of pregnancy.]~~

~~[Moved to Military Leave (c) — Peace Corp Leave: Metro shall grant leaves of absence without pay for at least two years to any full-time salaried public officer or employee who serves, and while he/she serves, as a volunteer in the Peace Corps. Upon expiration of the leave the public officer or employee shall have the right to be reinstated to the position held before the leave was granted and at the salary rates prevailing for such positions on the date of resumption of duty, without loss of seniority or other employment rights, if any. Failure of the officer or employee to report within 90 days after termination of his/her service shall be cause for dismissal.]~~

[(d)] All regular[, regular part-time and probationary] employees may be granted leave of absence without pay and without employee benefits for a period not to exceed six (6) months provided such leave can be scheduled without adversely affecting the operations of Metro. Such leave may be extended in writing by the Executive Officer once up to an additional six (6) months. Requests for leave of absence without pay shall be in writing, shall be directed to the Department [head] Director and shall contain reasonable justification for approval. Requests of ten (10) days or more shall require the approval of the Executive Officer or his/her designee. The approved request shall be filed in the Personnel Department[Division]. The employee may elect to continue employee benefits, and upon such election, premiums for such extended coverage shall be paid by the employee. Such coverage shall be subject to any restriction which may exist in each applicable benefit policy or plan.

(Ordinance No. 81-116, Sec. 39)

2.02.170 [200] Other Leaves of Absence with Pay: [~~Regular non-represented and regular part-time non-represented employees may request leave of absence with pay for the purposes specified in this section. Each request shall be approved by the Executive Officer on its merits and on the basis of the guidelines provided in this section. Approved requests shall be filed in the Personnel Division. All leaves of absence with pay under this section, for non-represented employees in the Council Department, shall have their leaves of absence with pay approved by the Presiding Officer of the Council. Appropriate contract provisions shall apply to those employees represented by an employee union.~~]

[(Incorporated into one section - Funeral Leave) (a) ~~Compassionate Leave:~~ In the event of a death in an employee's immediate family, the employee may be granted leave of absence with pay not to exceed three (3) working days. Time not worked because of such absence shall not affect accrual of vacation or sick leave.

(b) ~~Funeral Participation:~~ When an employee participates in a funeral ceremony, he/she may be granted one-half (1/2) day off to perform such duty. Time not worked because of such absence shall not affect accrual of vacation or sick leave.]

(a) Funeral Leave: A maximum of three (3) days leave with pay shall be allowed a permanent, regular status employee to attend the funeral of the employee's immediate family member.

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

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

(3) When an employee participates in a funeral service, he/she will be granted four (4) hours time off, with pay and chargeable to any accrued leave balance or without pay if the employee has no accrued leave balances, to attend such funeral service subject to the approval of the Department Director.

(eb) Witness or Jury Duty: [When a Metro employee is called for jury duty, or is subpoenaed as a witness, he/she shall not suffer any loss of his/her regular compensation during such absence; however, the amount of compensation an employee receives for such duty shall be paid to Metro. Time not worked because of such duty shall not affect accrual of vacation and sick leave.] Any permanent, regular status employee shall be granted leave, with pay and without loss of any benefits, when called for jury duty or subpoenaed as a witness, subject to the following provisions:

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

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

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

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

(ec) Military Leave: [An employee who has successfully completed the probationary period and who is a member of the National Guard, or of a reserve component of the Armed Forces of the United States, or of the United States Public Health Service, shall be entitled, upon application, to a leave of absence with pay for a period not exceeding fourteen (14) calendar days in any one (1) calendar year to perform temporary active or training duty. Such leave shall be granted without loss of time, or other leave, and without impairment of merit ratings or other rights or benefits to which he/she is entitled. Military leave shall be granted only when an employee receives bona fide orders to temporary active or training duty, and shall not be paid if the employee does not return to his/her position immediately following the expiration of the period for which he/she was ordered to duty.] Employees shall be granted military leave and right to reinstatement as required by applicable federal or state law.

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

(2) Employees who take military leave during a probationary period must serve

out the remainder of their probationary period upon reinstatement in order to become regular employees.

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

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

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

(e) Administrative Leave: A[n-employee-at-the-level-of-department/division-head, or above,] Department Director may be granted administrative leave in recognition of [their] his/her overtime exempt status upon approval by the Executive Officer. Other non-represented regular status employees who work in classifications which are exempt from overtime pay may also be granted such leave at the discretion of their [department/division-head] Department Director [and with the approval of the Executive Officer or Presiding Officer of the Council, whichever is applicable.] Such leave shall not be cumulative from year to year, shall be compensable only in the form of leave time, and shall not exceed forty (40) hours in a fiscal year. Time not worked because of such leave shall not affect accrual of vacation or sick leave.

(Ordinance No. 81-116, Sec. 40; amended by Ordinance No. 91-426, Sec. 3)

2.02.175 [400] Preamble--Conduct, Discipline, Termination and Appeal: Nothing contained in this chapter precludes a supervisor from establishing work rules not inconsistent with this chapter for efficient operation and administration of the job site, or precludes a supervisor from having private discussions with employees. [In fact, discipline is often avoided by private conversations between the supervisor and employee.] These discussions may be in the form of assignment, instruction, or any other job-related communication. Any disciplinary action may be grieved by non-represented employees under the grievance procedure established in this chapter. [oral counseling, instruction and/or reprimand. However, these discussions are not subject to the grievance procedure unless the employee is notified at the time of the discussion that it constitutes an oral, or subsequently written, reprimand and may be used against the individual in future disciplinary actions. If the employee is so notified, the supervisor involved is to properly record the conversation and provide a copy of this record to the employee so as to provide a basis for the employee to pursue the matter through the grievance procedure.]

(Ordinance No. 81-116, Sec. 20)

#### 2.02.180 [405] Disciplinary Actions:

(a) Disciplinary actions [or measures] shall include only the following: oral or

written reprimand, suspension, reduction in pay, transfer, demotion and [dismissal] termination from employment. Any of these disciplinary actions may be utilized. It may not be necessary in every circumstance that the discipline be taken progressively. ~~[Disciplinary action shall be for just cause and will be subject to the grievance procedure. Oral reprimands will not be used as the basis for subsequent disciplinary action unless the employee is so notified at the time of reprimand, and if notified, the matter will be subject to the grievance procedure. If Metro has reason to reprimand an employee, it]~~ Disciplinary actions shall [be done] occur in a manner that is least likely to embarrass employees before other employees or the public, although it is recognized that this may not always be possible depending on the circumstances. This subsection shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

~~[(b) It shall be the duty of all employees to comply with and to assist in carrying into effect the provisions of this chapter. Except as provided in Section 2.02.045, no employee shall be disciplined except for violation of established rules and regulations, and such discipline shall be in accordance with procedures established by this chapter.]~~

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

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

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

- (1) Abandonment of position;
- (2) Absence from duty without leave;
- (3) Abuse of leave privileges;
- (4) Below standard work performance;
- (5) Discourteous treatment of the public or other employees, including but not limited to intentional tortious conduct;
- (6) ~~[Intoxication]~~ Possessing, using, transferring, offering or being under the influence of any intoxicants or narcotics during working hours;

- (7) Fraud in securing appointment or promotion;
- (8) Insubordination, including but not limited to, refusal or failure to follow the directive of a supervisor or other designated management staff, failure to comply with an established work rule or procedure, or discourteous behavior toward members of management;
- (9) Misuse of Metro property, funds or records;
- (10) Neglect of duty;
- (11) Willful deceit;
- (12) Any conviction by a court of law which demonstrates an impaired ability to properly perform work for Metro, or which would cause embarrassment or inconvenience for Metro [~~would be incompatible with the work performed for Metro by the affected employee~~];
- (13) Violation of Metro ordinances, [and] regulations and directives;
- (14) Willful violation of established safety policies;
- (15) Inability to get along with fellow employees;
- (16) Any falsification of information during the employment application or employment appointment process, regardless of when discovered;
- (17) Unlawful harassment or discrimination;
- (18) Theft, including personal or public property;
- (19) Sleeping on the job;
- (20) Gambling on Metro premises, including but not limited to card games, dice games;
- (21) Violation of this chapter, established work rules, or other management directives.

This subsection shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

(d) Procedure for Suspension, Reduction in Pay, Transfer, Demotion or Termination:

The supervisor will review information gathered with the Personnel Department prior to the supervisor taking any suspension without pay, reduction in pay, transfer, demotion or termination action. If a basis for discipline exists:

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

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

A. the alleged conduct by the affected employee

B. the violation(s)

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

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

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

This subsection shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

(e) The affected employee may grieve the final disciplinary action pursuant to the grievance procedure established in this policy. In the case of a termination action, the grievance shall be filed at Step 2 of the Grievance Procedure in this chapter, with the Department Director, with a copy to the Personnel Director. ~~[Any of the following types of disciplinary action may be utilized. It is appropriate, though not necessary in every circumstance, that the following steps be taken progressively. Reasons for each disciplinary action should be documented before action is taken unless extenuating circumstances exist.]~~

~~(1) Oral Reprimand: Oral reprimand is notice by a supervisor to an employee~~

~~that his/her behavior or performance must be improved. It defines areas where improvement is needed, sets goals, and informs the employee that failure to improve may result in more serious action. The supervisor shall record the date and content of the oral reprimand, and such record shall be placed in the employee's personnel file. This record shall be removed when successful corrective action is completed.~~

~~(2) Written Reprimand: Written reprimand is formal notice by a supervisor to an employee that his/her performance or behavior must be improved. A written reprimand must be approved by the department head. It contains the same elements as the oral reprimand. When appropriate, it should be used in conjunction with a plan for individual improvement. A copy of the written reprimand and plan for individual improvement is placed in the employee's personnel record. This copy shall be removed when successful corrective action is completed.~~

~~(3) Suspension: Suspension without pay should be used when other disciplinary measures have failed or when it is necessary that the employee not remain on duty. Suspensions shall not require advance notice and may be effected immediately. Within two (2) working days, Metro shall send a notice to the suspended employee at his or her last known address describing the circumstances of the suspension, the reason for the suspension, the length of the suspension, the date or the circumstances under which the employee may return to work. A duplicate copy of the written notice shall be placed in the employee's personnel file by the Personnel Manager. Dismissal may be the next step of disciplinary action.~~

~~(4) Demotion: Demotion, both in pay and to a lower classification may be used as a form of discipline when discharge is not warranted or when the supervisor believes that the employee has the potential for correcting conduct. Such action shall be subject to the rules governing demotions.~~

~~(5) Dismissal: Dismissal shall require advance notice as provided under Section 2.02.105(g). Where it is deemed necessary that the employee be separated immediately, the notice of dismissal may simultaneously provide for suspension under subsections (d)(3) and (f) of this section.~~

~~(e) The power to demote or dismiss is granted solely to the Executive Officer and may not be delegated except in an emergency.~~

~~(f) The Executive Officer or his/her designee shall give an employee whose suspension is sought written notice in person or by mailing to the employee's last known address of the proposed action stating any and all reasons, specifically and in detail, for the proposed~~

~~action. The notice becomes a permanent part of the employee's personnel record. Notice of suspension may be made after the suspension is effected where it is deemed necessary that the employee be separated immediately. The employee shall have three (3) working days for answering the notice of proposed suspension and for furnishing written support of his/her answer. The employee is entitled to answer the notice personally or in writing, or both. The right to answer personally includes the right to answer orally in person by being given a reasonable opportunity to make any representations which the employee believes might affect the final decision, but does not include the right to a formal hearing with examination of witnesses. When the employee requests an opportunity to answer personally, the Executive Officer shall appoint a representative or representatives to hear his/her answer. The representative or representatives designated to hear the answer shall have authority to recommend what final decision should be made and the Executive Officer shall consider such recommendations. The Executive Officer shall give a written decision on the answer within two (2) workdays. The written answer and decision become a permanent part of the employee's personnel record. The above procedures shall apply even when an employee has been suspended prior to the beginning of the three (3) day answering period.~~

~~(g) Except as provided in Section 2.02.045(e), the Executive Officer shall give an employee whose dismissal is sought at least fourteen (14) days written notice in person or by mailing to the employee's last known address of:~~

~~(1) The proposed dismissal;~~

~~(2) Any and all reasons, specifically and in detail, for the proposed dismissal;~~

~~(3) The employee's right to file a grievance pursuant to Section 2.02.110 of this chapter; and~~

~~(4) The employee's right to a hearing pursuant to contested case rules.~~

~~This notice becomes a permanent part of the employee's personnel record. If the employee wishes to file a grievance, such grievance shall be submitted pursuant to Section 2.02.110. If the employee wishes to request a contested case hearing, such request shall be submitted pursuant to District rules on contested cases. If an employee requests a contested case hearing, the employee's right to file a grievance shall be deemed waived and any pending grievance for dismissal shall be terminated.~~

~~(h) Employees who are affected by a disciplinary action may initiate a grievance under the provisions of Section 2.02.110.~~

~~(i) Employees may, at their expense, be represented by an attorney or otherwise, in answering to a notice of suspension or dismissal.]~~

~~(Ordinance No. 81-116, Sec. 21)~~

## 2.02.185 [070] Layoff:

(a) If there is a reorganization, [are] changes [of duties] in the organization, lack of work or lack of funds, or other reasons not reflecting discredit on employees, the Executive Officer may lay off employees. [~~;- however, the Executive Officer shall first make every reasonable effort to retain those employees.-~~] When layoffs occur, [~~are required, and except as required in 2.02.045(f), the Executive Officer shall base the decision on relative merit, and shall give due consideration to seniority only where the employees' qualifications and ability are relatively equal.-~~] temporary employees in affected classes shall be terminated first, with or without prior notice; then employees in their initial probationary period in affected classes shall be terminated, with or without prior notice; and finally regular employees in affected classes not [~~on~~] in their initial probation shall be given a minimum of two (2) weeks written notice of their layoff from Metro employment.

(b) Laid off employees shall be placed on a layoff list and [~~shall have rehire preference for the~~] may be recalled from the layoff list to a vacant position within the classification from which they were laid off for one (1) year following layoff and prior to internal recruitment for the vacant position. It is the employee's obligation to keep the Personnel Department informed of any change of address. If the Personnel Department attempts to contact the employee by mail and the letter is returned, the employee's name will be removed from the layoff list.

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

(Ordinance No. 81-116, Sec. 14)

2.02.190 [075] Resignation: Any employee may resign from Metro by presenting an oral or written resignation to the supervisor, manager, or Department Director. An oral resignation shall be confirmed in writing by the supervisor to the resigning employee. To resign in good standing, an employee must [~~any employee voluntarily terminating employment shall~~] give a minimum of two (2) weeks [~~written~~] notice of resignation, unless because of extenuating circumstances the supervisor, manager, or Department [~~head~~] Director agrees to permit a shorter period of notice. The resignation shall provide an effective date which shall be the last day actually worked, and shall be forwarded to the Personnel Department by the supervisor. If an employee who has resigned seeks to rescind the resignation, such rescission only may be granted by the affected Department Director at his/her sole discretion. All compensatory time for non-exempt employees only, and vacation leave credits earned and not used, up to the 250 hour limit, shall be paid. [~~Such time and leave credit shall not be used to extend the term of employment to earn additional benefits.-~~]

This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

2.02.195 [060] Personnel Records:

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

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

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

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

This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

~~[(a) — The Executive Officer shall cause a personnel record to be established for each employee and maintained in the Metro Personnel Division.~~

~~(b) — The personnel record shall show the employee's name, title of position held, the department to which assigned, salary, change in employment status, training received and such other information as may be considered pertinent.~~

~~(c) — A Personnel Action notice shall be used as the single document to initiate a Personnel Action and to update personnel records. Any document filed in the employee's record relating to salary, benefits, performance or work conditions of the employee shall be duplicated and sent to the employee. Personnel Action notices are signed by the department head, Personnel Manager and, when required, the Executive Officer and Deputy Executive Officer.~~

~~(d) — Employee personnel files are public records with the exception of the employment application, disciplinary actions, performance evaluations and references from prior employers. These excluded documents are considered confidential and are accessible only to the employee concerned, the employee's supervisor, the department head, the Personnel Manager, the Director~~

~~of Management Services, General Counsel and the Executive Officer. An employee may be denied access to references from prior employers if the employer so stipulates. The employee shall be notified as to all persons having access to their personnel records and the reasons for such access. Authorization by the employee shall be required before anyone other than pre-selected officials is given access to the employee's personnel file. Additional pre-selected officials may be identified by the Executive Officer and placed on file in the Personnel Office. The employee may authorize in writing his/her representative to gain access to his/her file, and such authorization shall be filed with the Personnel Office.~~

~~(e) Letters of reprimand shall not be used in any subsequent evaluation or disciplinary proceeding involving the employee after the next regularly scheduled evaluation and in the absence of a recurrence of a similar infraction, such letters shall then be removed from the employee's personnel record, at the request of the employee.]~~

(Ordinance No. 81-116, Sec. 12)

2.02.200 [410] Grievance Procedure: It is the policy of Metro to provide for an orderly process whereby non-represented permanent employees may have their dissatisfactions considered fairly and rapidly without fear of reprisal. Every effort should be made to first find an acceptable solution by informal means with the first-line supervisor.

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

(b) Procedure:

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

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

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

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

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

(2) The employee must present the written grievance to his/her supervisor within fifteen (15) calendar days of the occurrence of the circumstances giving rise to the grievance or the employee's first knowledge of those circumstances. The

supervisor shall discuss the grievance with the employee and attempt to resolve it. If the written grievance is not resolved within five (5) calendar days from the date of submission of the written grievance to the supervisor, it may be submitted within another five (5) calendar days to the employee's Department Director.

(3) The Department Director and the employee will attempt to resolve the grievance within five (5) calendar from the date of submission of the written grievance to the Department Director. If the grievance remains unresolved after the five (5) calendar day period, the employee may submit it within another five (5) calendar days to the Executive Officer.

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

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

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

~~[(a) The Executive Officer shall promptly consider and equitably adjust employee grievances; however, informal adjustment of grievances between supervisors and employees is encouraged. Grievances may be submitted by any employee or group of employees. Any party in the grievance procedure may seek the advice and assistance of the Employees Association.~~

~~(b) The following steps shall be followed in submitting and processing a grievance:~~

~~Step 1: The aggrieved employee or group of employees shall orally present the grievance to the immediate supervisor within fifteen (15) working days of the employee's awareness of its occurrence. The fifteen (15) day filing period may be extended upon approval of the Manager of Personnel. The supervisor shall give his/her reply within five (5) working days of the date of presentation of the grievance, not including the date of presentation.~~

~~Step 2: If the grievance is not settled in Step 1, then it shall be submitted in writing dated and signed by the aggrieved employee or group of employees to the department head within five (5) working days after the immediate supervisor's oral reply is given, not including the day the reply is given. The department head shall reply in writing to the grievance within five (5) working days of the date of the presentation of the written grievance, not including the day of its presentation. If the department head is the immediate supervisor, Step 2 should be eliminated.~~

~~Step 3: If the grievance is not settled in Step 2, it shall be submitted in writing by the aggrieved employee or group of employees to the Personnel Manager within five (5) working days after the department head's reply is given. The Personnel Manager shall reply in writing within five (5) working days of the date of presentation of the grievance, not including the day of presentation.~~

~~Step 4: If the grievance is not settled in Step 3, then it shall be submitted in writing by the aggrieved employee or group of employees to the Executive Officer within five (5) working days after the Manager of Personnel's written reply is given, not including the day such reply is given.~~

~~In lieu of submitting the grievance directly to the Executive Officer, the employee may opt to submit the grievance to a committee of three individuals, either Metro or non Metro employed, appointed in the following manner:~~

- ~~(a) The aggrieved employee shall appoint one representative;~~
- ~~(b) The Executive Officer shall appoint one representative; and~~
- ~~(c) The employee and the Executive Officer shall appoint one member mutually acceptable.~~

~~The Personnel Manager shall be responsible for establishing an equitable and efficient method of selecting a representative acceptable to the Executive Officer and to the employee. The committee shall meet and hear evidence and forward its findings and recommended decision to the Executive Officer and employee. After consideration of the recommendation of the committee, the Executive Officer shall render a decision within five (5) working days after receipt of the committee's findings and recommendation. If the employee opts to submit the grievance directly to the Executive Officer rather than to the committee, the Executive Officer shall render a decision within five (5) working days after receipt of the grievance. The decision of the Executive Officer shall be final and binding on the employee or group of employees.~~

~~(c) Any grievance not taken to the next step within the prescribed number of days after receipt of a decision shall be considered settled.~~

~~(d) If the appropriate course of action fails to meet or to answer any grievance within the time limits prescribed for such action by this section, such grievance shall automatically advance to the next Step.~~

~~(e) The time limits prescribed in this section for the initiation and completion of the Steps of the grievance procedure may be extended by mutual consent of the parties involved. Likewise, any Step in the grievance procedure may be eliminated by mutual consent. Mutual consent shall be indicated in writing and shall be signed by all parties involved. Time limits may be extended unilaterally one (1) time by each party in each step for five (5) days in cases~~

of documented emergencies.

~~(f) No employee or group of employees shall be disciplined or discriminated against in any way because of the employee's proper use of the grievance procedure.~~

~~(g) In cases of suspension, demotion or dismissal resulting in loss of pay or benefits, which action is subsequently reversed through the grievance procedure, said loss shall be reimbursed by Metro following the successful grievance action and notices of such suspension, demotion or dismissal shall be purged from the employee's personnel file.]~~

~~(Ordinance No. 81-116, Sec. 22)~~

2.02.205 [250] Service Awards: The Executive Officer shall provide a service award program for all represented and non-represented permanent Metro employees.

(Ordinance No. 81-116, Sec. 50)

2.02.210 Educational, Training & Development Policy [Opportunities]:

(a) Education and Development: All regular full-time employees are encouraged to pursue educational opportunities or development programs which are directly related to the employee's work and which will enhance the employee's job-related skill level.

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

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

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

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

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

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

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

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

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

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

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

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

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

This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

~~[(a) All regular and regular part-time employees are encouraged to pursue educational opportunities which are directly related to the employee's work and which will enhance the employee's job-related skill level.~~

~~(b) Employees who register for courses which are judged to be of direct and significant benefit to Metro may receive some reimbursement for expenses incurred by the~~

~~employee while taking approved courses. Procedures for application and amount awarded are contained in the Personnel Procedures Manual.~~

~~(e) — Normally the cost of textbooks and technical publications required for such courses shall be the responsibility of the employee. If Metro purchases any of the textbooks and publications for such courses, said textbooks and publications shall become the property of Metro.]~~

(Ordinance No. 81-116, Sec. 42)

#### 2.02.215 Drug/Alcohol Abuse Policy:

(a) An employee who believes that he/she has a problem involving the use of alcohol or drugs can ask the supervisor or a member of the Personnel Department for confidential assistance. No discipline or discrimination will result from an employee asking for such assistance, although a "reentry" or performance contract will be required of an employee once the problems have been identified or assessed and a treatment program started. Failure to sign or to live up to the performance contract or treatment program obligations will be grounds for discipline, including termination.

Metro also agrees to work jointly with the employee to identify all Metro and, if applicable, union benefits and benefit programs that may be available to help deal with the problem, such as leaves of absence, sick pay, short-term or long-term disability pay, and health insurance. Any continuing rehabilitation treatment will be paid for by the employee and whatever employee coverage for such treatment that is provided by the existing benefits package. The request for assistance and any later treatment program will be kept as confidential as possible under all the factual circumstances.

Although Metro recognizes that alcohol and drug abuse can sometimes be successfully treated and it is willing to work with employees who may suffer from such problems, it is the employee's responsibility to seek such assistance BEFORE drug or alcohol problems lead to on-the-job safety or misconduct incidents, or violations of this policy and to corresponding disciplinary action. AFTER a violation of this policy occurs, or AFTER a drug- or alcohol-related accident, an employee's willingness to seek Metro or outside assistance will NOT "excuse" the violation and generally will have no bearing on the determination of an appropriate disciplinary action.

#### (b) Prohibited Conduct

1. Alcohol. The possession, transfer, sale, offering, consumption or being under the influence of any intoxicating liquor while on Metro property is prohibited. **IMPORTANT:** The conduct prohibited includes consumption of any intoxicating liquor prior to reporting to work or during breaks or lunch period or on the job. For purposes of this provision, "under the influence" shall be defined as a blood

alcohol content of .02 or higher.

2. Drugs. The possession, transfer, sale, offering, consumption or being under the influence of any narcotic, hallucinogen, stimulant, sedative, or drugs (except as authorized and prescribed by a physician and then only if reported to the supervisor prior to beginning work) while on Metro property, or time (such as on customer's premises).

**EXCEPTION:** The use of medically-prescribed or over-the-counter drugs during working hours is approved, and an employee shall have no obligation to inform his or her supervisor of such usage unless the prescribed or over-the-counter drug contains a warning notice of possible impairment which may prevent an employee from performing his or her job safely and adequately; for example, operating mechanical equipment. An employee must inform his or her supervisor that he/she is taking prescribed or over-the-counter drugs which contain a warning of possible impairment prior to beginning work each day he or she uses the medication.

**IMPORTANT:** The conduct prohibited by this rule includes consumption of any such substance prior to reporting to work or during breaks or lunch period or on the job. An employee who tests "positive" for any such substances by screening and confirmation tests, including an employee who tests positive as the result of an authorized prescribed substance that was not reported to the supervisor prior to beginning work, will be deemed "under the influence" for the purposes of this rule.

The only exception is that less than 50 nanograms of THC, the active ingredient in marijuana, will not be considered a positive test.

(c) Right to Test. When Metro reasonably suspects that an employee has consumed or is under the influence of alcohol or any other substance or is otherwise in violation of this policy, Metro may require that the employee submit to appropriate tests for alcohol or prohibited drugs or substances in his/her system, including urinalysis. Failure to promptly give written consent, without qualification, to such testing and failure to provide samples for such testing will be grounds for immediate suspension pending further investigation and consideration, and for possible discipline, including termination.

Metro will bear the expense of all testing under this provision requested by Metro. A positive test must be confirmed by a second test which uses a different methodology than the one which was used for the initial positive result. An employee subject to testing will, upon request, receive a sample of the tested substance so that the employee can submit it to an independent lab (one chosen by the Employer) for verification.

An employee determined to have violated this rule for the first time will not automatically

be subject to discipline or discharge depending on the circumstances of the violation and whether he or she agrees to complete an approved substance abuse program. Second or subsequent violations of this rule may result in discipline, up to and including discharge.

The results of all investigations, tests, and discipline will be kept strictly confidential to the extent permitted by law, except that such information will be made available on request by the employee.

This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

2.02.220 [285] Smoking Policy: Smoking (cigarettes, pipes and cigars) is prohibited inside all Metro facilities~~[, with the following exceptions: in Solid Waste facility gatehouses as posted]~~.

~~[(a) — employee lounges and lunchrooms as posted;~~

~~[(b) — individuals' enclosed offices;]~~

~~[(c) — Solid Waste facility gatehouses as posted; and~~

~~[(d) — the Council lounge except when food is served.]~~

Notwithstanding the provisions of this section, smoking is prohibited in any public meeting as defined in ORS 192.710.

This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

(Ordinance No. 89-285, Sec. 1)

2.02.225 [205] Conferences, Membership and Conventions: Attendance at conferences, conventions or other meetings at Metro's expense shall be authorized by the Executive Officer. ~~[Permission]~~ Authorization shall be granted on the basis of an employee's participation in or the direct relation of his/her work to the subject matter of the meeting. Members of professional societies may be permitted to attend meetings of their society when such attendance is considered to be in the best interests of Metro. Metro shall pay for professional or trade memberships for employees when deemed appropriate by the Executive Officer or his/her designee ~~limited,~~ however, to the availability of budgeted funds.

This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

(Ordinance No. 81-116, Sec. 41)

2.02.230 [085] Employee Organizations and Representation: Employees of Metro [shall] have the right to form, join and participate in the activities of labor organizations of their own choosing for the purpose of representation and collective bargaining on matters relating to wages, hours and working conditions in accordance with the Oregon Revised Statutes and Regulations of the State Employment Relations Board. ~~[Employees may form an Employee Advisory Committee to the Executive Officer for the purpose of providing employee input on matters relating to wages, fringe benefits, working hours and working conditions. All meetings and communications should be documented and recorded for both parties. An Advisory Committee spokesperson, designated by the Metro Employees' Association, may respond to Executive Officer requests for information and input on employee issues during working hours.]~~ [(Ordinance No. 81-116, Sec. 17)]

2.02.235 [090] Political Activity:

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

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

(c) No public employee shall solicit any money, influence, service or other thing of value or otherwise aid or promote any political committee or the nomination or election of any person to public office while on the job during working hours. However, nothing in this section is intended to restrict the right of a public employee to express personal political views.

This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

(Ordinance No. 81-116, Sec. 18)

2.02.240 [280] Ethical Requirements for Employees, Officers, Elected and Appointed Officials:

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

(b) "Public Official" means ~~all~~ any employee[s], officer[s], elected official[s] ~~and~~ or appointed member[s] of a board[s], commission[s] ~~and~~ or committee[s] of ~~the~~ Metro~~politan Service District~~.

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

- (1) No public official shall use official position or office to obtain financial gain for the public official, other than official salary, honoraria or reimbursement of expenses, or for any member of the household of the public official, or for any business with which the public official is associated.
- (2) No public official or candidate for office or a member of the household of the public official or candidate shall solicit or receive, whether directly or indirectly, during any calendar year, any gift or gifts with an aggregate value in excess of \$100 from any single source who could reasonably be known to have a legislative or administrative interest in any governmental agency in which the official has or the candidate if elected would have any official position or over which the official exercises or the candidate, if elected, would exercise any authority.
- (3) No public official shall solicit or receive, either directly or indirectly, and no person shall offer or give to any public official any pledge or promise of future employment, based on any understanding that such public official's vote, official action or judgment would be influenced thereby.
- (4) No public official shall further the personal gain of the public official through the use of confidential information gained in the course of our by reason of the official position or activities of the public official in any way.
- (5) No person shall offer during any calendar year any gifts with an aggregate value in excess of \$100 to any public official or candidate therefor or a member of the household of the public official or candidate if the person has a legislative or administrative interest in a governmental agency in which the official has or the candidate if elected would have any official position or over which the official exercises or the candidate if elected would exercise any authority.

(d) The Executive Officer, and every member of the Council of ~~the~~ Metro~~politan Service District~~ and the Portland Metropolitan Area Local Government Boundary Commission shall be required to comply with the reporting requirements established by ORS 244.060, including the filing of a Statement of Economic Interest on an annual basis as required by state

law. A copy of the Statement of Economic Interest shall be filed with the Council Clerk at the time of filing with the appropriate State agency.

(e) All members of the Metropolitan Exposition and Recreation Commission and employees filling positions requiring Council confirmation as set forth in Section [2.02.040(e)] 2.02.070(D) shall file annually with the Council Clerk a Statement of Economic Interest which is substantially consistent with that required by ORS 244.060.

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

- (1) If the public official is an elected public official or an appointed public official serving on a board or commission, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official.
- (2) If the public official is any other appointed official subject to this chapter, notify in writing the person who appointed the public official to office of the nature of the potential conflict, and request that the appointing authority dispose of the matter giving rise to the potential conflict. Upon receipt of the request, the appointing authority shall designate within a reasonable time an alternate to dispose of the matter, or shall direct the official to dispose of the matter in a manner specified by the appointing authority.
- (3) Nothing in subsection (1) of this section requires any public official to announce a potential conflict of interest more than once on the occasion which the matter out of which the potential conflict arises is discussed or debated.
- (4) Nothing in this section authorizes a public official to vote if the official is otherwise prohibited from doing so.
- (5) When a public official gives notice of a potential conflict of interest, the potential conflict shall be recorded in the official records of the public body.

This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

(Ordinance No. 89-305A, Sec. 3)

2.02.245 [275] Zoo Visitor Services Employees:

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

(b) ~~{These policies do}~~ This section does not constitute a contract of employment. In order to meet future challenges and to continue to improve the working environment for all Zoo Visitor Service Employees, the Council retains the flexibility to change, substitute, interpret and discontinue the policies and benefits described herein, at any time, with or without notice to employees. No contract of employment can be created, nor can an employee's status be modified, by any oral or written agreement, or course of conduct, except by a written agreement signed by the Division Manager, Zoo Director or his/her designee, the Personnel Manager, and the Executive Officer. Whenever a question arises as to the meaning or interpretation of any policy or practices of the Zoo Visitor Services Division, the interpretation given by the Executive Officer and/or his/her designee(s) shall be final and binding.

(c) **Definitions:**

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

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

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

(B) **Regular Visitor Services Worker Employee:** Employees who are

employed on a year-round basis in the Visitor Services Division of the Metro Washington Park Zoo and regularly scheduled to work 20 or more hours each week, as provided by the current adopted budget.

(2) "Director" means Director of the Metro Washington Park Zoo.

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

(d) Application of Personnel Policies: All Visitor Services Worker Employees shall be subject to this section and to all other Zoo personnel policies and regulations not inconsistent with this section.

(e) Recruitment and Appointment for Seasonal Visitor Services Worker Employees:

(1) In-house recruitment to fill Seasonal Visitor Services vacancies is not required and is at the discretion of the Visitor Services Manager.

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

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

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

(f) Recruitment and Appointment for Regular Visitor Services Worker Employees:

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

- (2) In-house recruitments to fill vacancies as described in (1) above, shall include posting of such vacancies for at least five (5) calendar days within the Visitor Services Division.
- (3) Regular Visitor Services Worker employees will be eligible to apply in-house for all vacant Regular (non-Visitor Services Worker) positions within Metro.

(g) Status of Seasonal Visitor Services Worker Employee: Seasonal Visitor Services Worker employees will be eligible to compete for in-house recruitments of a Regular, non-Visitor Services Worker position, if they have worked forty (40) hours per week for three (3) consecutive months and were hired through a competitive process for or had been reinstated to the position they currently hold.

(h) Benefits:

- (1) Benefits required by law such as Workers' Compensation and Social Security will be paid for all Visitor Services employees. Seasonal Visitor Services Worker employees will not receive any other benefits.
- (2) Seasonal Visitor Services Worker employees will not be paid for holidays not worked. Designated holidays shall be considered as normal workdays.
- (3) Regular Visitor Services Worker employees appointed to one of the regular Visitor Services Worker positions will receive a full benefit package when working a minimum of 20 hours per week.

(i) Performance Evaluation: Performance evaluations will be performed at least once during the initial thirty (30) work day probationary period.

(j) Disciplinary Action:

- (1) Nothing contained in this section precludes the Visitor Services Manager or Zoo Director from establishing work rules not inconsistent with this section for efficient operations and administration of the job site, or precludes the Manager from having private discussions with employees. These discussions may be in the form of assignment, instruction, or any other job-related communication.
- (2) It is appropriate, though not always necessary in every circumstance, that disciplinary actions be taken progressively. Disciplinary actions will take into consideration the degree, severity, and frequency of the offense and/or circumstances surrounding the incident. Any disciplinary action shall be done in a manner that is least likely to embarrass the employee.

before other employees or the public. Copies of disciplinary actions shall be placed in the employee's personnel file. Any disciplinary action may be grieved under the grievance procedure established in Chapter 2.02 of the Code.

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

- (A) Abandonment of position;
- (B) Absence from duty without leave;
- (C) Abuse of leave privileges;
- (D) Below standard work performance;
- (E) Discourteous treatment of the public or other employees;
- (F) Intoxication during working hours;
- (G) Fraud in securing appointment or promotion;
- (H) Insubordination;
- (I) Misuse of Metro property, funds or records;
- (J) Neglect of duty;
- (K) Willful deceit;
- (L) Any conviction by a court of law which demonstrates an impaired ability to properly perform work for the Division;
- (M) Violation of Metro Code, ordinances and regulations, established work rules and directives, including those directives defined in the Visitor Services Worker Handbook.

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

(k) Promotion: Eligibility for assignment to Visitor Services Worker 2 and 3 classifications shall be established by the Visitor Services Manager and shall be subject to in-house recruitment established in (f)(1-3) above upon determination that an employee has acquired or possesses the knowledge, skill and ability required for the position.

(l) Wage Rates:

- (1) Visitor Services Worker employees will be paid at a rate in the Pay Plan

recommended by the Visitor Services Manager and the Personnel Manager and approved by the Executive Officer and the Council.

- (2) The step range for each employee shall be established on the basis of individual qualifications and work assignment. It will be the general practice to appoint new Visitor Services Worker employees at the beginning step of the Visitor Services Worker 1 salary range. Exceptions approved by the Executive Officer may be made to allow hiring above the beginning step. Total hours of previous work experience with the Zoo and the quality of that work will be considered in determining the step for previous employees reemployed at the Zoo in subsequent seasons.
- (3) Eligibility for a wage increase shall be at the discretion of the Visitor Services Manager and after successful completion of the initial probationary period.
- (4) Section 2.02.160 of the Metro Code (Salary Administration Guidelines) shall not apply to any Visitor Services Worker employees.

(m) Reporting and Hours of Work:

- (1) Because the number of Seasonal Visitor Services Worker employees needed at a given time depends upon weather conditions, such employees may be relieved from duty prior to the end of a scheduled workday or may be directed to not report for duty on a scheduled workday. The Director or his/her designee shall establish appropriate procedures for regulating reporting during inclement weather.
- (2) Work schedules will be posted, and will be subject to subsection (1) above. No employee will be called to work for less than three (3) hours in one day.

(n) Rest and Meal Period:

- (1) A rest period of 10 minutes with pay will be provided during each work period of four hours.
- (2) A non-paid lunch period of one-half hour (30 minutes) shall be provided. Whenever possible, such meal period shall be scheduled in the middle of the shift.

(Ordinance No. 81-123, Sec. 1 and 2; amended by Ordinance No. 87-221, Sec. 1 and 2; amended by Ordinance No. 89-269, Sec. 1; amended by Ordinance No. 89-269; and amended by Ordinance No. 92-467A, Sec. 1)

[2.02.245 Safety Program:]

~~(a) Council Responsibility: The Council recognizes the need for the development of safe working conditions and practices for every job, and will promote the advancement of safety in design of buildings, offices, equipment, tools and other devices. The safety program, as adopted by the Council, shall be set forth in a separate document and made available throughout Metro facilities. Employees and supervisors are required to be familiar with the provisions of these safety regulations and policies.~~

~~(b) All supervisors will consider it an essential part of their job to administer the safety program.~~

~~(c) All employees are required as a condition of their employment to follow all established safety practices. An injury or illness sustained on the job must be immediately reported. The appropriate accident report form must be completed and sent to the State Industrial Accident Fund (SAIF) of the State of Oregon.~~

~~(Ordinance No. 81-116, Sec. 49)] (included in Risk Management Procedures)~~

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

[2.02.270 Employment Contracts:] (moved to 2.02.005)

~~[(a) Persons employed in certain positions may be employed subject to employment contracts. In that event, the terms of such contracts shall control the conditions of employment, and this ordinance shall apply to such employment to the extent not inconsistent with such contracts.~~

~~(b) Employment contracts shall be authorized only for positions designated by resolution of the Council, and compensation to be paid pursuant to such contracts shall not exceed those approved by the Council.~~

~~(c) Hiring and termination by Metro of employees employed pursuant to this section shall only be with the approval or consent of the Council.]~~

~~[(Ordinance No. 82-139, Sec. 3)~~

~~(Ordinance No. 81-116, Sec. 17)]~~

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

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

This section shall also apply to employees who are in certified or recognized bargaining units. Where a conflict exists between this section and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.

\_\_\_\_\_  
Print Employee Name

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Social Security Number

(Revised - Ordinance No. 93-523)

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Metro Council Presiding Officer

ATTEST:

\_\_\_\_\_  
Clerk of the Council

Meeting Date: October 28, 1993  
Agenda Item No. 6.1

**ORDINANCE NO. 93-506A**



## METRO

DATE: November 4, 1993

TO: Metro Council  
Executive Officer  
Interested Parties

FROM: Paulette Allen, Clerk of the Council

RE: AGENDA ITEM NO. 6.1; ORDINANCE NO. 93-506A

The following page is the "Supplemental File Index" provided by staff listing what items constitute the official file for Ordinance No. 93-506A. Councilors/persons wishing to view the supplemental file should contact me at ext. 1534. Those documents and correspondence received since the Planning Committee met October 28 to consider the ordinance will be provided at the Council meeting November 10, 1993.

Supplemental File Index

Item #

1. Metro Code, Legislative Amendment Criteria
2. City of Gresham letter, 9/14/92
3. City of Portland letter, 11/3/92
4. Dept. of Environmental Quality letter, 8/9/92
5. Pride Services, Inc. letter, 4/29/93
6. Pride Services, Inc. letter, 8/31/92
7. Multnomah County memo, Houseboat Densities and Related Marina Issues, 2/19/92
8. Boundary Commission notification, Boundary Change Proposal No. 3141, 11/5/92 (City of Portland annexation, Policy 26 Area)
9. Boundary Commission, Final Order, Boundary Change Proposal No. 2163, 11/14/85, (City of Gresham annexation, Policy 26 Area)
10. Division of State Lands letter to Multnomah Co., State Waterway Leases Across from McGuire Island, 3/10/93
11. Multnomah County, Notice and Hearings record, CS 22-78, Community Service - Marina Expansion, 12-5-78, (historical record of Big Eddy Marina expansion)
12. Book 2607 Page 382, State of Oregon, Multnomah County description of real property, (Big Eddy Marina property)
13. City of Gresham Zoning Map
14. City of Portland Zoning Map, Policy 26 Area
15. Multnomah County Zoning, Policy 26 Area (section map #'s 2549, 2550)
16. Multnomah County Section Maps, Assessor Maps, 1N 3E 19 & 19A & 19B, 1N 3E 20 & 20A & 20B (1993)
17. Division of State Lands, Rules for Leasing State Owned Submerged and Submersible Lands

## **PLANNING COMMITTEE REPORT**

### **CONSIDERATION OF ORDINANCE NO. 93-506A, AMENDING THE REGIONAL URBAN GROWTH BOUNDARY FOR COLUMBIA SOUTH SHORE, POLICY 26 AREA**

Date: October 28, 1993

Presented By: Councilor Kvistad

**Committee Recommendation:** At the October 26 meeting, the Planning Committee voted unanimously to recommend Council adoption of Ordinance No. 93-506A. Voting in favor: Councilors Van Bergen, Devlin, Gates, Kvistad, Monroe, and Moore.

**Committee Issues/Discussion:** Stuart Todd, Assistant Regional Planner, presented the staff report. He explained in detail the Staff Background Report and Proposed Findings and also discussed the process that had been used to date. The Urban Growth Boundary (UGB) change is needed to clarify the portion of shoreline in the Policy 26 area where there are several houseboat moorages. The current UGB line is interpreted to be at the ordinary high water line, but the mapped depiction of the boundary appears 300 feet wide. This has contributed to inexact interpretations of the line and needs the clarification of this ordinance.

Councilor Moore asked about the "finding" regarding "alternate sites", asking whether this "finding" applies to the entire Metro region or only to Multnomah County. Larry Shaw, Senior Assistant Counsel, explained that in general the "alternatives" are considered throughout the region but in this unique situation, the amendment responds to an established policy that has received the approval from the Department of Land Conservation and Development (DLCD). This policy is Multnomah County Policy 26.

In response to a question from Councilor Moore, Mark Hess, Multnomah County Planning staff responded that the area is in a significant environmental concern (SEC) zone. The SEC overlay is applied for a variety of reasons, but the protections of the classification would still apply and issues will need to be reconciled as the application progresses. The Policy 26 area in question is included in the City of Gresham, the City of Portland, and unincorporated Multnomah County. Multnomah County alone addresses areas not included in the other jurisdictions.

Councilor Devlin, recognizing that the hearing was not a quasi-judicial proceeding, clarified for the record that he had been in contact with one witness (Mike McKeever) prior to the hearing.

**Public Testimony:** Five witnesses appeared to testify on the ordinance; three in support and two in partial opposition. Jeff Davis, Community Development, City of Gresham, reviewed the history of the amendment from the City of Gresham's perspective. He stated he agreed with the findings of the staff report and supports the ordinance as necessary to clarify the confusion about the boundaries in the area.

Sharon Bjorn, Pride Services, Newberg, appeared in support of the ordinance on behalf of property owners in the amendment area. She noted that urban services, including police and sewer services are now very much needed and the necessary annexation cannot proceed until this ordinance is approved.

Alice Blatt, Wilkes Community Group, appeared to present additional information accumulated by the Wilkes Community Group where no consensus has been reached on the ordinance. The group's ambivalence centers on the fact that approval of this UGB amendment clears the final hurdle for formation of another marina in the area. The community was not included in discussions about the development of the project and objects. She also noted that on page 9 of the staff report, the statement about the area being "outside the airport 65 ldn" was inaccurate. Creation of a new marina will cause too much congestion in an area that already has recreational boating. Further, the response time for river policing would not be improved as the delay was caused by the route necessary to arrive at the marina; around Government Island to the north due to the south side not being dredged.

Jean Ridings, Interlacken, echoed Ms. Blatts testimony. In addition she expressed concerns about the increased automobile traffic that will result from approval of the new marina which has 41 houseboats with a likely 82 additional cars. She noted Policy 26 stated houseboats were not a needed alternative, but rather a housing option.

George Donnerberg, the owner of the proposed new marina, confirmed that he had received the needed approval for the development project. Approval of this ordinance is the final piece needed to begin work on a project that has been delayed for over a year. He noted there was a ninety day window allowed for dredging and asked the committee to attach an Emergency Clause to the ordinance.

**Committee Action:** Following the placement of a motion to approve the ordinance, Councilor Moore asked that the staff report be amended to indicate alternatives were only examined in the Columbia River area. Councilor Kvistad, the maker of the motion, agreed to allow the corrections as part of the original motion.

Councilor Devlin stated that he viewed the UGB amendment as "primarily an error" in the original definition of the boundary.

Councilor Gates moved the ordinance be amended to include an emergency clause.

Councilors Monroe and McLain objected. Councilor Gates explained that his reason for the clause was not just to benefit the new marina, it was also to secure the necessary annexation that will allow for sewer and policy protection at existing marinas. The motion to amend carried 4-2 (voting no: Councilors Moore and Monroe).

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE ) ORDINANCE NO. 93-506A  
REGIONAL URBAN GROWTH BOUNDARY )  
FOR COLUMBIA SOUTH SHORE, POLICY ) Introduced by Rena Cusma  
26 AREA ) Executive Officer

WHEREAS, Metro received a request from the City of Gresham dated September 14, 1992, requesting clarification of the location of the regional Urban Growth Boundary (UGB) near 185th Avenue and Marine Drive adjacent to the Columbia River; and

WHEREAS, Metro reviewed the issue of the UGB on the Columbia River South Shore with the cities of Gresham, Portland, Fairview and Troutdale, and Multnomah County; and

WHEREAS, Metro consulted with the Regional Technical Advisory Committee to discuss the current interpretation of the UGB at the ordinary high water line compared to the mapped depiction of the boundary that appears 300 feet wide and which has contributed to inexact interpretations of the UGB location in the past; and

WHEREAS, Houseboat moorages within Multnomah County's acknowledged Policy 26 area at 185th Avenue and Marine Drive have been approved by the Division of State Lands, Army Corps of Engineers and Multnomah County; and

WHEREAS, Existing houseboats in the Policy 26 area are beyond the ordinary high water line, but receive urban services from adjacent urban uplands inside the UGB; and

WHEREAS, The past lack of clarity of the UGB has created a legal conflict for the cities of Gresham and Portland because their acknowledged comprehensive plan policies prohibit provision of urban services to areas outside the UGB; and

WHEREAS, The Metro Council desires to make the regional UGB consistent with the acknowledged comprehensive plans for this part of the Columbia River South Shore; and

WHEREAS, as provided for under Legislative Amendment Procedures, Metro Code 3.01.15 Metro may initiate a legislative amendment to the UGB; and

WHEREAS, A staff report and proposed findings were made available for this proposed legislative amendment prior to the hearing; and

WHEREAS, An opportunity for exceptions was extended to parties, as provided for under Hearing Notice Requirements, Metro Code 3.01.50; and

WHEREAS, On October 26, 1993, the Metro Planning Committee held a public hearing for UGB Case No. 93-1: Columbia South Shore, Policy 26 Area; and

WHEREAS, Based on the record of that hearing, the Planning Committee has recommended that the Metro Council accept the staff Findings and Conclusions and approve the amendment to the UGB.

**THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:**

Section 1. The Metro Council hereby accepts and adopts the Findings of Fact and Conclusions attached as Exhibit "A" and incorporated herein.

Section 2. The regional UGB, as adopted by Ordinance No. 79-77, will be amended as shown in Exhibit A - Map 1 of this Ordinance, which is hereby incorporated by this reference.

Section 3. This Ordinance is the final decision of Metro on this legislative UGB amendment. Parties of record may appeal this Ordinance under ORS Chapter 197.

Section 4. This ordinance shall become effective upon its adoption because it is necessary for the health, safety, or welfare of the Metro area due to the immediate need for urban services, including sanitary sewer.

ADOPTED by the Metro Council on this \_\_\_\_\_ day of \_\_\_\_\_ 1993.

\_\_\_\_\_  
Councilor Judy Wyers, Presiding Officer

**ATTEST:**

\_\_\_\_\_  
Clerk of the Council

## History

This UGB Amendment proposal stems from the City of Gresham's request dated September 14, 1992 for clarification on the location of the UGB and if necessary, for an amendment to address urban service delivery to houseboat moorages at 185th Ave. and Marine Drive. Looking at the broader UGB issues along the river, Metro convened a meetings in November and January with Gresham, Portland, Fairview, Troutdale, and Multnomah County. The issue of extending urban jurisdiction to areas beyond the UGB (located at the ordinary high water line on the Columbia River) were brought up for reasons of development, public safety, and governmental coordination. The crux of the issue was houseboat moorage needs: sewer, water, public safety, planning and zoning.

The urban service agreements between Multnomah County and Portland and Gresham are limited to areas within the metropolitan urban growth boundary (UGB)<sup>1</sup>. For the area along the Columbia River, this has meant the "South Shore Columbia River" - the written designation on Metro's acknowledged UGB maps (see Map 2).

Because of the scale of Metro's current official UGB map, which for this area is at scale 1"= 4000' (as opposed to section map documentation for the rest of the boundary), the literal indication of the boundary appears 300 feet wide (see Map 3). As a result, the exact location of the UGB has been open to interpretation. A review of Columbia Region Association of Government's intent suggests the exact line is the center point of any mapped line, and the State's definition of 'shoreline' is the ordinary high-water line<sup>2</sup>.

---

1 Multnomah County Comprehensive Framework Plan 1989 Supplemental Findings - Urban Service Boundary Agreements with Portland and Gresham.

2 See CRAG document: Land Use Framework Element of the CRAG Regional Plan, Revised December 1977, November 1978, Published by the Metropolitan Service District. Article II Boundary Interpretation (a) ... "where a Type 1 boundary is located along a geographic feature such as a road or river, the boundary shall be the center of that feature."

Also see, Oregon Statewide Planning Goals "Definitions", Shoreline - "measured...on non-tidal waterways at the ordinary high-water mark".

The existing houseboats on the water are beyond the urban growth boundary, with access and services available via urban uplands which are within the UGB. This creates a legal conflict for cities who wish to serve the moorages or extend urban services beyond the UGB to these moorages. Multnomah County Comprehensive Framework Plan Policy 26 acknowledged by LCDC and reviewed by local governments, provides for houseboats on the Columbia River, Oregon Slough, and Multnomah Channel. For the Columbia River, this site is between the NW corner of Pullen Donation Land Claim (DLC) and the NE corner of Tax Lot 301, Section 1N 3E 20A, along Marine Dr. at approximately 185th Avenue. Policy 26 was adopted in 1977 and updated in 1983. The area was zoned Urban Future, zoning which anticipates an urban level of development, but does not allow urban services at the time of zoning.

The moorages at the 185th/Marine Drive site differ from other Policy 26 sites. The moorages in the proposed UGB amendment area are characterized by multiple pier fingers extending perpendicular to the bank, not one single parallel pier as is common in rural areas. This extended capacity for the site was well established in this area prior to the Policy 26 adoption. This site also differs from the rural sites because it directly adjoins urban uplands which are characterized by a dyked or filled river bank rather than a natural and potentially sensitive embankment. The increased houseboat densities here are largely a by-product of the urban uplands which provide urban access and have indirectly encouraged urban style development at these moorages.

Authority for development in the river is with multiple agencies. Multnomah County controls the planning, zoning, and public safety. The State of Oregon's Division of State Lands (DSL) is the property owner and acts as lessor and landlord for all the water area concerned. DSL has existing leases with multiple moorages and marinas in the Policy 26 area. These leases extend out varying distances from the shoreline. DSL and the Army Corps of Engineers oversee all dredge and fill work and other construction permitting in the river.

Local governments have annexed river areas of the Columbia beyond the UGB (Portland, Gresham, and Fairview) to establish jurisdiction for such reasons as public safety on beaches and on the river itself. The City of Gresham annexed one moorage in this Policy 26 area (apparently in violation of its own code) and other adjacent river uplands in 1985. Gresham extended sewer service to two houseboat moorage sites at this time. Portland annexed the western end of this Policy 26 area in January of 1993 with the intent of extending urban services to a newly proposed moorage. The City of Portland has been annexing large sections of the Columbia

River beyond the UGB for some time. The Local Area Boundary Commission has overseen the river annexations to mid-channel. These annexations were done for the purpose of continuity and consolidation of services (there is no current statutory basis to prevent such annexations beyond the UGB). This mix of jurisdictional controls has been one reason Gresham, Portland and Multnomah County have asked Metro to adjust the UGB either administratively or legislatively.

The Regional Technical Advisory Committee (RTAC) considered the question of a legislative UGB amendment along the Columbia South Shore during two of its meetings, January 28th and March 24, 1993: Metro staff reviewed the problems associated with the Policy 26 area, and discussed the urbanized nature of the Columbia River as a whole between the Willamette and Sandy Rivers. The river is largely urbanized (on both sides - Oregon and Washington) with city boundaries that extend to mid-river or mid-south channel for at least half the metropolitan area. There are industrial, residential, airport, and marina uses up and down the Columbia. This multi-use urban frontage argues for the logical extension of the UGB to mid-river/mid-South Channel common to state lines or city limits along this entire Columbia River reach.

RTAC suggested the long term study of amending the entire Columbia River UGB, thereby avoiding many similar UGB amendments in the future along the river. In the short term, they recommended a legislative amendment for the Policy 26 area to assure a timely response to local government and property owner requests.

As Metro staff pursued the short term objectives of amending the Policy 26 area at 185th and Marine Drive, a notable discrepancy was discovered between the Policy 26 boundary lines and the existing moorages at the site. At the east end of this Policy 26 site, the Big Eddy Marina was divided by the Policy 26 boundary. In subsequent discussions with Multnomah County, a revised definition of the Policy 26 area made in 1983 (an update of the original 1977 comprehensive plan designation) excluded part of the Big Eddy Marina. The 1977 definition read: "Area 1500' west of Bill's Moorage to Big Eddy Marina". Multnomah County stated the intent was always to include the Big Eddy Marina, and supports the Metro staff interpretation of the definition as including that marina. Both versions of the Policy 26 area are included in this report as Attachment "A" and Attachment "B". The description in this amendment uses the 1983 definition of the boundary, except for the east end of this Policy 26 area, and reverts instead to the 1977 definition of the east end of the Big Eddy Marina property (Tax Lot 301).

## UGB Amendment

Metro has agreed to coordinate the UGB amendment for the following reasons. 1.) Multnomah County has an acknowledged comprehensive plan policy allowing houseboat moorages and it has requested consolidation of urban services with Portland and Gresham for the houseboat moorages at 185th & Marine Drive. 2.) The City of Portland and the City of Gresham have already annexed areas beyond the UGB in the Policy 26 area at 185th/Marine Dr., with the intent of providing sewer and other services under one jurisdictional umbrella. 3.) The requests stem in part from loose interpretations of the UGB along the river in the past, attributable to the original mapping of the boundary, which did not clearly articulate the exact boundary line. This resulted in approvals of annexations and moorage expansions inconsistent with the current rural designation.

Metro Ordinance No. 93-506 proposes a legislative amendment to the UGB. Under the new UGB Amendment Procedures (Ordinance #92-450A, effective January 1993), Metro has authority to initiate a legislative amendment to the UGB. Legislative amendments allow Metro to respond to UGB issues in a way other than being petitioned for a boundary change. A legislative action would typically arise for issues of regional need, or for issues related to regional planning or State rules - such as Periodic Review. This is the first legislative amendment initiated by the Metro Council, and though it is not as broad a use of the legislative amendment function as might have been originally intended, it does serve Metro's need to coordinate local comprehensive plans.

This amendment is sponsored by Metro in cooperation with the City of Gresham, the City of Portland, and Multnomah County. The proposed UGB amendment would move the current UGB from the ordinary high water line (15.7' Columbia River datum) to mid-South Channel Columbia River between the Northwest corner of the Pullen Donation Land Claim (DLC) and the Northeast Corner of Tax Lot 301, Section 1N 3E 20A. (See Map 1 for proposed UGB amendment.)

## **Proposed Findings**

### **Applicable Standards**

Metro Code 3.01.15 Legislative Amendment Procedures require findings "explaining why the UGB amendment complies with applicable statewide goals as interpreted by 3.01.20 and subsequent appellate decisions". Goal 14 (Urbanization) and Goal 2 (Exceptions) considerations are addressed through the Metro Legislative Amendment Criteria. In addition, Goal 5 (Natural Resources) and Goal 10 (Housing) are also relevant in this case. In meeting the statewide goals, administrative rules must also be considered.

### **Summary of Findings:**

Metro Code Chapter 3.01, the Urban Growth Boundary Amendment Procedures, provide Legislative Amendment Procedures (3.01.15) and Legislative Amendment Criteria (3.01.20) for making amendments to the urban growth boundary.

#### **Metro Code 3.01.20(b) Goal 14**

The proposed UGB amendment, complies with Metro Code 3.01.20(b)(1)-(7), the seven factors of Statewide Planning Goal 14 (Urbanization) and its exceptions process. Foremost, land supply "need" is shown not as a new need, but rather as an existing use with urban service needs consistent with an existing comprehensive plan provision. The acknowledged comprehensive plan provision is "Policy 26: Houseboats", in Multnomah County's Comprehensive Framework Plan. The houseboat moorages here have been identified as urban in nature, and in need of related urban services not currently allowed under the plan and zoning provisions. There is also a need to preserve the environmental quality of the river by providing sanitary sewer to these moorages, this is considered a "livability" need. Policy 26 has allowed for an orderly and economic provision of limited public facilities and services in this location. This Policy 26 river area has been annexed in part by two jurisdictions (Gresham and Portland), Gresham currently serves (in violation of its code) two moorages with sewer service via the urban uplands. Policy 26 is internally consistent with adjacent local facility plans, regional policies, water resource policies, and the statewide planning goal for urbanization and its attendant consequences. Because this amendment deals with an extension of the boundary over submerged lands and a water area adjacent to urban uplands, agricultural land retention or compatibility factors of Goal 14 are not applicable.

## **Metro Code 3.01.20(c) Goal 2**

Goal 2 standards are met because there are no available sites designated for houseboat use in inside the current UGB to accommodate the existing development at 185th/Marine Drive. The current County comprehensive plan allows for the limited development of houseboats in this Policy 26 area, subject to local, state and federal review. The existing houseboats have been in place and are considered compatible with existing urban upland uses. Keeping the houseboats at this location would be no more adverse than locating them elsewhere within the urban growth boundary.

## **Metro Code 3.01.20(d)**

The boundary meets applicable standards by remaining consistent with existing settlement patterns and annexation boundaries on the river. The staff finds the 1983 definition of the Policy 26 area in error and adopts a boundary consistent with the 1977 version, having the intention of including all of the Big Eddy Marina and the east end of the Policy 26 area. Multnomah County concurs with the intention of the policy area to include that moorage.

## **Metro Code 3.01.20(e) Other Goals**

Goal 5 standards are applicable because of the river location of this amendment. They are met in part by the internal consistency of the acknowledged Multnomah County Comprehensive Framework Plan. Policy 26 designates houseboat moorage locations consistent with environmental and natural area considerations for this section of the river consistent with State and Federal policies. The "SEC" zoning (significant environmental consideration) used as an overlay for this area of the County requires design and development review of all applications, which further addresses the impact of the houseboats on this river area. The moorage location at 185th Ave. and Marine Dr. adjoins a filled or dyked river bank, and is adjacent to industrial land. Urban services will allow needed sanitary sewer treatment for this site on the river which is inadequately served at present.

Goal 10 (housing) is applicable because of the housing needs in the Policy 26 area, and the requirements under the Metropolitan Housing Rule for Metro to coordinate needed housing. While the river housing is an option, it nevertheless has been established by a comprehensive plan and acknowledged by the State, and is recognized as urban in nature at this Policy 26 location. The housing in the area needs to be efficiently served by the adjoining municipalities

to comply with state and regional goals.

## **Findings**

The proposed legislative amendment is consistent with the objectives of the Urban Growth Boundary, as defined in the Procedures, 3.01.05(3): "to provide a clear distinction between urban and rural lands". This legislative amendment was undertaken by Metro in the spirit of its State defined role to coordinate local comprehensive planning (ORS 268.385), and is done in service to three local jurisdictions, Multnomah County, the City of Gresham and the City of Portland, who sought clarification and amendment of the boundary due to inconsistent past practices which mixed urban and rural uses in the Multnomah County Policy 26 area of the Columbia River South Shore. The cities and County have been unclear about the exact Columbia South Shore UGB location in the past, which is due in part to insufficient specificity by Metro. This lack of clarity together with local delivery of urban services to a few moorages, has resulted in partial annexations and limited urban services outside the UGB. To reach an efficient and consolidated agreement between the cities and the County, Metro's legislative amendment of the boundary is warranted and necessary.

## **Metro Code 3.01.20 Legislative Amendment Criteria**

### **3.01.20(b)(1) Goal 14, Factor 1**

Factor 1 requires Metro to address land supply need in the regional context. Showing "need" is the primary requirement for a legislative or major amendment to the boundary (normally changes greater than 20 acres - this amendment is approximately 65 acres of river area). A legislative amendment is one means of changing the regional UGB, in conjunction with Periodic Review findings or regional planning policy. Need, as intended in such cases, must show why the population/employment forecasts cannot be met by the existing land supply within the UGB. The future population and employment projections associated with Factor 1 is not applicable in this case, since this amendment addresses an existing use, the related inconsistent interpretation of the urban growth boundary at the river, and the current apparent illegal urban service provisions to this Policy 26 site.

In this case, Multnomah County's acknowledged Policy 26 provision has allowed for a housing opportunity, on water rather than land, for three specific and limited locations (Multnomah Channel, Oregon Slough, and Columbia River). The rural designation for this segment of the river at 185th/Marine Dr. is inconsistent with river houseboat moorages here which are higher density than the others and have partial urban services. A rural designation is inconsistent with the city annexations in the area, and it is inconsistent with the best practices for maintaining the water quality of the river and the public safety provisions necessary. Furthermore, the densities of the moorages are not rural in nature, they are urban (at 2.5 - 5 dwelling units per gross acre), and require a full range of coordinated municipal services. The Multnomah County zoning of Urban Future anticipated urban designation for this Policy 26 site. Metro recognizes Policy 26 and the existing houseboat moorage area at 185th/Marine Dr. as a demonstration of the Goal 14 Factor 1 "need" requirements as called for in Metro Code 3.01.30(b)(1)(A) - (E).

### 3.01.20(b)(2) Goal 14, Factor 2

Factor 2 requires that Metro show the UGB amendment is based on either housing/ employment need or livability or both. In this case, housing need and livability are both factors that favor this amendment. Housing need is one factor. The acknowledged plan provision of houseboats as a "housing option" in the Multnomah County plan, combined with the State's broad definition of needed housing, makes this a recognized housing type. Livability is the other factor, which acknowledges the environmental qualities defined by the Metro adopted Regional Urban Growth Goals and Objectives (RUGGO). They state: "The livability of the urban region should be maintained and enhanced through initiatives which: Iii. preserve environmental quality". The large number of houseboats that are inadequately served by sewer and use crude septic systems in this Policy 26 area on the river when sewer is available on adjacent urban uplands, makes this livability factor clearly supportive of the amendment.

Statewide Planning Goal 10 is: "to provide for the housing needs of citizens of the state". The Metropolitan Housing Rule defines needed housing (referring to cities larger than 2500 people) as: "housing that includes, but is not limited to attached and detached single family housing and multi-family housing for both owner and renter occupancy and manufactured homes;" (660-070-005)(2)(a)(A). This definition shows houseboats can be seen as a form of "needed housing", Multnomah County considers the houseboats as a "housing option" for the river location, which parallels the Division of State Land's distinction that houseboats are not a "water dependent" use. Metro recognizes that the Policy 26 provision has allowed for houseboats, which are adjacent to urban uplands and partially receive urban services. Efficient provision of services

for housing is an important justification for this amendment, but it does not justify houseboat usage per se on the river.

Metro's interpretation of the UGB at the shoreline, now prevents upgrading services or adding new development above and beyond the County standards for this Policy 26 area. This includes sewer, public safety and planning and zoning requirements. Existing moorages and newly annexed properties in the Policy 26 area are currently limited from realizing their level development or redevelopment potential without a UGB amendment. The cities who plan to oversee these housing locations are currently prevented from this responsibility.

Houseboat locations are increasingly constrained. The Portland International Airport has limited the housing along large parts of the Columbia River because of noise. Much of the Willamette is not suitable because of a predominance of recreational and environmental allowances, industrial uses, and public facilities serving Portland. There are limited houseboat sites within the UGB - on the Oregon Slough, along the south side of Tomahawk Island. Policy 26 itself enumerates other Comprehensive Plan policies that are binding and limit the location of houseboat moorages anywhere else. It is unlikely that other houseboat areas could be established on the Columbia given the diverse uses and needs already existing on the river.

Metro Code 3.01.20(b)(2)(A) also requires consideration of adjacent comprehensive plans. The Policy 26 area currently borders on the City of Gresham and the City of Portland, both cities would allow residential river uses. Gresham and Portland have already annexed portions of the Policy 26 area to mid-South Channel Columbia River, and are responding to property owner's petitions for annexation of this Policy 26 area. The City of Gresham's zoning in the adjacent area is Heavy Industrial (HI), but the city's code allows houseboat moorages as a conditional use in any river zone. The City of Portland's zoning to the west is RFcs/sec - a low density residential area with environmental and noise overlays (in recognition of both the river and the airport further west). The site is within Portland's South Shore Plan District, a commercial district allowing relatively high residential densities. Portland will permit houseboat moorages in the Policy 26 area since it is outside the airport 65 ldn (average noise level contour) and it is consistent with the current County designation for the area. Both jurisdictions have pending applications for serving the houseboats in the non-incorporated Policy 26 area<sup>3</sup>, a UGB

---

<sup>3</sup> Pending UGB amendment, the City of Portland is considering permits for the Donnerberg Property, the westerly most portion of the Policy 26 area on NE Marine Drive (the city has already annexed the property). The City of Gresham serves (contrary to city code) the Islands Moorage, and pending UGB amendment is prepared to hold hearings on annexation of the remaining unincorporated properties in the easterly portion of this Policy 26

amendment will assure approval of those applications.

The Metropolitan Housing Rule (OAR 660-7-000 (2)) requires regional coordination: "Metro shall ensure that needed housing is provided for on a regional basis through coordinated comprehensive planning". By adopting this UGB amendment, Metro would be exercising its responsibility to coordinate an existing housing opportunity stipulated in the Multnomah County Comprehensive Framework Plan with the comprehensive plans of the City of Portland and the City of Gresham. Gresham supplies sewer and water to two existing moorages via urban uplands on the river. Other moorages need one or more urban services. The service agreements are in place for Gresham and Portland to serve all areas of Multnomah County within the UGB.

The amendment must also show consistency with Metro's own policies on urban growth management, transportation, housing, solid waste, and water quality management. Bringing the Policy 26 area into the UGB and coordinating local comprehensive plans, furthers numerous Metro goals and policies. RUGGO addresses urban growth policy in Objective 15 "Urban Rural Transition", and in Objective 16 "Developed Urban Land". Objective 15 states the UGB boundary features should be located using among other things "historic patterns of land use or settlement"; this is consistent with the proposed UGB along existing moorages and the city annexation boundaries at mid-channel. Objective 16 requires redevelopment and infill consideration in any expansion of the UGB; consistent in spirit is the full utilization of this moorage area through infill and redevelopment.

RUGGO Objective 11 (Housing) requires Metro ensure a choice of diverse housing types, which this amendment would assist. Regional transportation policies (RUGGO Objective 13 and the Regional Transportation Plan) are oriented toward multi-modal and energy efficient uses. The amendment may increase auto usage to the area as densities rise. But, trip reduction efficiencies may be found in the proximity of this river housing to Portland's developing Columbia South Shore industrial district, which may eventually have bus service. Metro's standards for efficient development (UGB policies and RUGGO Objective 15) are met since existing sewer and water facilities could be utilized in the improvement of these moorages. This UGB amendment seeks to efficiently use these basic urban services to prevent water pollution (consistent with Objective 7 - Water Quality). The surrounding industrial uses and zoning demonstrates the capacity to serve the additional sewer load of these moorages.

---

area.

The applicable definition of livability (3.01.20(b)(2)(B)) for this amendment is defined in RUGGO Goal II. Metro has a responsibility to preserve environmental quality consistent with the RUGGO livability definition. This amendment would allow sanitary sewer to replace the current septic systems that dump directly into the river. The Department of Environmental Quality has regularly sought better sanitary systems for these houseboats in the past. DEQ has expressed concern with the current pollution from crudely treated sewage in this Policy 26 area.

The negative impact on livability as defined here, is potentially from further construction and increased use at this site. DSL controls the dredge and fill permitting and has a responsibility to determine the negative impact of any allowed work or permits on the environmental quality of the river. Therefore, while Metro recognizes that a UGB expansion could result in additional urbanization of this area of the river which might have some short term negative impacts on the environment here, it is confident the State's experience with such work and permitting as a normal function of river management, make this a secondary concern. The benefits favoring livability issues for this area outweigh the negative impacts of the amendment. Mechanisms are in place under existing law and commensurate with State and local jurisdiction which will serve to ensure a net improvement in the environmental management of this river area.

**Metro Code 3.01.20(b)(3)-(7) Goal 14, Factors 3 - 7**

The UGB legislative amendment criteria ask that the "recommended site is better than alternative sites, balancing Factors 3 through 7". Clearly, the site restrictions for houseboat moorages, as identified in Policy 26, favor the efficient development of the existing site at Marine Dr. and 185th Ave. rather than an alternative site.

In accordance with Factor 3, public facilities and services could be orderly and economically provided using existing capacity and service providers. Urban service contracts with the City of Gresham and the City of Portland are in place for providing water and sewer to the existing moorage area. Existing facilities could be extended to serve the moorages.

Regarding Factor 4, there will be a maximum efficiency of land uses - in this case housing - in the Policy 26 area. Better utilization of this site will result in more compact urban form as measured by housing density standards. Urban housing density standards (Metropolitan Housing Rule) specify average densities between six and ten units a net acre (approximately 3.5 - 7 units a gross acre). The current densities are between 2.5 and 5 units/gross acre (zoned actually at up to 3.6 units/50' water frontage by Multnomah County). Portland zoning in the South Shore

Plan District allows densities limited only by height and setback requirements. Expected conversion of boathouses to combos (living and storage facilities) or to houseboats could bring the moorage densities close to 5 units a gross acre on average for this Policy 26 site, consistent with urban standards. Metro recognizes this efficiency could change over time, since the DSL can deny renewal of the houseboat moorage leases if they find that the limited river resources and their dependent uses are in jeopardy.

In accordance with Factor 5, Policy 26 has evaluated the environmental, energy, economic, and social consequences of urban densities in this area as required by the Metro code (3.01.20 (b)(5)(A-C)). There are no special protection requirements or impacts that have not been considered here-to-fore in the Multnomah County Framework Comprehensive Plan process (see Policy 26 (A) Applicable Policies) or the subsequent development approval process as monitored by DSL. The long term impacts would be no more adverse than efficiently utilizing a partially urbanized or developed area elsewhere in the region. Therefore, the UGB amendment at this site is more efficient and useful given the limitations on houseboat moorage sites and the existing investment in infrastructure, improvements and potential service extensions at this site.

Finally, the proposed UGB expansion site has no impact on agricultural land or its activities, and factors 6 & 7 of Goal 14 are not applicable for this amendment.

The favorable balance of factors 3 - 7 has been demonstrated. Service extensions make economic sense for this area, efficient development patterns would result, the planning has been in place for development of this site for over 15 years, and there is municipal support for assuming responsibility for a full range of urban services. This is underscored by the State's acknowledgement of the Multnomah Comprehensive Framework Plan and its Policy 26, which allows for this "housing option".

#### **Metro Code 3.01.20(c) Goal 2**

Metro Code 3.01.20(c) addresses Goal 2 requirements by showing compliance with Goal 14 factors and the related exceptions process for boundary changes (contained in Goal 2). Metro Code requires demonstrating: 1.) why the proposed uses cannot be reasonably sited elsewhere, 2.) why the identified amendment accommodates the need at the site, 3.) that the uses are compatible with surrounding uses, and 4.) that any adverse impacts are not more at the proposed location than elsewhere. This information has been largely addressed through the Goal 14 criteria, by demonstrating need, showing pre-existing use, demonstrating the creation of more

efficient housing development, and showing why coordination of local government planning is needed.

Furthermore, the Policy 26 area in the vicinity of 185th Ave. and Marine Dr. represents 65 acres of submerged lands (moorages) outside the UGB which cannot be reasonably re-located without the encumbrances currently linked to siting such uses inside the UGB. The Willamette River Greenway (Goal 15) allows only water dependent or related uses, houseboats require a goal exception<sup>4</sup>. The City of Portland allows houseboats on other waterways provided they are not industrial uplands and they meet other development standards, however, this development at the scale the Policy 26 site presumes State approval. The Division of State Lands is reconsidering whether to allow this use<sup>5</sup>. While the development potential for the Oregon Slough and the Columbia Rivers in Portland cannot be quantified, it is clear there are no outright sites other than those originally contained in Policy 26 for the Oregon Slough, a site which is now built out. The only other city or county that allows houseboats is Oregon City. It has four houseboats, a conditional use provision allowing houseboats; the two opportunity zones on the river (a Parks zone and a Tourist Commercial zone) are unlikely development sites, and would require a Goal 15 exception. As a result of the impediments to houseboat development, it is unreasonable to expect the Policy 26 site at 185th and Marine Drive with its hundreds of boats, boathouses, and houseboats to be accommodated in an efficient manner elsewhere within the UGB.

The UGB amendment is a necessary and efficient expansion of the boundary for the houseboat moorages which are more urban than rural in nature and need municipal services<sup>6</sup>. Furthermore, the houseboat moorages are adjacent to and compatible with the comprehensive plans of the surrounding jurisdictions as was shown above.

As required in the Metro Code regarding Goal 2 (3.01.20 (c)(3)), the amendment at this location would prove less adverse than attempting to site new houseboat moorages within the UGB, since

---

<sup>4</sup> A goal exception involves showing unique public benefit, one that does not reduce water related uses, and one that cannot be sited elsewhere (e.g. houses on land).

<sup>5</sup> DSL letter 10/27/93: "The placement of houseboats in public waterways is becoming increasingly difficult to justify. The wisdom of expanding this type of use to new areas of the public's waterways is being reconsidered."

<sup>6</sup> Multnomah County, Houseboat and Marina Report, 2/19/92. Page 9: "3.) The McGuire Island marinas have direct access to urban uplands and the associated urban services. The area is already committed to urban scaled marina development."

other locations are non-existent in a practical sense. In addition, the pre-existing development and planning at the current locations create efficiencies that far outweigh the adverse impacts and incompatibility of relocating on a waterway currently inside the UGB.

**Metro Code 3.01.20 (d)**

The amendment must show that the boundary will result in a clear transition between urban and rural lands, using among other factors as applicable historic patterns of settlement. The Policy 26 area as defined does not meet this criteria because it bisects the Big Eddy Marina at the east end of the Policy 26 area. Therefore, Metro finds it necessary to adjust the UGB boundary to meet the applicable code. The Policy 26 easterly line - NE Corner of the Pullen Donation Land Claim extending northerly - currently bisects the Big Eddy Marina. The earlier 1977 definition of the boundary, referred to the this easterly edge as "to Big Eddy Marina" (a moorage which has been there since 1952). The use of this historic moorage, and the fact that it is one of two houseboat moorages that has sewer hook up (from the City of Gresham) makes it imperative that it be included in this Policy 26 UGB amendment. Multnomah County has concurred with Metro's interpretation and supports a new UGB to include that marina. Multnomah County further concurs that the boundary line is consistent with both the original definition of the Policy 26 area and the findings made at that time for the Policy 26 area and acknowledged by the State. The County regards this boundary discrepancy (1977 vs. 1983) as a mapping error.

Metro finds that the changes to the boundary line is consistent with the criteria in 3.01.20(d). The additional moorage area adds 4 acres of an existing moorage site which is served by sewer and from the City of Gresham. The adjacent area to the east is compatible; it is under heavy industrial zoning and includes a seasonal sand extraction business.

Any other existing houseboat moorages outside this Policy 26 area at 185th and Marine Dr. are bound to adhere to the Multnomah County Comprehensive Framework Plan, Policy 26, which allows such moorages to remain at a rural level of development existent at the time of the Policy 26 adoption in 1977.

**Metro Code 3.01.20(e) Other Goals: Goal 5 and Goal 10**

The Metro UGB Amendment Procedures require an amendment to address any other applicable goals. Statewide Planning Goal 5 (Open Space, Scenic and Historic Areas, and Natural Resources) is applicable here because of the river location and the natural resource implications

of the UGB amendment. Goal 10 is applicable because of the housing concern.

The State's acknowledgement of Multnomah County's Policy 26 largely pre-disposes consideration of the Goal 5. These considerations have been reviewed previously as part of the Comprehensive Framework Plan and are part of the leasing and permitting processes embodied in State law. Policy 26 contains criteria for locating the houseboat sites which includes consideration of environmental and natural area consequences. The internal consistency of the Multnomah County Comprehensive Framework Plan, its accordance with federal, state and local policies, and its criteria with particular regard to the natural and physical limitations of constructing and operating houseboat moorages provide binding limitations in the Policy.

The above mentioned Policy 26 criteria limited the number of houseboat moorage sites in the County. These sites met criteria which struck a balance between public interests and needs, environmental effects, recreation and scenic values, natural area values, service efficiencies, long range urban service provision, and more. The river is a limited resource which many metropolitan uses compete for, including ports and shipping, passive recreation uses, natural scenic area management, and housing. The site proposed for inclusion in the UGB at 185th Ave. and Marine Drive has met the Goal 5 review standards in the County's comprehensive plan acknowledgement process, as well as on going design review and development standards for the site.

The increased houseboat densities at these moorage sites do warrant urban service provision, especially sewer hook-ups. Replacing septic systems that currently release effluent into the river at some moorages is an important Goal 5 considerations with regards to water quality.

Policy 26 does not itself limit the river encroachment from the shoreline. Policy 26 has relied on DSL leases (which vary from 105' to 548' into the river) to determine the distance houseboat moorages extend into the river. This amendment sets a maximum distance for the area's urban designation using today's annexation standards (mid-channel - approximately 550'), but defers to the State and local government for actual leases and permits. (This would not prevent the Division of State Lands from enforcing shorter lease distances from shore, as currently proposed in the agency's rule making process - 25 % of channel distance, approximately 225' - 300' in this area). Furthermore, construction in the river is subject to DSL and federal agency regulation (Army Corps of Engineers). The presence of existing structures and the pending permits show that State and Federal standards are being met for this location on the river, and that there would be no inconsistent effects of build out in this Policy 26 area.

In conclusion, the Goal 5 issues have been mitigated in the larger context of the Multnomah County Comprehensive Framework Plan, its policies, and its implementation process. For the Policy 26 area, the existing moorages and property are a contained segment of development along a dyked river bank. The moorages do not pose a conflict with any significant sensitive land or river resource issues in either direction of this urban area of the river. Urban services would improve the environmental controls of the moorages. The sub-merged land leases, State and Federal policy, and local development standards will continue to affect the extent of development permitting on the river.

Goal 10 - see discussion under 3.01.20(b)(2)). Housing need was shown to be recognized but optional, and that Metro has a responsibility to coordinate the plans that affect such a housing allowance.

## **Conclusion**

Having met the Metro criteria for a legislative amendment to the urban growth boundary (Metro Code 3.01.20), including Statewide Planning Goals and administrative rules, and having considered other relevant Metro and local government policies, an amendment of the UGB for the Policy 26 area described is in accordance with Metro's regional planning responsibilities and approval by the Metro Council is recommended.

# MAP 1

Existing and Proposed UGB

Case 93:1 Columbia South Shore,  
Policy 26 Area

----- Urban Growth Boundary

..... Proposed Urban Growth Boundary  
Amendment, Policy 26 Area

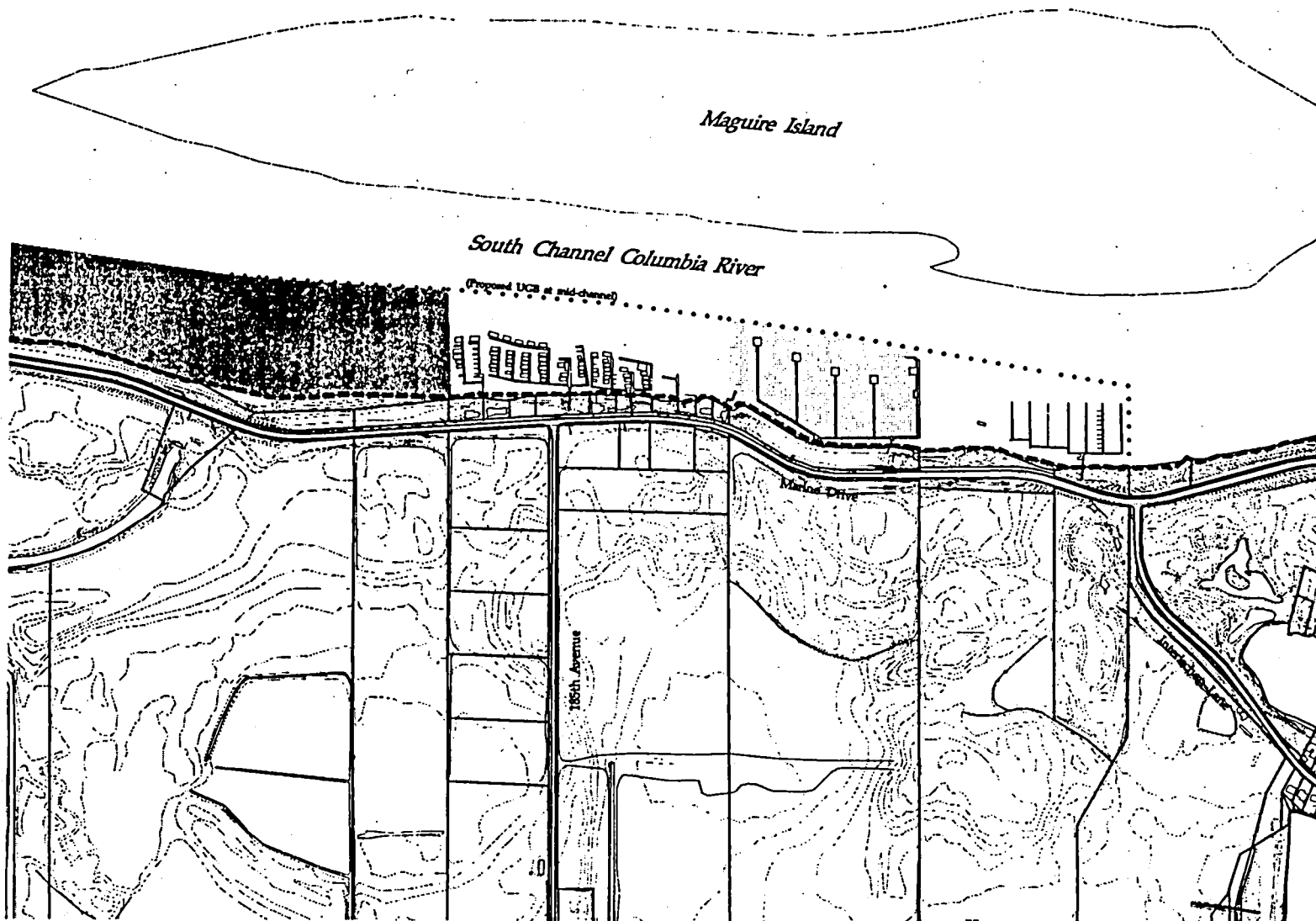
## Recent River Annexations:

City of Portland, 1993  
City of Gresham, 1985

Scale approximately 1 inch = 600 feet

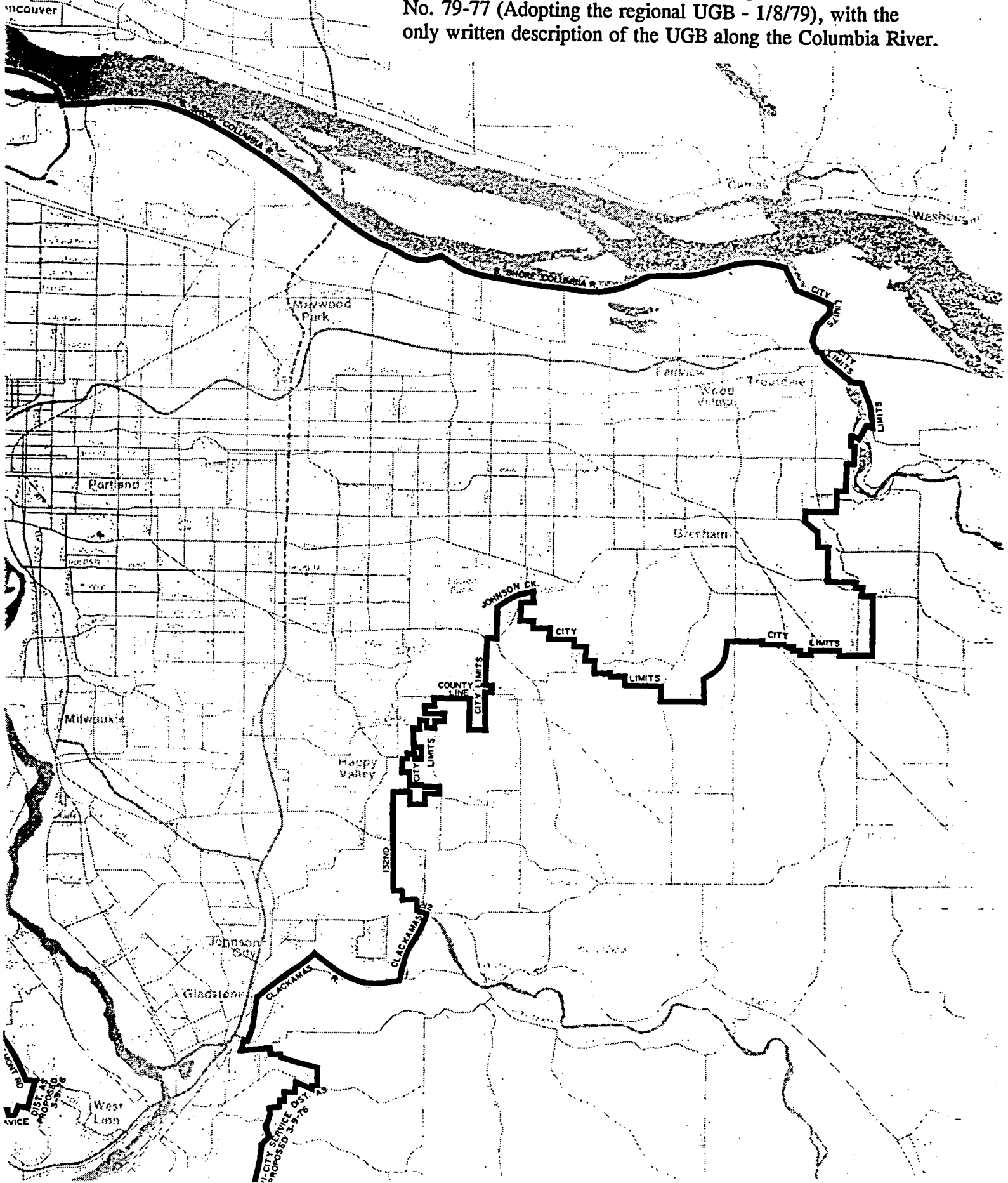
Note: Incomplete representation of marinas  
and moorage structures on this map

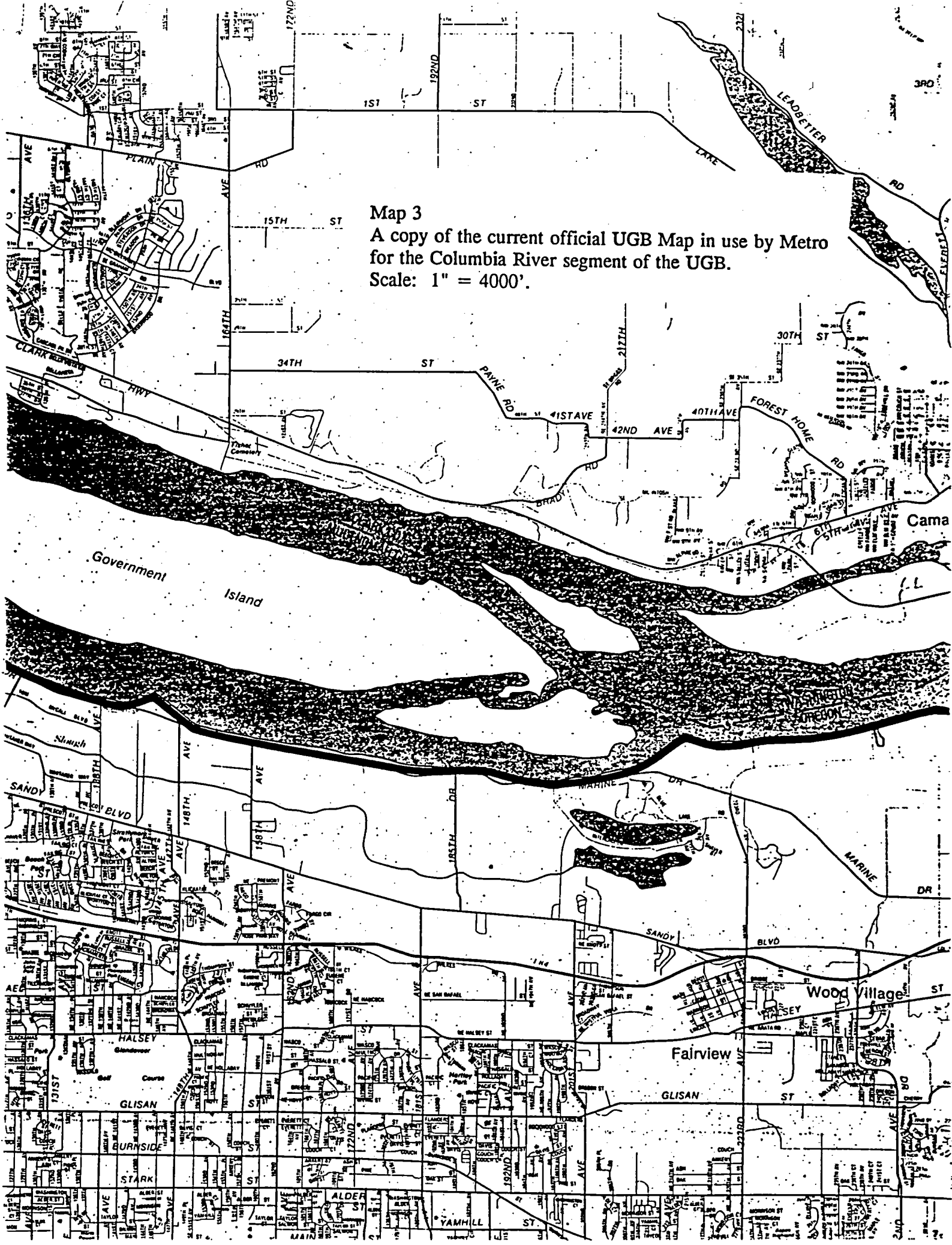
600 NE Grand Ave  
Portland, OR 97232-2726  
(503) 797-1700



Map 2

A copy of the reduced original map incorporated in Ordinance No. 79-77 (Adopting the regional UGB - 1/8/79), with the only written description of the UGB along the Columbia River.





Map 3

A copy of the current official UGB Map in use by Metro for the Columbia River segment of the UGB.

Scale: 1" = 4000'.

POLICY 26: HOUSEBOATS

ATTACHMENT "A"  
(1983)

INTRODUCTION

Houseboats have been a housing option in Multnomah County for nearly a hundred years. Once little more than floating shacks, houseboats today are often substantial structures with all the amenities of traditional houses, and are home to middle and upper income citizens.

Moorage sites are limited in the County, and demand for moorage space is high. Local moorages are all at or near capacity. However, demand for houseboat space should not be equated with need. Houseboats were not considered in Multnomah County's housing needs inventory, nor are they required to fulfill the County's housing obligation. Projected housing demand to the year 2000 can be met with lands already zoned for residential development. Therefore, houseboats may be considered a desired housing choice, but not a needed one.

The demand for houseboat space conflicts with other legitimate demands on the finite amount of available public waterways in the County. A houseboat location policy must attempt to reconcile the conflicting interests of houseboat owners, recreational boaters, conservationists, industrial developers, and the general public. It must ensure the protection of houseboat residents from the inherent hazards of waterway life and also provide for protection of the general public from possible negative impacts of houseboat development.

---

POLICY 26

THE COUNTY, IN ORDER TO PROVIDE A BROAD RANGE OF HOUSING OPPORTUNITIES FOR ITS CITIZENS, RECOGNIZES HOUSEBOATS AS A HOUSING OPTION. THEREFORE, IT IS THE COUNTY'S POLICY TO PROVIDE FOR THE LOCATION OF HOUSEBOATS IN A MANNER WHICH ACCORDS WITH:

- A. THE APPLICABLE POLICIES IN THIS PLAN, INCLUDING POLICIES 2 (OFF-SITE EFFECTS), 13 (AIR, WATER, NOISE), 15 (SIGNIFICANT ENVIRONMENTAL CONCERN), 16 (NATURAL RESOURCE), 21 (HOUSING CHOICE), 24 (HOUSING LOCATION), 32 (CAPITAL IMPROVEMENTS), 34 (TRAFFICWAYS), 36 (TRANSPORTATION SYSTEM DEVELOPMENT), 37 (UTILITIES), and 38 (FACILITIES).
- B. ANY OTHER APPLICABLE FEDERAL, STATE OR LOCAL POLICIES THAT REGULATE WATERWAY AREA DEVELOPMENT.
- C. THE FOLLOWING CRITERIA FOR LOCATING OR EXPANDING A HOUSEBOAT MOORAGE:
  1. THE MEAN LOW WATER LINE EXCEEDS FIVE FEET;
  2. THE MOORAGE AREA SHOULD BE PROTECTED FROM SILTATION PROBLEMS WHICH MIGHT REQUIRE COSTLY DREDGING TO ACHIEVE THE PROPER WATER DEPTH;

3. THE MOORAGE IS ADEQUATELY PROTECTED FROM THE ADVERSE EFFECTS OF WIND, WAVE ACTION, ICY CONDITIONS, AND OTHER HAZARDS;
4. ADEQUATE LAND AREA EXISTS TO ACCOMMODATE PARKING AND ANY ACCESSORY BUILDING REQUIREMENTS;
5. THE PROPER MAINTENANCE AND OPERATION OF DIKES, AS DETERMINED BY THE ARMY CORPS OF ENGINEERS, IS NOT ADVERSELY AFFECTED BY THE MOORAGE;
6. THE UPLAND AREA ADJACENT TO THE MOORAGE DOES NOT HAVE UNIQUE RECREATIONAL, ECOLOGICAL, OR WILDLIFE HABITAT VALUE; AND
7. THE UPLAND AREA ADJACENT TO THE MOORAGE IS NOT ZONED FOR EXCLUSIVE AGRICULTURAL USE.

THE FOLLOWING AREAS ARE DESIGNATED AS SUITABLE FOR HOUSEBOATS:

1. MULTNOMAH CHANNEL (WEST SIDE).
  - (A) FROM ROCKY POINT MOORAGE, OR FROM AN AREA 1650 FEET NORTH OF THE SOUTHERN BOUNDARY OF SECTION 36, T3N, R2W, KNOWN AS ROCKY POINT, NORTH TO THE COLUMBIA COUNTY BOUNDARY.
  - (B) FROM THE CITY OF PORTLAND CORPORATE LIMITS NORTH TO 1/2 MILE NORTH OF THE SAUVIE ISLAND BRIDGE.
2. OREGON SLOUGH.
  - (A) THE SOUTH SHORE OF TOMAHAWK ISLAND.
  - (B) ANY OTHER AREAS IDENTIFIED AS SUITABLE FOR HOUSEBOATS BY THE HAYDEN ISLAND PLAN.
3. COLUMBIA RIVER (NEAR 185TH AVENUE).
  - (A) FROM THE NORTHWEST CORNER, GEORGE B. PULLEN D.L.C., TO THE NORTHEAST CORNER, PULLEN D.L.C.

HOUSEBOATS AND MOORAGES EXISTING OUTSIDE THESE AREAS SHALL BE LIMITED TO EXISTING SITES AND LEVELS OF DEVELOPMENT.

NO HOUSEBOATS SHALL BE LOCATED ON THE COLUMBIA RIVER EAST OF THE SANDY RIVER, OR IN VIOLATION OF FEDERAL AVIATION ADMINISTRATION CLEAR ZONE STANDARDS, OR IN VIOLATION OF ANY OTHER APPLICABLE FEDERAL, STATE OR LOCAL STANDARDS.

---

#### STRATEGIES

- A. As part of the continuing planning program, the County should consider the provision of commercial accessories and/or community service uses as a condition of moorage development, in order to mitigate the impacts of moorage populations.

B. The Zoning Ordinance should be amended to:

1. Allow for the location and expansion of houseboat moorages within designated areas.
2. Include safety and fire protection standards to provide a safe living environment for houseboat dwellers.
3. Provide standards which minimize the adverse effects of houseboat development on surrounding areas.



# HOUSEBOAT POLICY

ATTACHMENT "B"  
(1977)

## 26

THE COUNTY'S POLICY IS TO PROVIDE FOR THE LOCATION OF HOUSEBOATS IN A MANNER WHICH ACCORDS WITH:

- A. THE APPLICABLE POLICIES IN THIS PLAN;
- B. THE HOUSING POLICY LOCATION CRITERIA APPLICABLE TO THE SCALE OF THE MOORAGE (SEE POLICY NO. 24);
- C. THE HOUSEBOAT LOCATIONAL CRITERIA.

### HOUSEBOAT LOCATIONAL CRITERIA

- A. The water depth of mean low water exceeds a minimum of five feet;
- B. Siltation problems will not preclude the economic use of the waterway for moorages;
- C. The waterway on which the proposed moorage is located should not be used for deep draft vessels;
- D. The area is shielded from adverse wind patterns, large wave wash, icy conditions and other hazards;
- E. Adequate land area exists to accommodate parking and other accessory building requirements;
- F. The proper operation and maintenance of dikes is not affected by the moorage;
- G. The lands do not have significant recreational, ecological, or wild-life habitat value; and
- H. The lands do not directly abut lands zoned for exclusive agricultural use.

### STRATEGIES

- A. The following areas are designated as suitable for houseboats.
  - 1. Multnomah Channel
    - a. From Rocky Point Moorage to the Columbia County line.
    - b. From 1/2 mile north of the Sauvie Island Bridge to Gays Moorage on the west side of Multnomah Channel.

- c. The area of Mayfair and Sauvie Island Moorage on the east side of the channel should be limited to the existing areas.
- 2. Oregon Slough
  - a. Areas identified by Hayden Island Comprehensive Plan as suitable for houseboats, including the south side of Tomahawk Island.
  - c. Carter Moorage to RR. Bridge (or City of Portland boundary).
- 3. Columbia River Main Stem - 185th and Marine Drive Area.
  - a. Area 1500' west of Bill's Moorage to Big Eddy Marina.

NOTE: No houseboats will be located in the Columbia Gorge east of the mouth of the Sandy River, or in violation of Federal Aviation Administration clear zone standards.

B. The following strategies should be addressed as part of the Community Development Ordinance:

- 1. The Zoning Article should include:
  - a. A Waterfront Houseboat Zone to be applied to those areas designated on the Plan with the following conditions:
    - (1) Within rural areas the development does not create the necessity for urban level services, including roads.
    - (2) Design review of proposed facilities can ensure its compatibility with the natural river setting, allow for some open space, and wherever feasible encourage the provision of some public access to the waterway.
    - (3) Any effects which houseboat developments may have on adjacent or nearby natural resource zones such as forestry and agriculture will be within acceptable limits and adequate buffering will be provided if necessary.
  - b. Boat Marina and Moorages will be permitted as conditional uses in the waterfront houseboat provisions.
  - c. Houseboat moorage size and densities will be based upon the availability of services, amount of upland available to serve the necessary needs of the residents, the waste discharge system design review and the Corps of Engineers regulations on waterway obstructions.
- 2. The Development Standards Article should include: a County floating structure ordinance to control houseboat and moorage construction and safety. Any linear space expansion of existing moorages necessitated by the adoption of such an ordinance will be allowed.

## STAFF REPORT

### CONSIDERATION OF ORDINANCE NO. 93-506 AMENDING THE REGIONAL URBAN GROWTH BOUNDARY FOR COLUMBIA SOUTH SHORE, POLICY 26 AREA

Date: October 26, 1993

Presented By: Stuart Todd

#### Background

The Urban Growth Boundary (UGB) along the South Shore of the Columbia River on Metro's official maps appears 300 feet wide. The imprecise definition has led to loose interpretations of the boundary in the past, though today Metro interprets the UGB along the river to be the ordinary high water line consistent with delineations for river shoreline adopted by the State.

Metro has agreed to respond to the concerns of three local jurisdictions seeking clarification and adjustment of the Urban Growth Boundary (UGB) for houseboat moorages that currently lie outside the UGB at 185th Avenue and Marine Drive. These moorages are within an area identified in the acknowledged Multnomah County Comprehensive Framework Plan, known as "Policy 26: Houseboats". The City of Gresham and the City of Portland have annexed moorage sites within this Policy 26 area and there are permits and further annexations pending this UGB adjustment. The amendment would make the regional UGB consistent with the comprehensive plans of the County and the cities. Currently, these cities are limited from serving areas outside the UGB. The amendment would be an action consistent with Metro's role to help coordinate local planning. This amendment proposal is referred to as Case 93:1 Columbia South Shore, Policy 26 Area.

#### Process

Under the new UGB Amendment Procedures (adopted in the UGB Periodic Review order of October 1992, effective January 1993), Metro has authority to initiate a legislative amendment to the UGB. Legislative amendments allow Metro to respond to UGB issues in a way other than being petitioned for a boundary change. This action would typically arise for issues of regional need, or for issues related to regional planning or state rules, such as Periodic Review. This is the first legislative amendment initiated by the Metro Council, and though it is not as broad a use of the legislative amendment function as might have been originally intended, it does serve Metro's need to coordinate locally acknowledged comprehensive plans.

As a legislative amendment, under Metro Code 3.01.15 (Legislative Amendment Procedures), the public hearing process is handled by Metro Council and its appropriate committee. The Council committee holds the hearing, taking all necessary public testimony, and then makes a recommendation to the Council. The standards for approval of a legislative amendment are Statewide Planning Goal 14 (Urbanization) and Goal 2 (Exceptions) as interpreted in Metro Code 3.01.20 (Legislative Amendment Criteria).

At the first reading of Ordinance #93-506 on September 9, 1993, the Council referred the Ordinance to the Planning Committee, and set a time certain date for a public hearing on the

proposed amendment for October 26, 1993, 5 pm, before the Planning Committee. Staff met the appropriate 45-day and 20-day notice requirements. Once the hearing is complete, the Committee's recommendations will be forwarded to the Council for action, presumably at the November 11, 1993 meeting of the Council.

For the hearing, staff will present Exhibit "A" - the Background Report and Proposed Findings. Staff will also introduce other public records relevant to the case, including reports, maps, and other information documenting the proposed site for inclusion in the UGB. Written comments received regarding the amendment will be introduced and made part of the record. Testimony will then be taken from those persons wishing to be heard. The Committee may then deliberate and make its recommendation. At the second reading of the Ordinance the Council will taken additional public testimony before taking action.

#### UGB Amendment

This amendment would bring into the UGB an area of the South Channel of the Columbia River identified in Multnomah County Comprehensive Framework Plan, Policy 26, as suitable for houseboat moorages. The proposed UGB amendment would move the current UGB from ordinary high water (15.7' Columbia River datum) to mid-South Channel Columbia River between the Northwest corner of the Pullen Donation Land Claim (DLC) and the Northeast corner of Tax Lot 301, Section 1N 3E 20A (see Map 1, Exhibit "A"). This includes two areas annexed by the cities of Portland and Gresham, and two other areas remaining in Multnomah County jurisdiction.

#### Executive Officer's Recommendation

The Executive Officer recommends adoption of Resolution No. 93-1831 and Ordinance No. 93-506.

Meeting Date: November 10, 1993  
Agenda Item No. 6.2

**ORDINANCE NO. 93-519**

## SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF ORDINANCE NO. 93-519, FOR THE PURPOSE OF GRANTING A FRANCHISE TO ENERGY RECLAMATION, INC., FOR THE PURPOSE OF OPERATING A SOLID WASTE PROCESSING FACILITY, AND DECLARING AN EMERGENCY

-----  
Date: November 3, 1993

Presented by: Councilor McFarland

Committee Recommendation: At the November 2 meeting, the Committee voted 4-0 to recommend Council adoption of Ordinance No. 93-519. Voting in favor: Councilors McFarland, McLain, Washington, and Wyers. Chair Buchanan was excused.

Committee Issues/Discussion: Bob Martin, Solid Waste Director, reviewed the staff report. He noted that Energy Reclamation, Inc. is a subsidiary of Metropolitan Disposal Corporation, a major commercial and industrial hauler in the region. The proposed facility would sort construction and demolition debris collected by MDC and remove wood, metal and other recyclable materials. In addition, MDC drop boxes with high grade paper would be processed for recycling. The facility cannot accept putrescible waste and may only accept waste collected by MDC.

It is anticipated that the facility will process about 47,000 tons/yr, including 26,000 tons that is now processed at Metro Central and Metro South. Most of the remaining material is currently processed at Lakeside Reclamation (11,760 tons) or East County Recycling (7,800 tons).

Martin indicated that the franchise agreement contains provisions that mandate a high recycling rate to insure that the facility is not used as a means of bypassing the use of transfer station. Staff estimates that the recycling rate should be 45% and could possibly be even higher. This rate is somewhat higher than the recycling rate at Lakeside and East County Recycling and significantly higher than the rate at either Metro Central or Metro South. The agreement provides that if the facility does not reach a 45% rate (after a six-month startup period) that a per-ton penalty will be paid equal to Metro's Tier One User Fee (\$19) plus \$2/ton for each percentage point below the 45% rate.

Martin noted that because Metro will only receive its Tier One User Fee on the residual at the facility, we will incur an estimated net revenue loss of \$477,000. But, he contended that staff concluded that the recycling benefits provided by the facility outweigh any projected loss in revenue. He noted that the facility will result in significant increases in the recycling of construction and demolition debris which Metro has been promoting for some time. The agreement does not provide for rate regulation since the facility will only be processing waste collected by MDC.

Councilor Wyers asked Martin for his opinion about how the facility will fit into the current disposal facility system. Martin explained that the facility is probably only the first of many similar facilities that will seek to divert waste from the transfer stations as the recycling of specific wastestreams becomes more profitable. He noted that the timing of such additional facilities is uncertain, but that they will certainly impact the need for additional transfer station capacity.

Wyers asked about the nature of Metro's reporting and monitoring of the facility. Martin responded that Metro will receive certified scale records, conduct periodic audits, and receive records concerning the weight of the residual material that is not recycled. Wyers also asked whether the affected neighborhood associations and other affected parties had been contacted concerning the facility. Martin noted that the principal neighborhood association had been contacted and that they supported the facility.

Jim Cozzetto, Jr., representing MDC, Steve Donovan, an MDC consultant for the facility, and Bruce Broussard made a presentation concerning the facility. Donovan noted that there were several reasons to support the facility. These include: 1) it helps Metro meet its recycling goal, 2) the estimated annual recovery rate of 21,500 tons is greater than the entire annual waste production of Columbia County, 3) it will reduce mileage related to the disposal of the material by 60%, and 4) it will create 15-20 new jobs in the North Portland community.

Cozzetto reviewed the layout of the facility including the sorting and picking areas. He emphasized that MDC made a detailed presentation concerning the facility to the Piedmont Neighborhood Association and that the association supports the facility. He noted that the facility's business neighbors were contacted during the land use permit process and that they have no objection to the facility. He indicated that the 45% recycling rate was comparable to similar types of facilities. Cozzetto indicated that, if the Council approves the facility at its November 10 meeting, it will be operational by about mid-February.

Broussard expressed his appreciation for the work that MDC has done in the community concerning the facility and was encouraged that it would provide new job opportunities.

Mark McGregor, who operates a construction and demolition debris cleanup service, expressed support for the facility and noted that Metro's construction and demolition debris advisory group also endorsed the facility.

Tom Markgraf, Piedmont Neighborhood Association, testified in support of the facility. He noted that MDC had made a special effort to solicit the association's views and respond to questions about the facility.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF GRANTING	)	ORDINANCE NO. 93-519
A FRANCHISE TO ENERGY	)	
RECLAMATION INC. FOR THE	)	INTRODUCED BY
PURPOSE OF OPERATING A SOLID	)	RENA CUSMA,
WASTE PROCESSING FACILITY, AND	)	EXECUTIVE OFFICER
DECLARING AN EMERGENCY	)	

WHEREAS, Section 5.01.030 of the Metro Code requires a Metro franchise for any person to own or operate a facility for the processing of solid waste; and,

WHEREAS, Energy Reclamation, Inc. (ERI) has applied for a non-exclusive franchise to operate a facility for processing of non-putrescible mixed solid waste and construction and demolition debris at Portland, Oregon; and

WHEREAS, ERI has submitted evidence of compliance with Metro Code Section 5.01.060 requirements for franchise applications and operational plans; and

WHEREAS, The ERI facility will provide disposal services only to its own haulers or those of an affiliate corporation; and,

WHEREAS, Metro Code Section 5.01.170 establishing disposal rates is inapplicable because only ERI or affiliate company haulers will be permitted to use the facility and no gate rates will be charged at the facility; and

WHEREAS, The appropriate amount of a surety bond or conditional lien to be provided by the franchisee is determined to be \$65,000, and,

WHEREAS, Allowing this ordinance to take effect immediately is necessary for the public health, safety and welfare of the Metro area because:

1. The franchisee will be able to commence operation sooner than 90 days and will immediately begin to benefit the regional recycling effort;
2. This franchise will provide a prototype for similarly proposed facilities in the future; and
3. The franchisee would be unreasonably delayed in its ability to commence operation of its facility; and,

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

**THE METRO COUNCIL ORDAINS AS FOLLOWS:**

1. That the Metro Council authorizes the Metro Executive Officer to enter into the attached Franchise Agreement (Exhibit A) with ERI within ten (10) days of the adoption of this Ordinance.
2. This Ordinance being necessary for the public health, safety, and welfare of the Metro area, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_, 1993.

\_\_\_\_\_  
Judy Wyers, Presiding Officer

PN/clk/ay  
S:\NORTH\FRANCHISE\SW93\_519.ORD

**SOLID WASTE FRANCHISE**

issued by

**METRO**

600 N.E. Grand Avenue

Portland, Oregon 97232-2736

(503) 797-1700

FRANCHISE NUMBER: 14

DATE ISSUED: \_\_\_\_\_

AMENDMENT DATE: N/A

EXPIRATION DATE: \_\_\_\_\_

ISSUED TO: ENERGY RECLAMATION, INC.

NAME OF FACILITY: ENERGY RECLAMATION, INC.

ADDRESS: 554 N. COLUMBIA BLVD, PORTLAND, OR

LEGAL DESCRIPTION: SEE ATTACHED

CITY, STATE, ZIP: 554 N. COLUMBIA BLVD., PORTLAND, OR

NAME OF OPERATOR: ENERGY RECLAMATION, INC.

PERSON IN CHARGE: JAMES COZZETTO, JR.

ADDRESS: PO BOX 11229

CITY, STATE, ZIP: PORTLAND, OR 97211

TELEPHONE NUMBER: (503) 285-0571

## TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
1. Definitions.....	3
2. Term of Franchise .....	3
3. Location of Facility .....	3
4. Operator, and Owner of Facility and Property.....	4
5. Authorized and Prohibited Solid Wastes .....	4
6. Minimum Monitoring and Reporting Requirements.....	5
7. Operational Requirements .....	6
8. Annual Franchise Fees .....	7
9. Insurance.....	8
10. Indemnification.....	8
11. Compliance With Law .....	9
12. Metro Enforcement Authority .....	9
13. Disposal Rates and Fees .....	10
14. Revocation.....	10
15. General Conditions.....	11
16. Notices.....	11

## **FRANCHISE AGREEMENT**

This Franchise is issued by Metro, a municipal corporation organized under ORS chapter 268, referred to herein as "Metro," to Energy Reclamation, Inc., referred to herein as "Franchisee."

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

### **1. DEFINITIONS**

As used in this Franchise:

- 1.1 "Code" means the Code of Metro.
- 1.2 "DEQ" means the Department of Environmental Quality of the State of Oregon.
- 1.3 "Executive Officer" means the Executive Officer of Metro or the Executive Officer's designee.
- 1.4 "Facility" means the facility described in section 3 of this Franchise.
- 1.5 "Processing Facility" means a place or piece of equipment where or by which solid wastes are processed. This definition does not include commercial and home garbage disposal units, which are used to process food wastes and are part of the sewage system, hospital incinerations, crematoriums, paper shredders in commercial establishments, or equipment used by a recycling drop center.

### **2. TERM OF FRANCHISE**

This Franchise is issued for a term of five years from the date signed by Metro and the Franchisee, following approval by the Metro Council.

### **3. LOCATION OF FACILITY**

- 3.1 The franchised Facility is located at 554 N Columbia Blvd, Portland. Attached as Exhibit 1 to this agreement is the legal description of the facility property.

#### **4. OPERATOR, AND OWNER OF FACILITY AND PROPERTY**

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

#### **5. AUTHORIZED AND PROHIBITED SOLID WASTES**

- 5.1 Franchisee is authorized to accept all such materials authorized by its DEQ Solid Waste Disposal Permit. The authorized materials include wood, corrugated cardboard, metals, sheetrock, plastics, rock and concrete, but specifically excluding any putrescible solid waste. After discharge to the tipping floor, a front-end loader or excavator fitted with a grapple will spread material for visual inspection and floor sorting.
- 5.2 All vehicles and devices transferring or transporting solid waste via public roads shall be constructed, maintained, and operated to prevent leaking, sifting, spilling, or blowing of solid waste while in transit.
- 5.3 This Franchise imposes no limitation on the amount of solid waste that may be processed each year at the Facility. Franchisee may process the amount of solid waste that the Facility is capable of processing consistent with applicable law, the terms of this Franchise and its permits and licenses.
- 5.4 Consistent with DEQ directives, Franchisee shall establish and follow procedures for determining what materials will be accepted at the Facility. The procedures must include a testing regimen sufficient to prevent hazardous or otherwise unacceptable materials from entering the Facility. These procedures shall be described in writing and submitted to Metro prior to any waste being accepted.

## **6. MINIMUM MONITORING AND REPORTING REQUIREMENTS**

- 6.1** Franchisee shall effectively monitor Facility operation and maintain accurate records of the following information:
1. Franchisee Record Number (should be the same as the ticket number on the weight slips)
  2. Incoming Hauler Account Number (on a semi-annual basis, provide Metro with a computer listing that cross-references this account number with the hauling company's name and address).
  3. Name, Address and Phone Number (or a unique number which is cross referenced to applicable names, addresses and phone numbers) of firms receiving recyclables, inerts, and residue from the facility.
  4. Generators Account Number or Name (if available). On a semi-annual basis, provide Metro with a computer listing that cross-references this number or name to the generator's full name and address.
  5. Code Designating whether the load is:

incoming source-separated waste	(Code 1)
mixed waste	(Code 2)
outgoing recyclables	(Code 3)
outgoing inerts	(Code 4)
outgoing residue	(Code 5)
  6. Date the Load was Received at or transmitted from your facility.
  7. Time the load was received at or transmitted from your facility.
  8. Material Type. Either spell out the type of material in the load or provide a code and a cross-reference listing of codes to material types.
  9. Accept or Reject (indicate whether you accepted or rejected the load).
  10. Inside or Outside Metro (indicate whether the load originated from inside or outside the Metro boundary).
  11. Net Weight of the Load.
  12. Volume of the Load (if applicable).
  13. Fee (the fee you charged for the load to the generator).

- 6.2 Records required under section 6.1 shall be reported to Metro no later than ten (10) days following the end of each month, in the format prescribed by Metro. Transaction data shall be in electronic form compatible with Metro's data processing equipment. A cover letter shall accompany the data which certifies the accuracy of the data and signed by an authorized representative of franchisee. The hard copy of the report shall be signed and certified as accurate by an authorized representative of Franchisee.
- 6.3 Franchisee shall maintain complete and accurate records of all costs, revenues, rates, if applicable, and other information on a form suitable to Metro. These records shall be made available to Metro on request.
- 6.4 The Franchisee shall file an Annual Operating Report on or before each anniversary date of the Franchise, detailing the previous year operation of the Facility as outlined in this Franchise.
- 6.5 The Franchisee shall submit to Metro duplicate copies of any information submitted to the DEQ pertaining to the Facility, within 30 days of submittal to DEQ.
- 6.6 Authorized representatives of Metro shall be permitted to inspect information from which all required reports are derived during normal working hours or at other reasonable times with 24-hour notice. Metro's right to inspect shall include the right to review, at an office of Franchisee located in the Portland metropolitan area, all books, records, maps, plans, income tax returns, financial statements, and other like materials of the Franchisee that are directly related to the operation of the Franchisee.

## **7. OPERATIONAL REQUIREMENTS**

- 7.1 A copy of this Franchise shall be displayed where it can be readily referred to by operating personnel.
- 7.2 If a breakdown of equipment, fire, or other occurrence results in a violation of any conditions of this Franchise or of the Metro Code, the Franchisee shall:
- (a) Immediately notify Metro so that an investigation can be made to evaluate the impact and the corrective actions taken and determine additional action that must be taken.
  - (b) Take immediate action to correct the unauthorized condition or operation.
  - (c) Prepare a report describing all operational irregularities, accidents, and incidents of non-compliance and provide a copy of such report to Metro within ten (10) days of occurrence or sooner if circumstances warrant notification to Metro.

- 7.3 If the Processing Facility is to be closed permanently or for a protracted period of time during the term of this Franchise, Franchisee shall provide Metro with written notice, at least ninety (90) days prior to closure, of the proposed time schedule and closure procedures.
- 7.4 Franchisee shall provide a staff that is qualified to operate the Facility in compliance with this Franchise and to carry out the reporting functions required by this Franchise.
- 7.5 Recovery Requirements:
- (a) A minimum recovery rate of 45 percent must be maintained at the facility. The recovery rate will be calculated by use of a three month rolling average. (Example: March's recovery rate will be the average of months January, February and March; April's recovery rate will be the average of February, March and April, *etc.*). The ratio of tons recovered from tons received will constitute the recovery rate for the relevant time period.
  - (b) A ninety (90) day grace period for shakedown and operational testing will precede the commencement of official measurement of the recovery rate. The full 45 percent recovery rate must be attained in the sixth month following commencement of operations, with rates of 35 percent and 40 percent to be attained in months four and five respectively. The phased-in recovery rates for months four and five are due to the fact that month four will stand alone and month five will average the total tonnage rate for months four and five.
  - (c) For each percentage point below the specified recovery rate of 45 percent (or 40 percent and 35 percent for months four and five) ERI will pay to Metro a penalty in an amount equal to the current Metro Regional User Fee plus \$2.00 per ton for each percentage point below the specified recovery rate of 45 percent. (Example: 43 percent recovery = \$23.00 per ton [ $\$19.00 + (2 \times \$2.00)$ ]). Annually, as of July 1 (or the effective date of any new Metro User Fee rate) the penalty will be adjusted to the then current Regional User Fee, and the \$2.00 per ton incremental penalty rate will be indexed to reflect the current ratio of 19:2.

## 8. ANNUAL FRANCHISE FEES

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

## **9. INSURANCE**

- 9.1 Franchisee shall purchase and maintain the following types of insurance, covering Franchisee, its employees, and agents:
- (a) Broad form comprehensive general liability insurance covering personal injury, property damage, and personal injury with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and
  - (b) Automobile bodily injury and property damage liability insurance.
- 9.2 Insurance coverage shall be a minimum of \$500,000 per occurrence, \$100,000 per person, and \$50,000 property damage. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
- 9.3 Metro, its elected officials, departments, employees, and agents shall be named as **ADDITIONAL INSURED**S. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.
- 9.4 Franchisee, its contractors, if any, and all employers working under this Franchise are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Franchisee shall provide Metro with certification of Workers' Compensation insurance including employer's liability.

## **10. INDEMNIFICATION**

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

### **10.1 SURETY BOND OR CONDITIONAL LIEN**

Franchisee shall provide a surety bond in the amount of Sixty-five Thousand Dollars (\$65,000), or at its option provide a conditional lien on the franchise property in a form satisfactory to Metro.

## **11. COMPLIANCE WITH LAW**

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

## **12. METRO ENFORCEMENT AUTHORITY**

- 12.1 The Executive Officer may, upon sixty (60) days prior written notice, direct solid waste away from the Franchisee or limit the type of solid waste that the Franchisee may receive. Such action, or other necessary steps, may be taken to abate a nuisance arising from operation of the Facility or to carry out other public policy objectives. Upon receiving such notice, the Franchisee shall have the right to a contested case hearing pursuant to Code Chapter 2.05. A request for a hearing shall not stay action by the Executive Officer. Prior notice shall not be required if the Executive Officer finds that there is an immediate and serious danger to the public or that a health hazard or public nuisance would be created by a delay.
- 12.2 Authorized representatives of Metro shall be permitted access to the premises of the Facility at all reasonable times for the purpose of making inspections and carrying out other necessary functions related to this Franchise. Access to inspect is authorized:
  - (a) During all working hours;
  - (b) At other reasonable times with notice; and
  - (c) At any time without notice when, in the opinion of the Metro Solid Waste Department Director, such notice would defeat the purpose of the entry.
- 12.3 The power and right to regulate, in the public interest, the exercise of the privileges granted by this Franchise shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such legal requirements against Franchisee.

## **13. DISPOSAL RATES AND FEES**

- 13.1 In accordance with the Metro Code, this Facility shall be exempt from Metro rate setting.

- 13.2 Franchisee is exempted from collecting and remitting Metro Fees on waste received at the Facility in conformance with this Agreement. Franchisee is fully responsible for paying all costs associated with disposal of residual material generated at the Facility. If Franchisee obtains authorization to dispose of residual material at a facility that has not been "Designated" by Metro, Franchisee shall remit to Metro the Tier 1 (one) User Fee on all waste disposed of at the non-designated facility.
- 13.3 Disposal of residue shall be at a designated facility under the Metro Code or under authority of a non-system license issued by Metro.

#### **14. REVOCATION**

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

#### **15. GENERAL CONDITIONS**

- 15.1 Franchisee shall be responsible for ensuring that its contractors and agents operate in complete compliance with the terms and conditions of this Franchise.
- 15.2 The granting of this Franchise shall not vest any right or privilege in the Franchisee to receive specific quantities of solid waste during the term of the Franchise.

- 15.3 This Franchise may not be transferred or assigned without the prior written approval of Metro.
- 15.4 To be effective, a waiver of any term or condition of this Franchise must be in writing, signed by the Executive Officer. Waiver of a term or condition of this Franchise shall not waive nor prejudice Metro's right otherwise to require performance of the same term or condition or any other term or condition.
- 15.5 This Franchise shall be construed, applied, and enforced in accordance with the laws of the State of Oregon.
- 15.6 If any provision of the Franchise shall be invalid, illegal, or unenforceable in any respect, the validity of the remaining provisions contained in this Franchise shall not be affected.

## **16. NOTICES**

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

James Cozzetto, Jr., General Manager  
Energy Reclamation, Inc.  
PO Box 11229  
Portland, OR 97211

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

Solid Waste Director  
Solid Waste Department  
Metro  
600 NE Grand Avenue  
Portland, OR 97232-2736

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

\_\_\_\_\_  
Facility Owner or  
Owner's Representative

\_\_\_\_\_  
Rena Cusma, Executive Officer  
Metro

Date: \_\_\_\_\_  
PN:clk  
NORTVFRANCHISENERGEC.FRN  
October 20, 1993

Date: \_\_\_\_\_

**EXHIBIT 1  
TO FRANCHISE AGREEMENT**

**SITE LEGAL DESCRIPTION**

(Include tax lot(s) descriptions, Section, Township and Range):

A parcel of land situated in the Lewis Dove Donation, No. 41, Section 10, Township 1 North, Range 1 East of the Willamette Meridian in the City of Portland, County of Multnomah, and State of Oregon, described as follows:

Beginning at the northwest corner of block 16, Swinton, in the City of Portland, County of Multnomah and State of Oregon, said point being the intersection of the southerly line of North Columbia Boulevard (as said southerly line was located in 1951) and the east line of North Kerby Avenue (formerly North Kerby Street); thence south 90 degrees 8' 20" east along said southerly line of North Columbia Boulevard a distance of 162.39 feet to the true point of beginning, thence continuing south 80 degrees 8' 20" east along said southerly line of North Columbia Boulevard a distance of 193.95 feet thence south 0 degrees 26' 40" west a distance of 410.01 feet, thence north 89 degrees 5' 20" west a distance of 188.4 feet; thence north 0 degrees 4' 40" east a distance of 443.3 feet to the true point of beginning. Save and except that portion lying within North Columbia Boulevard.

PN:clk  
s:\north\franchise\legal.eri

## AMENDED STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 93-519 FOR THE PURPOSE OF GRANTING A FRANCHISE TO ENERGY RECLAMATION INC. FOR THE PURPOSE OF OPERATING A SOLID WASTE PROCESSING FACILITY

Date: October 18, 1993

Presented by: Bob Martin  
Roosevelt Carter

## FACTUAL BACKGROUND AND ANALYSIS

The purpose of this report is to introduce and provide analysis regarding the application filed by Energy Reclamation Inc., (ERI), an affiliate corporation formed by Metropolitan Disposal and Recycling Corporation (MDC). The applicant has applied to Metro for a franchise to operate a solid waste processing facility at 554 N. Columbia Boulevard, Portland, Oregon. The application was accepted as complete on October 18, 1993. Metro, pursuant to Code Section 5.01.020 has the authority to grant franchises for private facilities accepting mixed solid waste. The facility is to recover and market recoverable materials from construction and demolition debris, and dry nonputrescible and non hazardous mixed wastes.

This facility will also process source-separated materials obtained from residential and commercial recycling programs. The source-separated portion of the operation does not require a Metro franchise, but will require monitoring since it utilizes the same area of the building and processing equipment as the mixed waste processing.

The facility may only accept loads of material from Metropolitan Disposal and Recycling Corporation, *i.e.*, no outside or third party haulers will be authorized to use the subject facility. Since the franchisee will not provide services to outside or third party haulers, this facility is exempt from Metro rate setting under Section 5.01.170 of the Metro Code. The facility may only dispose of residue from its operations at Metro-approved disposal facilities. Following is a summary description of the facility, the material processing and other pertinent details relative to the facility.

### LOCATION OF PROPOSED FACILITY

554 North Columbia Blvd., Portland, Oregon.

### SITE DESCRIPTION

The property is approximately three acres in size with slightly less than one half of the lot area comprised of building and improvements. The facility has a rail spur on premises and has easy access to Columbia Boulevard by truck. The building is a warehouse with two separate sections, one having 21,735 square feet and the other section having 42,336 square feet.

## MATERIALS TO BE PROCESSED

Materials to be processed are limited to construction and demolition debris, and dry, nonputrescible and non hazardous mixed wastes. Recovered materials will be sorted, inventoried, baled and/or prepared for shipment to commodities markets with which ERI already has a working relationship. To assure that sufficient recovery and marketing of recoverable materials is performed at this facility, it is recommended that the following requirements be placed on its operations (these limitations are exclusive of operations involving source-separated recyclables):

1. A minimum recovery rate of 45 percent must be maintained at the facility. The recovery rate will be calculated by use of a three month rolling average. (Example: March's recovery rate will be the average of months January, February and March; April's recovery rate will be the average of February, March and April, *etc.*) The ratio of tons recovered from tons received will constitute the recovery rate for the relevant time period.
2. A ninety (90) day (three month) grace period for shakedown and operational testing will precede the commencement of official measurement of the recovery rate and imposition of phased in penalties for failure to achieve designated recovery rates. The full 45 percent recovery rate must be attained in the sixth months following commencement of operations, with rates of 35 percent and 40 percent to be attained in months four and five respectively. The phased-in recovery rates for months four and five are due to the fact that month four will stand alone and month five will average the total tonnage rate for months four and five. By illustration, the franchise obligations for material recovery are as follows:

Commencement of Operations	Recovery Rate Required
Month 1	-0-
Month 2	-0-
Month 3	-0-
Month 4	35%
Month 5	40%
Month 6	45%

"Commencement of Operations" is defined as the first day that mixed dry waste is delivered to the facility."

3. ERI will pay to Metro a penalty in a per ton amount equal to the current Metro Regional User Fee plus \$2.00 per ton for each percentage point below the specified recovery rate of 45 percent (or 40 percent and 35 percent for months four and five): (Example: 43 percent recovery = \$23.00 per ton [ $\$19.00 + (2 \times \$2.00)$ ]). Annually, as of July 1 (or the effective date of any new Metro User Fee rate) the penalty will be adjusted to the then current Regional User Fee (*or equivalent*), and the \$2.00 per ton incremental penalty rate will be indexed to reflect the current ratio of 19:2.

4. There will be no pre-set limit upon the tons of processable materials that may be received at the ERI facility so long as ERI is operating in a manner consistent with other franchise conditions and its other permits and licenses.
5. The tonnage of source-separated materials received at the facility are to be excluded from any calculations done to establish the recovery rate because their inclusion would inflate the recovered tonnage for mixed waste. The activities from the source-separated operation will be included in the reporting requirements to ensure Metro's ability to track recoverable waste materials handled in the facility.
6. Inert materials will consist of all materials disposed of at a clean fill site (*i.e.*, not a solid waste landfill). The quantity of inert material disposed of at a clean fill site will be subtracted from the incoming waste tonnage and will not be included in the facility's recovery rate. (Example: A total of 100 tons of mixed waste are received. 10 tons are disposed of at a clean fill and 40 tons are recycled. The recovery rate is  $40 \div (100-10) = 44$  percent).

#### EQUIPMENT

The applicant states that processing will be accomplished by use of a front end loader and picking line via belt conveyers. Large and heavy materials will be removed from the picking line by "grizzly screen" and residuals will be removed by vibrating conveyor. Progressive screening of fines will be done, with inert material being separated from residual.

#### RESIDUE DISPOSAL

Residue will be transported for disposal by truck, rail, or barge to a Metro-approved disposal facility.

#### PERMITS REQUIRED

The applicant requires:

1. City of Portland Conditional Use Permit (zoning is IHh -Heavy Industrial)
2. Oregon Department of Environmental Quality Class III Low risk Facility Permit
3. Metro Franchise

#### Status:

- City of Portland Conditional Use approved September 28, 1993 (appeal time expired and proof of grant of conditional use provided to Metro October 18, 1993)
- Department of Environmental Quality Solid Waste Permit pending.
- Metro franchise pending.

## MISCELLANEOUS OPERATING DATA

The applicant proposes that the facility will only be open to the applicant's own vehicles. Operational receiving hours will be from 6:00 a.m. to 5:00 p.m., five days per week. Estimated vehicles per day is 50 (exclusive of vehicles entering the adjacent truck maintenance facility).

## ISSUANCE OF A FRANCHISE

Staff has prepared a proposed franchise agreement to be issued to the applicant following Council approval of the franchise application. Metro Code Section 5.01.070 states in part "The Executive Officer shall formulate recommendations regarding whether the applicant is qualified; whether the proposed franchise complies with the district's solid waste management plan; whether the proposed franchise is needed considering the location and number of existing and planned disposal sites, transfer stations, processing facilities, and resource recovery facilities and their remaining capacities and whether or not the applicant has complied or can comply with all other applicable regulatory requirements."

Metro Code Section 5.02.070 (e) (2) provides that a corporate surety bond is required for this type of franchise. This however, is guided by Metro Resolution No. 86-672. The pertinent portions of the Resolution, Section 1 b. and c. read as follows:

"b. If continued operation of the processing or transfer facility is not considered necessary to the solid waste disposal system because of alternative disposal sites which may be available and potential clean-up and site maintenance costs\* for the facility are estimated to be less than or equal to \$10,000, then the amount of the required surety bond is \$0."

*\*[Footnote 4 from the resolution stated: Clean-up and Site Maintenance Cost is dependent on the size and design of the facility.]*

"c. If continued operation of the processing or transfer facility is not necessary to the solid waste disposal system because of alternative disposal sites which may be available and potential clean-up and site maintenance cost for the facility are estimated to be greater than \$10,000, then the amount of the required surety bond is to be equal to the amount of the estimated clean-up and site maintenance costs for the facility. If these conditions exist and the franchisee owns the site on which the facility operates, and the value of the site exceeds the amount required for the bond, the franchisee may elect to issue a conditional lien on the property to Metro guaranteeing performance by the operator in cleaning up the site in lieu of the required bond. The lien shall be in a form satisfactory to Metro."

Using the criteria outlined in Metro Resolution No. 86-672 for determining the amount of a surety bond that may be required pursuant to a facility franchise, it is recommended that the franchisee be required to provide a surety bond in the amount of \$65,000, or in the alternative provide a conditional lien if preferred by the franchisee. This recommendation is based on the availability of disposal or recycling facilities (Metro transfer stations, Hillsboro Landfill, East County Recycling

and Wastech) that would not make it necessary to continue operation of the facility. Clean up and site maintenance costs are estimated to be approximately Sixty-five Thousand Dollars (\$65,000). This estimate assumes the following:

1. 17,000 square feet of floor space available for storage of materials.
2. Waste stacked to a depth of six feet over the available floor space.
3. 3,800 cubic yards of waste stacked at 400 pounds per yard.
4. \$2,695 labor and equipment costs to load waste into drop boxes (\$3.50/ton).
5. \$60,800 for transport and disposal of 760 tons of waste.
6. The solid waste is consistent with the authorized materials for the facility; dry non-hazardous and nonputrescible mixed waste and construction and demolition debris.

**NOTE: It should be emphasized that the forgoing is an order of magnitude estimate only of a "worst case scenario" where the franchisee would continue deliveries of waste to the facility until filled to capacity and then abandon the facility.**

The following staff analysis is submitted to the Council for its review as required.

#### **QUALIFICATIONS OF THE APPLICANT**

Energy Reclamation Inc. (ERI) is an affiliate of Metropolitan Disposal and Recycling Corporation (MDC). MDC is a long established Portland hauling and recycling company having been in business in the City of Portland and the surrounding area for thirty-nine years. The company has been involved in all aspects of commercial and residential solid waste collection. Metro records indicate that MDC disposed of 99,000 tons of solid waste at Metro facilities in calendar year 1992.

The applicant is a well known and respected company within the City and region and has the apparent resources and experience to manage and operate a facility of the type being requested in the franchise application.

#### **COMPLIANCE WITH THE SOLID WASTE MANAGEMENT PLAN**

Given the conditions imposed by this franchise, this facility would fully comply with the goals, objectives and policies of the Regional Solid Waste Management Plan including the Waste Reduction Chapter adopted by the Metro Council in 1988. The Regional Solid Waste Management Plan (RSWMP) states in part "Purpose: To recover recyclable materials and reusable items from the waste stream through facilities that process waste that contains a high percentage of economically recoverable material." The applicant's proposed facility will

accomplish waste reduction by recovering materials that might otherwise go unprocessed or might ultimately be shipped for disposal at a regional landfill. The proposed facility will be privately owned and operated and will require no public investment in plant or equipment.

#### NEED AND COMPATIBILITY

The following lists annual tonnage into facilities which are expected to be affected by the proposed franchise:

TABLE 1

	Total 1992 Tonnage Received Mixed Dry Waste	Total Tonnage of Mixed Dry Waste Processed	Total 1992 Tonnage Recovered From Mixed Dry Waste	Percent Recovered from Processed Mixed Dry Waste	Proposed Tons Diverted to ERI	Normal Recovery of Diverted Tons (Status Quo)	45 Percent Recovery By ERI of Diverted Tons	Diverted Minus Status Quo
WASTECH <sup>1</sup>	8,418	8,418	4,041	48%	1,382 <sup>2</sup>	1,382	1,382 <sup>2</sup>	0
ECR <sup>2</sup>	37,468	37,468	16,290	43%	7,800	3,354	3,510	156
Lakeside <sup>3</sup>	71,000	35,000	7,100	20%	11,760	2,352	5,292	2,940
Metro Central <sup>4</sup>	120,000	70,000	23,575	34%	20,440	6,950	9,198	2,248
Metro South <sup>5</sup>	120,000	0	0	0%	6,460	0	2,907	2,907
Totals Re: Processed Waste		150,886	51,006	34%	47,900	14,038 <sup>6</sup>	22,289 <sup>7</sup>	8,251

<sup>1</sup>The 37,509 tons reported by The Columbia Resource Company (parent company of WASTECH) on 07/30/93 are combined of 29,091 tons of source-separated loads and 8,418 of mixed loads. They report recovering 96% of the source-separated loads and 52% of the mixed loads. Mr. Donovan of MDC stated July 30, 1993 that the 1,440 tons currently being delivered by MDC to WASTECH are part of the 29,091 tons of separated loads. Therefore, the "status quo" recovery of the 1,440 tons is computed as  $96\% \times 1,440 = 1,382$  tons and it is assumed that ERI will also recover 1,382 tons.

<sup>2</sup>Includes all mixed waste received but excluded inert material.

<sup>3</sup>Recovery from mixed loads is highly variable. Owner estimates that 10% by weight of all incoming mixed waste is recycled. Materials are recycled from about half of the incoming loads.

<sup>4</sup>The tonnage received of mixed dry waste includes 100% loose drop boxes 50% compacted drop boxes and 50% of the front loaders. This is considered to be the entire dry processable wastestream at the transfer station from which materials are recovered. Of this tonnage received, approximately 80% of the drop box loads are processed and 20% of compacted drop boxes and front loaders are processed which results in an effective recovery rate of 34%. ERI projected that they would divert a total of 26,900 tons from Metro facilities with 76 percent coming from Metro Central.

<sup>5</sup>Metro South has no mixed waste recovery.

<sup>6</sup>A "status quo" recovery rate of 34% is derived by dividing the 14,038 tons by 47,900 "Proposed Tons Diverted to ERI" minus the 6,460 tons diverted from Metro South.

<sup>7</sup>ERI's recovery rate of 47% is derived by dividing ERI's 22,318 tons recovered by 47,900.

The following questions and answers have been prepared by the Solid Waste Staff:

**1. Will this facility increase the recovery level in the region?**

Yes. The recovery rate for processed mixed waste is 34%. (See Table 1). As can be seen from Table 1, the rate of recovery varies by facility. The addition of ERI to the facilities shown in Table 1 is projected to result in a net increase of recycled materials of 8,251 tons per year. The projected effect on the overall mixed dry waste recovery rate (for the facilities shown in Table 1) is to increase the rate from 34% to 38%. This projection assumes that mixed dry waste that will be diverted from existing processors by ERI is presently being processed by the existing facilities. Secondly, it assumes that total mixed dry waste processed in the region rises to 157,352 tons based on tonnage to be diverted from Metro South Station that does not have processing capacity. (See Table 1)

ERI's facility recovery rate is projected to be 47%. This will place it in the upper echelon of the Region's mixed waste processors. The proposed franchise for ERI sets a minimum recovery rate of 45%, but this is considered a conservative number, based on staff analysis and input from the applicant.

Metro expects ERI to be able to improve its recovery over 45 percent since it has control over the materials entering the facility where none of the other recovery facilities have that advantage. It is also expected that ERI will be diverting the loads that are of higher recoverable content from the facilities listed. Also, the drop boxes currently arriving at Metro Central from MDC are considered by the facility operator to be some of the most recoverable loads.

*Justification for Recovery Levels.*

A minimum percent of recovery will be required for facilities that receive mixed waste. This is based on the experience of Wastech and East County Recycling both of whom have high recovery rates. East County accepts all loads and is able to recover 43 percent. Wastech has implemented a tipping fee structure which encourages delivery of cleaner loads. During 1992 Wastech recovered 96 percent of its source-separated loads and 52 percent of its mixed loads. The recovery rates at Metro Central and Lakeside Reclamation are low for the overall facility, however, when the recovery from the tonnage processed is calculated, it equals 20 percent and 34 percent respectively.

**2. Will existing processors or haulers lose competitiveness and viability?**

The effect on competitors should not be sufficient to cause them to significantly lose viability. The Lakeside Reclamation Landfill would be most affected, losing approximately 17% of the current tonnage.

3. **Will an integrated hauling and processing operation discourage source-separation by construction demolition businesses?** Metro's Construction Waste Reduction Steering Committee is made up of representatives from building industry associations, haulers, and processors. They have reviewed the proposed operations of the facility. They felt that the facility would provide more recovery options to contractors. It may enhance recovery from projects where site limitations make source-separation impractical. The committee also believed that ERI's operations would not detract from source-separation on construction sites. Also, the level of recovery of dry, nonputrescible, non-hazardous wastes that may be processed at the facility is likely to be tied to the pricing structure to the generators for incoming waste.
4. **How will Metro be assured that cost savings will be passed on to generators?** The price structure for incoming waste materials is not established in the franchise agreement. ERI stated that they will pass along the cost savings to the generators, but there is no guarantee. It seems reasonable to expect that there will be sufficient waste left for competitors to enter the field and thus keep rates to customers low.

### REGULATORY COMPLIANCE

As noted on page 2 of this report, the applicant has obtained conditional use approval from the City of Portland and has made application to the Department Of Environmental Quality for a solid waste permit. Present information indicates that the Department of Environmental Quality application process is progressing on schedule. Nonetheless, any issuance of a Metro franchise would require the satisfactory issuance all required Department of Environmental Quality permits before actual operation of the facility could commence.

### BUDGET IMPACT

As shown in Attachment A, which is based on tonnage data provided by MDC, staff projects that Metro may forego about \$477,000 per year in revenues. With system disposal at approximately one million tons per year, staff projects the effect of an ERI franchise on the system rate to be about \$.50 per ton.

### SUMMARY

It is the conclusion of staff that:

- The applicant possesses sufficient qualifications to establish, operate and maintain the proposed facility in a manner consistent with the provisions of the Metro Code.
- That the facility complies with Metro's Regional Solid Waste Management Plan and should increase recovery within the district.

- The requirements of the City of Portland and the Oregon Department of Environmental Quality have been or will be complied with prior to operation of the proposed facility.
- Per the analysis shown in Attachment A, Metro may forego up to \$477,000 per year in revenues if the franchise is granted.

#### **STAFF RECOMMENDATION**

Based on the foregoing analysis it is the opinion of staff that Energy Reclamation Inc. should be granted a non-exclusive franchise in accord with the provisions of the draft franchise agreement shown as Exhibit A of Ordinance No. 93-519.

#### **EXECUTIVE OFFICER RECOMMENDATION**

The Executive Officer recommends approval of Ordinance No. 93-519.

## Attachment A

### Effect On Metro's Revenues Of Granting A Franchise To ERI Assuming That ERI Recovers 45% Of Incoming Waste

Facility	Tons Diverted To ERI	Difference In Metro Revenue Tons	Loss Per Ton	Lost Revenues	Note
Lakeside	11,760	2,940	\$19.00	\$55,860	A
East County	7,800	156	\$19.00	\$2,964	B
Wastech	2,658	0	\$19.00	\$0	C
Metro	26,900	26,900	See Note D	\$418,295	D
Total Lost Revenues				\$477,119	

**Notes:**

- A = Under the current situation ("status quo") Metro estimates that Lakeside recovers 2,352 of the 11,760 tons which MDC would divert to the ERI facility. At a 45% recovery rate, ERI would recover 5,292 of the 11,760 tons. So, if the franchise is granted 2,940 more tons (5,292 minus 2,352) will be recovered and Metro will lose \$55,860 (2,940 tons times \$19 per ton) compared to the current situation.
- B = Under the current situation ("status quo") Metro estimates that East County recovers 3,354 of the 7,800 tons which MDC would divert to the ERI facility. At a 45% recovery rate, ERI would recover 3,510 of the 7,800 tons. So, if the franchise is granted 156 more tons (3,510 minus 3,354) will be recovered and Metro will lose \$2,964 (156 tons times \$19 per ton) compared to the current situation.
- C = It is estimated that ERI and Wastech would recover the same amount of tons from the waste MDC would divert from Wastech. Therefore, there would be no effect on Metro revenues of diverting the waste from Wastech to ERI.
- D = The 26,900 ton amount is estimated by adding 100% of MDC's loose drop box tonnage plus 45 tons per day from rerouted front loader trucks. It is assumed that MDC would divert the 26,900 tons from Metro facilities to the ERI facility.

Of the \$75 per ton it currently receives for waste received at its transfer stations, Metro pays \$49 for station operations, transportation, and disposal. This leaves \$26 per ton to pay for items such as debt service on bonds; items which are not "tonnage sensitive". Therefore, if NONE of the 26,900 tons resulted in revenues to Metro then Metro's net loss would be 26,900 tons times \$26/ton, or \$699,400.

However, Metro would receive \$19 per ton on each of the 26,900 tons ERI landfills. Assuming a 45% ERI recovery rate, ERI will thus landfill 55% of the 26,900 tons (14,795 tons) and landfills will pay Metro \$281,105 (14,795 tons times \$19 per ton). So, the financial effect of diverting 26,900 tons from Metro transfer stations to ERI will be \$418,295, which is the difference between \$699,400 and \$281,105.

At the present time it is contemplated that the "put or pay" tonnage level at Metro Central Station may be exceeded by the time that the ERI franchise is actively processing material. If the "put or pay" level is not reached at that time the fiscal impact will be higher than the estimated \$477,000 by approximately \$163,000.

PEN/clk/ay  
NORTFRANCHISSTAF1018.RPT

## **INVITATION TO BID**

Metro is requesting bids for furnishing one (1) tractor equipped with a front end loader and bucket to be used in establishing and maintaining vegetation at the St. Johns Landfill (RFB #93B-61-SW). Potential bidders may obtain bid documents by contacting the Solid Waste Department, 797-1650. Sealed bids must be delivered to the Solid Waste Department at Metro, 600 NE Grand, Portland, Oregon 97232-2736, to the attention of Ray Barker, Assistant Operations Manager, no later than 3:00 p.m. Pacific Standard Time (PST), November 29, 1993, at which time they will be publicly opened and read in the Council Chamber Annex.

## INSTRUCTIONS TO BIDDERS

### BID

Metro is requesting bids for furnishing one (1) tractor equipped with a front end loader and bucket to be used in establishing and maintaining vegetation at the St. Johns Landfill (RFB #93B-61-SW). Bids must be enclosed in a sealed envelope and mailed or delivered to the Metro Solid Waste Department, 600 NE Grand, Portland, Oregon 97232-2736, Attention, Ray Barker, Assistant Operations Manager, no later than 3:00 p.m. Pacific Standard Time (PST), November 29, 1993, at which time they will be publicly opened in the Metro Council Chamber Annex. A bid may not be submitted by Facsimile (FAX) transmittal.

The outside of the envelope shall plainly identify the subject of the Bid, the opening date, and the Bid number.

All bids must be clearly and distinctly typed or written with ink or indelible pencil. All blank spaces must be completed. No erasures are permitted. Mistakes must be crossed out and corrections typewritten or written in ink adjacent thereto, and initialed in ink by the party signing the Bid, or his authorized representative.

Written amounts shall be shown in both words and figures. Words shall govern in cases of discrepancy between the amounts stated in words and the amounts stated in figures.

All bids must be on the form furnished by Metro or they may be rejected by Metro. Where plans and specifications are attached to the bid, they must be returned by the Bidder with the bid.

### COST OF BID

This invitation to Bid does not commit Metro to pay any costs incurred by any Bidder in the submission of a bid, or in making necessary studies or designs for the preparation thereof, or for procuring or contracting for the items to be furnished under the invitation to bid.

### ERRORS/OMISSIONS

Any Bid may be deemed non-responsive by the Procurement Officer if it is: Not on the Bid forms provided; contains errors or omissions, erasures, alterations, or additions of any kind; proposes prices which are unsolicited or obviously unbalanced; not in complete conformance with any and all conditions of the bidding documents.

Meeting Date: November 10, 1993  
Agenda Item No. 7.1

**RESOLUTION NO. 93-1851**

## **PLANNING COMMITTEE REPORT**

### **CONSIDERATION OF RESOLUTION NO. 93-1851, FUNDING THIRD YEAR OF GREENSPACES RESTORATION PROJECTS TO RESTORE AND ENHANCE URBAN WETLANDS, STREAMS AND RIPARIAN CORRIDORS, AND UPLAND SITES**

Date: October 28, 1993

Presented By: Councilor Devlin

**Committee Recommendation:** At the October 26 meeting, the Planning Committee voted unanimously to recommend Council adoption of Resolution No. 93-1851. Voting in favor: Councilors Van Bergen, Devlin, Gates, Kvistad, Monroe, and Moore.

**Committee Issues/Discussion:** Mel Huie, Senior Regional Planner, presented the staff report. He explained the extensive review process undertaken. This is the third year of the program. A special committee reviewed the applications and did site visitations prior to recommending this list of seventeen projects. The program is financially sponsored by U.S. Fish and Wildlife.

Mr. Huie told the committee that according to Senator Hatfield's office, another \$300,000 may be available for next year. The money is currently tied to an Interior Committee report that is tied up in conference committee. Councilor Devlin clarified that if the money is appropriated, only \$220,000 would actually be available for this purpose; the remaining \$80,000 is usually considered overhead for U.S. Fish and Wildlife.

Councilor Van Bergen commented on many of the descriptive words used in the documentation. He asked whether these were the same words of description used by the federal governments in their grant applications. Councilor Devlin said the terms "restoration and enhancement" were generally the words used. Councilor Van Bergen cautioned the staff to be careful to use the same words as were used in the grant application request.

**BEFORE THE METRO COUNCIL**

**FOR THE PURPOSE OF FUNDING THIRD-YEAR  
GREENSPACES PROJECTS TO RESTORE AND  
ENHANCE URBAN WETLANDS, STREAMS AND  
RIPARIAN CORRIDORS, AND UPLAND SITES**

) Resolution No. 93-1851  
)  
) Introduced by Rena Cusma,  
) Executive Officer

**WHEREAS, The Metropolitan Greenspaces Master Plan has outlined the restoration  
of degraded natural areas as a priority; and**

**WHEREAS, The Metropolitan Greenspaces Program has outlined a four-phase  
approach for inventorying, mapping, analyzing, preserving, protecting and acquiring natural areas;  
and**

**WHEREAS, Phase 3 calls for restoration and enhancement demonstration projects  
as part of the Greenspaces Program; and**

**WHEREAS, The U.S. Fish and Wildlife Service has provided Metro with funding to  
carry out such restoration and enhancement projects; and**

**WHEREAS, The demonstration projects will increase public awareness and  
cooperation between Metro, federal, state and local agencies, nonprofit organizations,  
neighborhood associations and the region's citizens about natural resource issues; and**

**WHEREAS, Metro has awarded Greenspaces Restoration grants to 31 local projects  
since 1991; and**

**WHEREAS, For the third year of the program, up to 17 target sites around the  
Portland/Vancouver region will be selected for "on the ground" restoration and enhancement  
which will serve as models for other public agencies, conservation organizations, developers,  
homeowners and other property owners in restoring urban wetlands and riparian corridors, and  
upland sites; and**

**WHEREAS, The Metro Council adopted Resolution No. 92-1609 on May 14, 1992,  
which established the program guidelines, funding criteria, and an application kit; and**

WHEREAS, The Chair of the Metropolitan Greenspaces Policy Advisory Committee organized a review and selection committee to accept grant applications to make recommendations to the Executive Officer and Council which projects should be funded; and

WHEREAS, The review and selection committee met during August and September 1993 to review applications, tour the sites, conduct interviews of the applicants and make funding recommendations; and

WHEREAS, Eighteen proposals were submitted to Metro, of which 11 are recommended for immediate funding; six are recommended for funding upon satisfactory changes in the applicants' project proposals; and one was withdrawn by the applicant; and

WHEREAS, All projects recommended for funding must be approved by the Metro Council, now, therefore,

**BE IT RESOLVED,**

1. That the Metro Council hereby approves funding for the top 11 restoration and enhancement projects as recommended by the review and selection committee and which are listed in Exhibit A hereto, and that the funding for these projects shall not exceed \$82,538.
2. That the Metro Council hereby approves funding for an additional six restoration and enhancement projects as recommended by the review and selection committee and which are listed in Exhibit B hereto, and that funding for these projects shall not exceed \$42,555. Funding for these projects are contingent upon satisfactory completion of changes, as recommended by the review and selection committee, to be made in project proposals by the applicants.
3. That the Metro Council hereby directs the Chair of the Metropolitan Greenspaces Policy Advisory Committee (Councilor Richard Devlin) to work

with the Executive Officer and staff in the Planning Department to execute contracts and/or intergovernmental agreements between Metro and the organizations selected for funding.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_ 1993.

---

Judy Wyers, Presiding Officer

**EXHIBIT A**  
**Restoration Grant Applications to be Funded**

1.     **Applicant:**             Tualatin Hills Park and Recreation District (THPRD)  
      **Project Site:**     Beacon Hills Wetlands Park in the south part of Beaverton.  
      **Description:**     Restore degraded and channelized portions of Johnson Creek. Plant native vegetation, trees and grasses along the riparian zone of the creek. Improve wildlife habitat and water quality.

**Local Contact:**     Jim McElhinny, THPRD Staff, 645-6433  
      **Total Budget:**     \$6,688  
      **Request:**           \$2,700  
      **Recommendation:** \$2,700
  
2.     **Applicant:**             City of Gresham Parks Division  
      **Project Site:**     Kelly Creek Greenway in the southeast part of the city.  
      **Description:**     Restore and enhance this degraded resource. Stabilize the eroding channel to prevent further erosion and sediment discharge. Plant native vegetation along the creek. Improve fish and wildlife habitat and water quality.

**Local Contact:**     Lora Price, City of Gresham, 669-2531  
      **Total Budget:**     \$36,184  
      **Request of Metro:** \$ 8,250  
      **Recommendation:** \$ 8,250 to \$10,000. The review committee was very impressed with this project and recommended additional funding to increase the amount of restoration work to be completed. Metro staff will work with city staff to determine the final amount of funding. Local match will need to be increased to be eligible for the increased Metro grant.
  
3.     **Applicant:**             Multnomah County Park Services Division  
      **Project Site:**     Oxbow Regional Park in east county along the Sandy River.  
      **Description:**     Create a ten acre elk meadow within the park. This task and fencing would reduce crop damage in nearby agricultural and nursery lands. Improves wildlife habitat and diversity at the park.

**Local Contact:**     Nancy Chase and Jim Lind, Multnomah County Parks, 248-5050  
      **Total Budget:**     \$20,000  
      **Request of Metro:** \$10,000  
      **Recommendation:** \$10,000
  
4.     **Applicant:**             City of Troutdale Parks  
      **Project Site:**     Sunrise Nature Park Pond near the center of the city.  
      **Description:**     Recreate the park as a natural area with an upland meadow, native plantings, and a pond for fish and wildlife habitat.

**Local Contact:**     Valerie Lantz, Troutdale Parks, 665-5175  
      **Total Budget:**     \$26,720  
      **Request of Metro:** \$10,000  
      **Recommendation:** \$10,000

5.     Applicant:             City of Portland Parks, Friends of Trees, & Friends of Forest Park  
       Project Site:         Forest Park  
       Description:         Restore two sites within Forest Park where English ivy and other non-native, invasive plants have so thoroughly covered the area that they have eliminated all native groundcover and are threatening the cedar and fir trees. Remove the non-native vegetation. Purchase and install native plant materials. Bring the area back to its natural state.
- Local Contact:     David Morgan, Friends of Forest Park, 725-5146  
                               Richard Seidman, Friends of Trees, 775-1829
- Total Budget:       \$16,115  
          Request of Metro:   \$ 3,450  
          Recommendation:   \$ 3,450
6.     Applicant:             City of Portland Parks  
       Project Site:         Oaks Bottom Wildlife Refuge in southeast Portland  
       Description:         Meadow habitat improvements for the south fill area of Oaks Bottom. Remove non-native vegetation, a line of cottonwood seedlings, and blackberries. Plantings of native small trees and shrubs.
- Local Contact:     Jim Sjulín, Portland Parks, 823-5122
- Total Budget:       \$23,400  
          Request of Metro:   \$ 3,290  
          Recommendation:   \$ 3,290
7.     Applicant:             Southwest Neighborhood Information, Inc. (SWNI)  
       Project Site:         Woods Memorial Park in southwest Portland.  
       Description:         Stream bank stabilization and restoration of Woods Creek which is a tributary of Fanno Creek and in the Tualatin River watershed. Create pools in the creek for fish habitat. Purchase and install native plants and trees.
- Local Contact:     Sylvia Bogart, SWNI, 823-4529
- Total Budget:       \$11,720  
          Request of Metro:   \$ 4,500  
          Recommendation:   \$ 4,500
8.     Applicant:             City of Oregon City Public Works  
       Project Site:         Hillendale Park  
       Description:         Develop a nature park out of an undeveloped open space (grass fields) and culverted stream/pond. The site is approximately 15 acres and surrounded by residential developments. Purchase and install native shrubs and trees. Utilize the water elements for fish and wildlife habitat.
- Local Contact:     Kate Daschel, City of Oregon City, 657-0891  
                               Joe McKinney, City of Oregon City, 657-8241
- Total Budget:       \$10,250  
          Request of Metro:   \$ 5,000  
          Recommendation:   \$5,000 to \$10,000. The review committee was so impressed with this project and its potential that it recommends additional funding not to exceed \$5,000. Greenspaces staff will work with the city to coordinate the additional funding. Local match will need to be

increased to be eligible for the increased Metro grant.

9.     **Applicant:**             City of Vancouver Parks  
       **Project Site:**       Bagley Community Park in the eastern part of the city  
       **Description:**       Re-establish an urban wildlife area in a site that has been greatly altered by human impact. Remove non-native plants and trees. Purchase and install native vegetation. Restore a tributary of Burnt Bridge Creek which crosses the park. Use the site as a living educational laboratory. A public school is next to the park.
- Local Contact:**     Dave Weese, Vancouver Parks, (206) 696-8171  
          **Total Budget:**     \$119,255  
          **Request of Metro:**  \$ 10,000  
          **Recommendation:**  \$ 10,000
10.    **Applicant:**             City of Vancouver Parks  
       **Project Site:**       Headache Creek Wetland adjacent to Bagley Park  
       **Description:**       Restore and enhance severely damaged wetland and riparian habitat through removing non-native vegetation and re-establishing native plants. Re-establish the natural meanders of the creek and deepen the channel to increase water quality and improve habitat areas.
- Local Contact:**     Dave Weese, Vancouver Parks, (206) 696-8171  
          **Total Budget:**     \$86,380  
          **Request of Metro:**  \$10,000  
          **Recommendation:**  \$10,000
11.    **Applicant:**             State of Washington Department of Wildlife  
       **Project Site:**       Vancouver Lowlands west of Vancouver Lake  
       **Description:**       Recreate an example of lowland oak forest which has been reduced to a few remaining oak trees due to human impact and grazing. Fence the area and end grazing of the area. Purchase and install native plantings with will be food sources for animals and birds. Plant oak and a few cottonwoods and ash trees to begin the forest.
- Local Contact:**     Brain Calkins, Washington Wildlife Dept., (206) 696-6211  
          **Total Budget:**     \$17,965  
          **Request of Metro:**  \$ 8,598  
          **Recommendation:**  \$ 8,598

## **EXHIBIT B**

### **Restoration Grant Applications to be Funded Contingent Upon Changes Being Made in Project Proposals Which are Satisfactory to Metro**

**Metro Staff will work with Local Project Managers  
to ensure that the changes are made**

- 1. Applicant:** Fernhill Wetlands Council  
**Project Site:** Fernhill Wetlands in Forest Grove  
**Description:** Restore and enhance the wetlands. Create wildlife habitat areas and islands. Recover land engulfed by reed canary grass. Improve water quality.  
**Local Contact:** Bruce Copenhagen, City of Forest Grove, 357-8192  
**Total Budget:** \$36,061  
**Request of Metro:** \$10,000

**Recommendation:** Metro staff will meet with Fern Hill Wetlands staff to help redesign the project (i.e. braided streams at grade level rather than islands being created; how to better address stormwater problems and opportunities at the site). Funding of up to \$10,000 if Metro's concerns and recommendations are met by the applicant.
- 2. Applicant:** Friends of Smith and Bybee Lakes  
**Project Site:** Smith and Bybee Lakes in North Portland  
**Description:** Restoration of portions of the natural area by removing invasive and noxious plants, and installing native vegetation. Use students from nearby Roosevelt High School for environmental career training. Partnerships with the school, Portland State University, city parks bureau, and neighborhoods will be increased.  
**Local Contact:** Nan Stark, Portland State University, 725-4056  
**Total Budget:** \$20,089  
**Request of Metro:** \$ 8,480

**Recommendation:** Metro staff will meet with local project staff to better understand how the students will be used at the site, the education and career training opportunities for students, and the program's overall relationship with Metro's management of Smith and Bybee Lakes. The local middle school should also be brought into the project as a partner and resource.

The review committee is supportive of this concept and encourages the active participation of local school kids, neighbors and PSU. Funding of up to \$8,480 is recommended pending appropriate changes and updated work program to be made by the applicant.

3.     **Applicant:**             The Nature Conservancy (TNC)  
       **Project Site:**       To be determined, potentially Oxbow Regional Park as a demonstration site  
       **Description:**       Develop a source of locally grown native plant materials and seeds for use in the restoration projects in the metropolitan area and statewide. A list of target species will be developed from site information and interviews with greenspaces staff and restoration project managers. In many cases it is a problem to locate native plants and seeds for purchase.  
       **Local Contact:**      Catherine McDonald, TNC, 228-9561  
       **Total Budget:**      \$14,002  
       **Request of Metro:**   \$ 6,075  
       **Recommendation:**   Metro staff will work with TNC to ensure that all research and work activities are targeted to benefit Greenspace restoration projects. In addition, Metro will recommend that TNC provide technical assistance and work with Multnomah County Parks on its Oxbow Park restoration project which will create a meadow. This site, along with the proposed WSU butterfly meadow, could serve as demonstration locations for the native plants to be grown by TNC. TNC will work with Metro, Portland Community College and the Berry Botanical Garden to develop the program and to carry out the work tasks.
- Up to \$6,075 is recommended contingent upon TNC agreeing to meet these recommendations.

4.     **Applicant:**             Washington State University (Clark County Campus)  
              Friends of Salmon Creek  
       **Project Site:**       New WSU campus to be built east of Vancouver/I-205 in the Mill Creek area north of the Columbia River.  
       **Description:**       Butterfly meadow creation. Design the meadow; site preparation; remove non-native invasive plants and install native vegetation which attract butterflies.  
       **Local Contact:**      Richard Hansis, WSU, (206) 737-2027  
       **Total Budget:**      \$26,128  
       **Request of Metro:**   \$ 8,000  
       **Recommendation:**   The committee would like to work with WSU and its architect in the overall campus design for incorporating greenspaces and environmentally sensitive concepts (i.e. preservation of natural areas, dealing with Mill Creek and riparian zone; stormwater runoff from the buildings and parking lots, etc.) A butterfly meadow is important, but by itself will not be enough to ensure that the greenspaces concept is properly followed in the design and construction of the new campus. The committee would also like to see if cost savings could be obtained.
- Recommend up to \$8,000 (hopefully less if cost savings are achieved) pending Metro staff working with WSU staff and architect to bring the Greenspaces concept to the overall campus design and construction.

5. **Applicant:** Washington State University (Clark County Campus)  
**Project Site:** New WSU campus to be built east of Vancouver/I-205 in the Mill Creek area, north of the Columbia River.  
**Description:** Dairy site wetlands restoration. Removal of non-native vegetation; replanting native species. Design and site preparation work, including earth moving.  
**Local Contact:** Richard Hansis, WSU, (206) 737-2707  
**Total Budget:** \$34,800  
**Request of Metro:** \$ 5,000
- Recommendation:** Same comments as listed in project #4. Metro and WSU staff and architects need to work together to incorporate greenspaces and environmentally sensitive concepts into the overall design, master plan and construction activities for the new campus.
- If these recommendations and coordination activities are carried out, up to \$5,000 should be allocated to this project. Metro staff will also work with WSU project staff to better define the scope of work and detail specific tasks.
6. **Applicant:** Cascadia Quest, Inc. / Portland Public School District / Portland Parks Bureau  
**Project Site:** Old Whittaker School site on N.E. Columbia Blvd. nr 47th Ave; along the Columbia Slough.  
**Description:** Open spaces and natural areas, including two large ponds adjacent to the Columbia Slough will be ultimately developed into an urban nature park. Initial planning and design work; clean up site; remove non-native vegetation; replanting of appropriate native grasses, shrubs and trees. Involve the neighborhood and local school kids in the restoration activities. The Urban Rangers may be involved. Ultimately, develop accessible nature trail and fishing piers along the two ponds. A private organization plans to stock the ponds.  
**Local Contact:** Greg Wolley, U.S. Forest Service, 666-0413  
**Total Budget:** \$20,200  
**Request of Metro:** \$ 5,000
- Recommendation:** The review committee requests that Metro and Cascadia Quest meet to better define and coordinate the project with neighborhood, citizen and stakeholder priorities (e.g. school district, parks bureau, adjacent property owners and businesses, Metro's urban nature park goals, U.S. Fish and Wildlife Service, Columbia Slough study groups led by the city's Bureau of Environmental Services, and Urban Streams Council. The committee is very excited about this natural area in the midst of urban/industrial N.E. Portland and along the regionally significant Columbia Slough. This area is listed in the Greenspaces Master Plan as regionally significant and as a potential restoration site. Metro councilors have expressed interest and support for this project and are willing to assist in its design, planning and implementation.

Up to \$5,000 contingent upon all affected parties and the neighborhood agreeing to a unified approach to creating a urban nature park at this site. Citizen and property owner involvement and support must be obtained prior to project work tasks being carried out.

## **STAFF REPORT**

### **IN CONSIDERATION OF RESOLUTION NO. 93-1851 FOR THE PURPOSE OF FUNDING THIRD-YEAR GREENSPACES PROJECTS TO RESTORE AND ENHANCE URBAN WETLANDS, STREAMS AND RIPARIAN CORRIDORS, AND UPLAND SITES**

October 26, 1993

Presented By: Mel Huie, Project Manager

## **FACTUAL BACKGROUND AND ANALYSIS**

Restoration of degraded natural areas is a priority activity of the Greenspaces Master Plan. The Metropolitan Greenspaces Program has outlined a four-phase approach to identify, map, protect, preserve and acquire natural areas in the region. Phase 3 specifically calls for the program to carry out restoration and enhancement projects in wetlands, along stream corridors and riparian areas, and in upland sites. Funding for the demonstration grants comes from a Congressional line item grant to Metro via the U.S. Fish and Wildlife Service.

On May 14, 1992, the Metro Council passed Resolution No. 92-1609 which established program guidelines, funding criteria and an application kit. The Chair of the Metropolitan Greenspaces Policy Advisory Committee organized a review and selection committee to accept grant applications and to make funding recommendations to the Executive Officer and the Council as to which proposals should be funded.

A committee comprised of three Metro Councilors (Devlin, McLain, Hansen), Metro staff from the Planning Department, one member from the Greenspaces Policy Advisory Committee, one member from the Greenspaces Technical Advisory Committee, one citizen representative and staff persons from the U.S. Fish and Wildlife Service, the U.S. Environmental Protection Agency (EPA) and Oregon Parks and Recreation Department, met during August and September to review proposals. Included in that process were field visits to all of the sites and personal interviews with the applicants. Councilor Devlin served as chair of the committee. Eighteen proposals were submitted to Metro. Eleven projects were recommended for immediate funding. Six proposals need reworking and are recommended for funding contingent upon satisfactory changes. One proposal was withdrawn by the applicant.

- Funding recommendations of the committee are listed in Exhibits A and B hereto.
- Total funding from Metro for all restoration projects shall not exceed \$125,093.
- Metro staff will work with local project managers to monitor and evaluate the projects throughout the project work period. Projects are to be completed by March 31, 1995.
- A final report of the restoration projects will be published by December 31, 1995. The projects will serve as models to other communities as innovative ways to restore and enhance urban wetlands, streams, riparian corridors and upland sites.
- Each funded project will have a sign at the site documenting that Metro and the U.S. Fish and Wildlife Service were financial sponsors. Events to educate the

public about the Metropolitan Greenspaces Program will occur at each site during the project work period. Metro staff will notify the governing bodies of each of the projects about Metro's financial support.

- Metro has applied to the federal government for funding the Greenspaces restoration and enhancement grant program for a fourth year.
- Planning staff will update and improve this year's application kit so government agencies and nonprofit organizations will have more time to apply for next year's grants (if funding becomes available).

#### **EXECUTIVE OFFICER RECOMMENDATION**

The Executive Officer recommends adoption of Resolution No. 93-1851.