

**METRO**

DATE: February 24, 1994
 MEETING: Metro Council
 DAY: Thursday
 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

4:05 3. EXECUTIVE OFFICER COMMUNICATIONS

(10 min.) 3.1 Presentation of Proposed FY 1994-95 Budget

4:15 4. CONSENT AGENDA (Action Requested: Motion to Approve the Consent
 (5 min.) Agenda)

4.1 Minutes of January 27 and February 10, 1994

4:20 5. ORDINANCES, FIRST READINGS
 (5 min.)

5.1 Ordinance No. 94-535, For the Purpose of Adopting the Annual Budget for Fiscal Year 1994-95, Making Appropriations and Levying Ad Valorem Taxes; and Declaring an Emergency (Action Requested: Refer to Finance Committee)

5.2 Ordinance No. 94-531, For the Purpose of Amending Metro Code Chapter 5.02 to Adjust Disposal Fees Charged at Metro Solid Waste Facilities, Provide for Special Exemptions from Fees and Establish Covered Load Rebates (Action Requested: Refer to the Solid Waste Committee)

6. NON-REFERRED RESOLUTIONS

4:25 6.1 Resolution No. 94-1899, For the Purpose of Accepting a Sixth Group of
 (10 min.) Nominees to the Metro Committee for Citizen Involvement (Metro CCI)
 (Action Requested: Motion to Adopt Resolution)

4:35 6.2 Resolution No. 94-1907, For the Purpose of Establishing a "Metro Regional
 (10 min.) Hazard Mitigation Awards Program" to: (1) Recognize Excellence in the Design and Construction of Buildings to Reduce the Risk to Public Health and Safety from Seismic Hazards; (2) Recognize Special Effort by Private or Public Agencies to Reduce Risks to the Public or to the Work Force Through Non-Structural Mitigation Measures; and (3) Honor Individuals Who Have Demonstrated Deep and Consistent Commitment to Improving the Community's Emergency Preparedness Capability (Action Requested: Motion to Adopt the Resolution)

METRO COUNCIL AGENDA

February 24, 1994

Page 2

7. RESOLUTIONS

REFERRED FROM THE PLANNING COMMITTEE

- | | | |
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| 4:45
(20 min.) | 7.1 Resolution No. 94-1905 , For the Purpose of Amending the FY 1994 Transportation Improvement Program to Allocate Funds to Support the Oregon Transportation Finance Committee Public Outreach Program (Action Requested: Motion to Adopt the Resolution) | Monroe |
| 5:05
(30 min.) | 7.2 Resolution No. 94-1900 , For the Purpose of Endorsing the NW 112th Linear Park for Funding as Part of ODOT Region 1 Priorities for Transportation Enhancement Funding in the 1995-1998 Transportation Improvement Program (Action Requested: Motion to Adopt the Resolution) | |

REFERRED FROM THE SOLID WASTE COMMITTEE

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| 5:35
(20 min.) | 7.3 Resolution No. 94-1892 , For the Purpose of Revising Chapter 5 of the Regional Solid Waste Management Plan and Adjusting Tonnages at Metro Facilities (Action Requested: Motion to Adopt the Resolution) | Monroe |
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BEFORE THE METRO CONTRACT REVIEW BOARD

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| 5:55
(20 min.) | 7.4 Resolution No. 94-1894 , For the Purpose of Authorizing an Exemption to the Competitive Procurement Procedures of Metro Code Chapter 2.04.053 and Authorizing a Change Order to Design Services Agreement with Parametrix, Inc. (Action Requested: Motion to Adopt the Resolution) | Hansen |
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REFERRED FROM THE REGIONAL FACILITIES COMMITTEE
BEFORE THE CONTRACT REVIEW BOARD

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| 6:15
(20 min.) | 7.5 Resolution No. 94-1920 , For the Purpose of Rejecting an Appeal by Rollins & Greene Builders, Incorporated, of the Award of a \$361,150 Contract to Remodel the Research Building at the Metro Washington Park Zoo and Authorizing the Executive Officer to Execute the Agreement with Lonigan Construction Company (Action Requested: Motion to Adopt the Resolution) | McFarland |
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BEFORE THE CONTRACT REVIEW BOARD

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| 6:35
(10 min.) | 7.6 Resolution No. 94-1909 , For the Purpose of Waiving Competitive Bidding and Authorizing a Design-Build Contract with Ray Mendez for a Naked Mole Rat Exhibit (Action Requested: Motion to Adopt the Resolution) | Washington |
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6:45 (15 min.)	<u>8. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS</u>
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7:00	ADJOURN
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Meeting Date: February 24, 1994
Agenda Item No. 4.1

MINUTES



METRO

DATE: February 18, 1994

TO: Metro Council
Executive Officer
Agenda Recipients

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

RE: AGENDA ITEM NO. 4.1; MINUTES

The minutes of January 27 and February 10, 1994, will be provided on or before Wednesday, February 23 to Councilors. Copies will be available at the Council meeting February 24 and can be obtained by contacting the Clerk at 797-1534.

Meeting Date: February 24, 1994
Agenda Item No. 5.1

ORDINANCE NO. 94-535

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 94-535 ADOPTING THE ANNUAL BUDGET FOR FISCAL YEAR 1994-95, MAKING APPROPRIATIONS AND LEVYING AD VALOREM TAXES; AND DECLARING AN EMERGENCY

Date: February 16, 1994

Presented by: Rena Cusma
Executive Officer

FACTUAL BACKGROUND AND ANALYSIS

I am forwarding to the Council for consideration and approval my proposed budget for Fiscal Year 1994-95.

Council action, through Ordinance No. 94-535, is the first step in the process for the adoption of Metro's operating financial plan for the forthcoming fiscal year. Final action by the Council to adopt this plan is scheduled for June 23, 1994.

Oregon Revised Statutes 294.635, Oregon Budget Law, requires that Metro prepare and submit Metro's approved budget to the Tax Supervising and Conservation Commission by May 15, 1994. The Commission will conduct a hearing during June 1994 for the purpose of receiving information from the public regarding the Council's approved budget. Following the hearing, the Commission will certify the budget to the Council for adoption and may provide recommendations to the Council regarding any aspect of the budget.

Once the budget plan for Fiscal Year 1994-95 is adopted by the Council, the number of funds and their total dollar amount and the maximum tax levy cannot be amended without review and certification by the Tax Supervising and Conservation Commission. Adjustments, if any, by the Council to increase the level of expenditures in a fund are limited to no more than 10 percent of the total value of that fund in the period between approval, scheduled for May 5, 1994, and adoption.

Exhibits B and C of the Ordinance will be available at the public hearing on February 24, 1994.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends that the Council conduct a public hearing on Ordinance No. 94-535. The Executive Officer recommends that the Council schedule consideration of the proposed budget and necessary actions to meet the key dates as set out in Oregon Budget Law described above.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING THE
ANNUAL BUDGET FOR FISCAL YEAR
1994-95, MAKING APPROPRIATIONS
AND LEVYING AD VALOREM TAXES;
AND DECLARING AN EMERGENCY

) ORDINANCE NO. 94-535
)
) Introduced by
) Rena Cusma, Executive Officer
)

WHEREAS, The Multnomah County Tax Supervising and Conservation Commission held its public hearing on the annual Metro budget for the fiscal year beginning July 1, 1994, and ending June 30, 1995; and

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

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The "Fiscal Year 1994-95 Metro Budget," attached hereto as Exhibit B, and the Schedule of Appropriations, attached hereto as Exhibit C, are hereby adopted.
2. The Metro Council does hereby levy ad valorem taxes, as provided in the budget adopted by Section 1 of this Ordinance, for a total amount of ELEVEN MILLION NINE HUNDRED THIRTY TWO THOUSAND EIGHT HUNDRED TWENTY NINE (\$11,932,829) DOLLARS to be levied upon taxable properties within the Metro District as of 1:00 a.m., July 1, 1994.

SIX MILLION FOUR HUNDRED THIRTY EIGHT THOUSAND SIX HUNDRED THIRTY THREE (\$6,438,633) DOLLARS shall be for the Zoo Operating Fund, said amount authorized in a tax base, said tax base approved by the voters of Metro at a general election held May 15, 1990.

FIVE MILLION FOUR HUNDRED NINETY FOUR THOUSAND ONE HUNDRED NINETY SIX (\$5,494,196) DOLLARS shall be for the Convention Center Project Debt Service

Fund, said levy needed to repay a portion of the proceeds of General Obligation bonds as approved by the voters of Metro at a general election held November 4, 1986.

3. Pursuant to Metro code Section 7.01.020(b) pertaining to the Metro Excise Tax, the Council hereby confirms that the rate of tax shall be the maximum amount allowed under the Metro Code.

4. The Regional Park and Expo Trust Fund is hereby created for the purpose of managing dedicated resources transferred from Multnomah County as part of the Intergovernmental Agreement. Sources of revenue shall be interest earnings, special event revenues, donations and contributions from other funds.

5. The Zoo Revenue Bond Fund is hereby eliminated.

6. In accordance with Section 2.02.125 of the Metro Code, the Metro Council hereby authorizes personnel positions and expenditures in accordance with the Annual Budget adopted by Section 1 of this Ordinance, and hereby appropriates funds for the fiscal year beginning July 1, 1994, from the funds and for the purposes listed in the Schedule of Appropriations, Exhibit C.

7. The Executive Officer shall make the following filings as provided by ORS 294.555 and ORS 310.060:

- a. Multnomah County Assessor
 - 1) An original and one copy of the Notice of Levy marked Exhibit D, attached hereto and made a part of this Ordinance.
 - 2) Two copies of the budget document adopted by Section 2 of this Ordinance.
 - 3) A copy of the Notice of Publication required by ORS 294.421.
 - 4) Two copies of this Ordinance.
- b. Clackamas and Washington County Assessor and Clerk
 - 1) A copy of the Notice of Levy marked Exhibit D.
 - 2) A copy of the budget document adopted by Section 2 of this Ordinance.
 - 3) A copy of this Ordinance.

- 4) A copy of the Notice of Publication required by ORS 294.421.

8. This ordinance being necessary for the health, safety, or welfare of the Metro area, for the reason that the new fiscal year begins July 1, 1994, and Oregon Budget Law requires the adoption of a budget prior to the beginning of the fiscal year, an emergency is declared to exist and the Ordinance takes effect upon passage.

ADOPTED by the Metro Council this 23rd day of June, 1994.

Judy Wyers, Presiding Officer

Attest:

Clerk of the Council

KR:mb:rs
J:\Budget\FY94-95\Proposed\94-535Or.Doc

Meeting Date: February 24, 1994
Agenda Item No. 5.2

ORDINANCE NO. 94-531

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 94-531, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.02, TO ADJUST DISPOSAL FEES CHARGED AT METRO SOLID WASTE FACILITIES, PROVIDE FOR SPECIAL EXEMPTIONS FROM FEES AND ESTABLISH COVERED LOAD REBATES

Date: February 24, 1994

Presented by: Roosevelt Carter

FACTUAL BACKGROUND AND ANALYSIS

Ordinance No. 94-531 proposes that the System Disposal rate charged at Metro facilities remain at \$75.00 per ton for FY 1994-95, that the fee categories compiling the total rate be changed to reflect estimated costs contained in the FY 1994-95 Proposed Budget and that the fees collected for the Department of Environmental Quality(DEQ) reflect actual charges. Additionally, this ordinance:

- deletes all references to the MSW Compost facility;
- inserts provisions that encourage customers to cover their loads to minimize roadside litter;
- inserts a provision that includes "conditionally exempt generators and other wastes" under the Special Waste Surcharge; and Special Waste Permit Application Fees section of the Chapter and provides for collection of applicable excise taxes; and
- provides that Metro fees for disposal of solid waste generated by a public agency, local government or qualified non-profit entity may be waived with the issuance of a special exemption permit.

System Disposal Rates

Metro increased it's System Disposal rates to \$75.00 per ton on July 1, 1992. There has not been an increase or other change in disposal rates since then. The proposed total system disposal rate remains \$75.00 per ton, however, the fee components' per ton rates change to reflect: (1) the most recent tonnage estimates; and (2) reallocation of some costs between the components. The preliminary FY 1994-95 tonnage forecast estimates 1,076,000 region wide tons including 707,800 Metro tons. Renewal and Replacement Account contributions and capital expenses related to the transfer stations have been reallocated to the Metro User Fee category from the Regional User Fee category on the recommendation of Black & Veatch, consultants who were contracted to analyze and report on Metro's rate setting practices last fiscal year. Cost estimates used to calculate the proposed rates are those contained in the FY 1994-95 Proposed Budget. As proposed, these rates will produce total revenues of \$54,557,000.

(Attachment "A" to this staff report is a Rate Analysis for FY 1994-95)

(The Rate Review Committee's, February 9, 1994, report to the Council Solid Waste Committee compares current rates to Proposed FY 1994-95 rates.)

Incentive to Minimize Roadside Litter

Approximately 75 % of cash customers arrive at Metro transfer stations with uncovered loads that create litter on the highways and streets surrounding these facilities. Existing Code language imposes either a \$25.00 or \$100.00 per load surcharge, depending on vehicle capacity, for uncovered loads arriving at the transfer stations. This surcharge is often impossible to collect and results in arguments between cash customers and Metro scalehouse personnel.

This proposed amendment provides that "cash account customers" using Metro South or Metro Central Stations pay a rate of \$100.00 per ton for material delivered. "Cash account customers" who arrive with their load covered with tight fitting tarps will receive a rebate of 25 % off the tip fee. This change in policy provides an incentive to properly cover loads rather than the current disincentive for uncovered loads. The surcharge for "credit account customers" remains unchanged.

The budget impact of this change is expected to be minimal.

Conditionally Exempt Generators and Other Wastes

The volume of household hazardous waste from non-household sources and the volume of Conditionally Exempt Generator(CEG) waste are expected to increase substantially during FY 1994-95. Non-household sources include such agencies as Goodwill Industries and the Salvation Army, recycling depots, intra-agency (Metro-Washington Park Zoo, Metro regional parks, etc.), and inter-agency activities, orphan waste and illegal disposal cleanup. Metro Hazardous Waste Technicians now pick up hazardous materials either inadvertently left or illegally dumped by the public at facilities such as those noted on an on-call basis.

The volume of CEG waste from business entities not currently served by private commercial disposals is expected to increase due to the Metro/Department of Environmental Quality(DEQ) CEG pilot program. The DEQ estimates that there are at least 2,000 Conditionally Exempt Generators in the region and possibly as many as 7,000. The experience of other communities and other similar CEG pilot programs indicate that about 85 % of known generators participate in the program generating an average of 500 pounds (62 gallons) of such waste each year. A conservative cost estimate for handling this waste next year is \$632,000. ($2,000 \times .85 \times 62 \times \6.00 .) (The average cost of disposal is \$6.00 per gallon.)

Provisions of this amendment will establish charges for household hazardous waste from non-household sources and Conditionally Exempt Generator (CEG) waste based on the actual disposal costs of such waste.

Public Agency, Local Government or Qualified Non-Profit Entity Waiver

From time-to-time, Metro receives requests from local jurisdictions, other public agencies and not-for-profit entities to waive or reduce disposal charges for illegal dumping on their property or for volunteer cleanup projects they have undertaken. Due to the nature of illegal dumping, these entities may have to divert funds from other needed services that benefit the public in order to pay unexpected disposal costs.

Provisions of this amendment would authorize the Solid Waste Director, on a case-by-case basis, to waive fees for disposal of solid waste generated by a public agency, local government or qualified not-for-profit entity within the Metro region if the following criteria are met:

- (1) Total aggregate disposal fees to be waived for the entity requesting waiver does not exceed \$5,000 per Metro fiscal year;
- (2) The waiver of fees will address or remedy a hardship suffered by the applicant, or the public interest will be served by waiver of the disposal fees;
- (3) The waste in question is acceptable for disposal at a Metro facility;
- (4) The amount of the waiver is covered by budgeted funds; and
- (5) If the applicant for a special exemption permit is a non-profit entity, and is qualified as specified in Code Section 5.07.030(a), (b), (c), (d), and (j).

The proposed Ordinance provides that the Solid Waste Director shall notify the Council 14 days in advance of the date of issuing an exemption permit under section 5.02.075 by filing a written report of the proposed action, including required findings, with the Clerk of the Council. If the Council notifies the Director within the 14-day period of its intent to review the proposed waiver, the Director shall not issue the permit unless so authorized by the Council.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends Ordinance No. 94-531 be adopted.

ATTACHMENT A

RATE ANALYSIS
FY 94-95

DESCRIPTION	Regional User Fee	Metro User Fee	Regional Transfer	Disposal / Transport	Total Allocated	Rate Allocation
Administration, Budget, Planning						
Waste Reduction, Recycling & Inf.	6,330,300				6,330,300	5.88
Transfers	3,147,092				3,147,092	2.92
Contingency	640,000	0	0	0	640,000	0.59
Capital	494,670	167,000			661,670	0.70
Debt Service	269,420	2,744,869			3,014,289	4.12
Renewal & Replacement		587,065			587,065	0.83
St Johns Closure Account	1,685,000				1,685,000	1.57
Total	12,566,482	3,498,934	0	0	16,065,416	16.61
OPERATIONS						
Management Services						
Personal Services	228,483				228,483	0.21
Materials & Services	475,120				475,120	0.44
Total	703,603	0	0	0	703,603	0.65
Scale House Services						
Personal Services		767,806			767,806	1.08
Materials & Services		226,584			226,584	0.32
Total	0	994,390	0	0	994,390	1.40
Environmental Services						
Personal Services	1,366,346				1,366,346	1.27
Materials & Services	1,064,204				1,064,204	0.99
Total	2,430,550	0	0	0	2,430,550	2.26
Disposal Services						
Materials & Services				614,900	614,900	0.87
Station Operation			5,348,482		5,348,482	7.56
Disposal /Transportation Fees	1,893,400	2,632,350		26,492,443	31,018,193	42.91
Recycling - Avoided Costs	1,422,781			0	1,422,781	1.32
Total	3,316,181	2,632,350	5,348,482	27,107,343	38,404,356	52.66
Recycling Credit	352,921				352,921	0.33
TOTAL EXPENSES\RATE	19,369,737	7,125,674	5,348,482	27,107,343	58,951,236	73.91
LESS REVENUE : Interest, etc	(\$1,830,734)	(\$831,241)	(\$589,486)	(\$1,142,451)	(\$4,393,912)	(\$5.32)
TOTAL NET RATE	\$17,539,003	\$6,294,433	\$4,758,996	\$25,964,892	\$54,557,324	68.59
TONNAGE	1,076,434	707,806	707,806	707,806		
Base Rate	\$16.29	\$8.89	\$6.72	\$36.69		\$68.59
Excise Tax (rate 7%)	\$1.14	\$0.62	\$0.47	\$2.57		4.80
Base Rate + Excise Tax	17.43	9.51	7.19	39.26		73.39
Base Rate + Excise Tax (Rounded)	17.50	9.50	7.20	39.25		73.45
DEQ Fees						1.05
Rehab. & Enhancement Fee						0.50
TOTAL RATE/ Per Ton						\$75.00



METRO

DATE: February 9, 1994
TO: Metro Council Solid Waste Committee
FROM: Rate Review Committee
RE: FY 94-95 Solid Waste Disposal Rate Report

The Rate Review Committee is required to make an annual recommendation of the Solid Waste Disposal Rate to the Metro Council Solid Waste Committee. The Rate Review Committee recommends the following rate and rate policy changes for FY 94-95:

1. Solid Waste Disposal Rate

A maximum total charge of \$75 per ton for disposal of mixed solid waste at Metro South and Metro Central Stations. The table below summarizes the fee components of the total disposal charge. Attachment A shows a comparison of the fee components between the 1993-94 Rate and the 1994-95 Rate.

Fee Component	Tonnage Rate \$/Ton
Regional User Fee	\$17.50
Metro User Fee	9.50
Regional Transfer Charge	7.20
Disposal Fee	39.25
DEQ Fees	0.92
DEQ Orphan Site Program	0.13
Rehabilitation and Enhancement Fee	0.50
Total Rate:	\$75.00

2. Rate Policy Changes

A. Rate Methodology Cost Allocation

- 1) Assign the costs of Renewal and Replacement Account contributions to the Metro User Fee component. Previously these costs were included as part of the Regional User Fee component. This change was recommended by the Black & Veatch rate report in June 1993.**
- 2) Assign the costs for capital expenses related to the transfer stations to the Metro User Fee component. Previously these costs were included as part of the Regional User Fee component. This change follows the rate setting philosophy of Black & Veatch.**

B. Rate Stabilization Account

The Rate Review Committee supports the establishment of a Rate Stabilization Account within the Solid Waste Revenue Fund to act as a cushion to smooth out the variations of revenue requirements from year to year.

ATTACHMENT A

Comparison of Rates for FY 93-94 and FY 94-95

Fee Component	Tonnage Rate \$/Ton FY 93-94	Tonnage Rate \$/Ton FY 94-95
Regional User Fee	\$19.00	\$17.50
Metro User Fee	7.00	9.50
Regional Transfer Charge	9.00	7.20
Disposal Fee	38.25	39.25
DEQ Fees	1.10	0.92
DEQ Orphan Site Program	0.15	0.13
Rehabilitation and Enhancement Fee	0.50	0.50
Total Rate:	\$75.00	\$75.00

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING	)	ORDINANCE NO. 94-531
METRO CODE CHAPTER 5.02 TO ADJUST)	
DISPOSAL FEES CHARGED AT METRO	)	Introduced by Rena Cusma,
SOLID WASTE FACILITIES, PROVIDE	)	Executive Officer
FOR SPECIAL EXEMPTIONS FROM FEES)	
AND ESTABLISH COVERED LOAD)	
REBATES)	

WHEREAS, As part of Metro's process to establish a budget for the 1994-95 fiscal year, it is necessary to adjust the components of the disposal fee charged at Metro solid waste facilities; and

WHEREAS, It was appropriate to make certain form and style amendments to Metro Code Chapter 5.02, as part of the rate component update; and

WHEREAS, The amendment made to Code Section 5.02.025(b) (Section 3 of this Ordinance) addresses difficulties with Metro's current policy of assessing a \$25 surcharge against cash account customers (self-haulers) who deliver uncovered loads of waste to Metro disposal facilities; and

WHEREAS, The existing policy has resulted in arguments between self-haulers and scalehouse personnel over imposition of the surcharge; and

WHEREAS, It is believed that establishment of a rebate to self-haulers for delivering covered loads of waste rather than a penalty for delivering uncovered loads will result in fewer arguments and is a better way to encourage self-haulers to secure their loads; and

WHEREAS, The volume of household hazardous waste from non-household sources (such as thrifts, recycling depots, inter-agency activities, orphan waste, and illegal disposal cleanup, the generation of which causes these wastes to be classified as Conditionally Exempt Generator (CEG) wastes) is expected to increase substantially due to the operation of the new Household Hazardous Waste Facility located in Northwest Portland; and

WHEREAS, The volume of CEG waste from business entities not currently served by private commercial disposal systems is expected to increase substantially due to the new Metro/Department of Environmental Quality CEG pilot program; and

WHEREAS, The pilot program will likely result in the establishment of a permanent Metro service for this specific waste stream for which no commercial or private system service exists; and

WHEREAS, The existing special waste surcharge does not cover actual disposal costs or include applicable excise taxes; and

WHEREAS, An amendment to Code Section 5.02.065 (Section 8 of this Ordinance) would allow Metro to collect from generators the actual cost of disposal of CEG wastes; and

WHEREAS, Local jurisdictions, public agencies, and nonprofit entities are sometimes responsible for unexpected disposal costs due to illegal dumping on their properties; and

WHEREAS, Paying disposal fees may take from other much needed services benefiting the public; and

WHEREAS, Such amounts are generally small and not such that system funding would be compromised if Metro disposal fees were waived; and

WHEREAS, A new Section 5.02.075 (Section 9 of this Ordinance) allows waiver of fees if certain findings are made; and

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

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Metro Code Section 5.02.010 is amended to read:

5.02.010 Purpose: The purpose of this chapter is to establish base-solid waste disposal rates, and charges and credit policy for the Metro South Station, and Metro Central Station, and the MSW Compost Facility, solid waste user fees, a regional transfer charge, an out-of-state surcharge and enhancement fees, and to establish a credit policy at Metro disposal facilities.

Section 2. Metro Code Section 5.02.015 is amended to read:

5.02.015 Definitions: As used in this chapter, unless the context requires otherwise:

(a) "Acceptable Special Wastes" means those special wastes which that are approved for disposal at Metro South or Metro Central by the Metro Solid Waste Department in the form of a special waste permit. "Unacceptable Waste," as defined in this section, is expressly excluded.

(b) "Cash Account Customer" means ~~those persons~~ a person who pays cash for disposal of solid waste at Metro South Station, or Metro Central Station, ~~or the MSW Compost Facility.~~

(c) "Credit Account Customer" means ~~those persons~~ a person who pays for disposal of solid waste through a charge account at Metro South Station, or Metro Central Station, ~~or the MSW Compost Facility.~~

(d) "Disposal Fee" means those fees which pay the direct unit costs of transportation and disposal of general purpose solid waste. Major cost components are: The long haul transport contract and the Oregon Waste Systems, Inc. disposal contract.

(e) "Enhancement Fees" means those fees collected in addition to general disposal rates that are used to pay for rehabilitation and enhancement projects in the areas immediately surrounding landfills and other solid waste facilities.

(f) "Household Hazardous Waste" means any discarded, useless or unwanted chemical, material substance or product that is or may be hazardous or toxic to the public or the environment and is commonly used in or around households which may include, but is not limited to, some cleaners, solvents, pesticides, and automotive and paint products.

(g) "Limited Purpose Solid Waste" means construction, demolition, process residue, land clearing waste and non-hazardous industrial dust.

(h) "Metro Central Station" is ~~that~~ the Metro solid waste transfer and recycling station located at 6161 N.W. 61st Avenue, Portland, Oregon, 97210.

(i) "Metro Disposal System" means Metro South Station, Metro Central Station, ~~MSW Compost Facility~~, Columbia Ridge Landfill and such other facilities, or contracts for service with Metro which transfer or cause solid waste to be disposed at the Columbia Ridge Landfill or other disposal facility.

~~(j) "MSW Compost Facility" is that solid waste mass compost facility located at 5611 N.E. Columbia Boulevard, Portland, Oregon, 97232.~~

~~(k)~~ (j) "Metro South Station" is ~~that~~ the solid waste transfer station owned and operated by Metro and located at 2001 Washington, Oregon City, Oregon 97045.

~~(k)~~ (k) "Metro User Fee (Tier Two)" means those fees which pay for fixed costs of the Metro Disposal System. This fee is imposed upon all solid waste delivered to any Metro Disposal System facility which delivery will affect Metro's reserved space capacity at the Columbia Ridge Landfill. Fixed costs of the Oregon Waste Systems disposal contract, the

long haul transport contract, debt service and capital items directly related to the facilities are paid through this fee.

~~(m)~~(l) "Metro Waste Management System" means all associated Metro solid waste services related to management of the whole recycling, processing and disposal system, including administrative, planning, financial, engineering and waste reduction activities.

~~(n)~~(m) "Person" means any individual, partnership, association, corporation, trust, firm, estate, joint venture or any other private entity or any public agency.

~~(o)~~(n) "Regional Transfer Charge" means those fees which pay the direct unit operating costs of the Metro transfer stations ~~and compost facility~~. This fee is imposed upon all solid waste delivered to Metro Disposal System facilities.

~~(p)~~(o) "Regional User Fee ~~(Tier One)~~" means those fees which pay for fixed costs associated with administrative, financial and engineering services and waste reduction activities of the Metro Waste Management System. Contingency fees on all costs and general transfers of solid waste funds to other Metro departments for direct services are included in this fee. This fee is collected on all solid waste originating or disposed ~~of~~ within the region.

~~(q)~~(p) "Special Loads" mean all loads of Household Hazardous Waste that are 35 gallons or more in the aggregate or loads that contain any acutely hazardous waste.

~~(r)~~ "St. Johns Landfill" is that landfill owned and managed by Metro and located at 9363 N. Columbia Boulevard, Portland, Oregon 97203, which is closed to all commercial activities and is now undergoing active closure.

~~(s)~~(q) "Solid Waste" means all putrescible and nonputrescible wastes, including garbage, rubbish, refuse, paper and cardboard, commercial, industrial, demolition and construction waste, home and industrial appliances.

~~(t)~~(r) "Source Separated Yard Debris" means twigs, branches, grass clippings, leaves, and tree limbs in a form appropriate for mechanical processing for reuse or sale. Source separated yard debris does not include yard or construction debris that is not appropriate for mechanical processing for reuse or sale or that has unacceptable types or amounts of contaminants mixed with it. The operator or person in charge of accepting this waste shall make the final determination of what is source separated yard debris based on the capability of available machinery to process it. The Director of Solid Waste may establish guidelines for determining what is source separated yard debris within the meaning of this chapter.

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

- (1) Containerized waste (e.g., a drum, barrel, portable tank, box, pail, etc.) of a type listed in 3 through 9 and 11 of this definition below; or
- (2) Waste transported in a bulk tanker; or
- (3) Liquid waste including outdated, off spec liquid food waste or liquids of any type when the quantity and the load would fail the paint filter liquid (Method 9095, SW-846) test or is 25 gallons of free liquid per load, whichever is more restrictive.
- (4) Containers (or drums) which once held commercial products or chemicals are included unless the container is empty. A container is empty when:
 - (A) All wastes have been removed that can be removed using the practices commonly employed to remove materials from the type of container, e.g., pouring, pumping, crushing, or aspirating.
 - (B) The ends have been removed (for containers in excess of 25 gallons); and
 - (C) No more than one inch thick (2.54 centimeters) of residue remains on the bottom of the container or inner liner; or
 - (D) No more than 1 percent by weight of the total capacity of the container remains in the container (for containers up to 110 gallons); or
 - (E) No more than 0.3% by weight of the total capacity of the container remains in the container for containers larger than 110 gallons.

Containers which once held acutely hazardous wastes must be triple rinsed with an appropriate solvent or cleaned by an equivalent alternative method. Containers which once held substances regulated under the Federal Insecticide, Fungicide, and Rodenticide Act must be empty according to label instructions or triple rinsed with an appropriate solvent or cleaned by an equivalent method. Plastic containers larger than five (5) gallons that hold any regulated waste must be cut in half

or punctured, dry and free of contamination to be accepted as refuse; or

- (5) Sludge waste from septic tanks, food service, grease traps, wastewater from commercial laundries, laundromats or car washes; or
- (6) Waste from an industrial process; or
- (7) Waste from a pollution control process; or
- (8) Residue or debris from the cleanup of a spill or release of chemical substances, commercial products or wastes listed in 1 through 7 or 9 of this definition; or
- (9) Soil, water, residue, debris, or articles which are contaminated from the cleanup of a site or facility formerly used for the generation, storage, treatment, recycling, reclamation, or disposal of wastes listed in 1 through 8 of this definition; or
- (10) Chemical containing equipment removed from service (for example - filters, oil filters, cathode ray tubes, lab equipment, acetylene tanks, CFC tanks, refrigeration units, or any other chemical containing equipment); or
- (11) Waste in waste containers that are marked with a National Fire Protection Association identification label that has a hazard rating of 2, 3, or 4 but not empty containers so marked; or
- (12) Any waste that requires extraordinary management.

Examples of special wastes are: chemicals, liquids, sludge and dust from commercial and industrial operations; municipal waste water treatment plant grits, screenings and sludge; contaminated soils; tannery wastes, empty pesticide containers, and dead animals or by-products.

~~(v)~~(t) "Total Fees" means the total per transaction of all tip and special fees.

~~(w)~~(u) "Unacceptable Waste" means ~~any and all~~ waste that is either:

- (1) ~~Waste which is p~~Prohibited from disposal at a sanitary landfill by state or federal law, regulation, rule, code, permit or permit condition; or
- (2) A hazardous waste; or

- (3) Special waste without an approved special waste permit; or
- (4) Infectious Medical Waste.

Section 3. Metro Code Section 5.02.025 is amended to read:

5.02.025 Disposal Charges at Metro South Station, Metro Central Station and the MSW Compost Facility and the Metro Household Hazardous Waste Facilities:

(a) Total fees for disposal by credit account customers shall be \$75.00 (Seventy-five dollars) per ton of solid waste delivered for disposal at the Metro South Station, or Metro Central Station and the MSW Compost Facility.

(b) Total fees for disposal by cash account customers shall be \$100.00 per ton of solid waste delivered for disposal at Metro South Station or Metro Central Station. A cash account customer delivering a load of waste such that no portion of the waste is visible to Metro scalehouse personnel (unless the waste is only visible through a secure covering), shall receive a 25 percent rebate.

(b)(c) The total disposal fees specified in subsection (a) and (b) of this section include:

- (1) A disposal fee of \$39.25 per ton;
- (2) A regional transfer charge of \$7.20 per ton;
- (3) The user fees specified in Section 5.02.045;
- (4) An enhancement fee of \$.50 per ton established to be charged at the Metro South Station, Metro Central Station and the MSW Compost Facility; and
- (5) DEQ fees totaling \$1.05 per ton.

(e)(d) Notwithstanding the provisions of Sections 5.02.025 (a) and (b), persons subsection (b) of this section, cash account customers using Metro South Station or Metro Central Station, other than Credit Account Customers, who have separated and included in their loads at least one half cubic yard of recyclable material (as defined in ORS 459.005) shall receive a \$3.00 credit toward their disposal charge if their load is transported inside a passenger car or in a pickup truck not greater than a 3/4 ton capacity. The foregoing recyclable material credit shall not apply at Metro Central Station or the MSW Compost Facility.

~~(d) The disposal fee and enhancement fee established by this section shall be in addition to other fees, charges and surcharges established pursuant to this chapter.~~

~~(e) The following table summarizes the disposal charges to be collected by the Metropolitan Service District from all persons disposing of solid waste at the Metro South Station, Metro Central Station and the MSW Compost Facility. The minimum charge shall be \$19.00 for all credit account vehicles and shall be \$19.00\$25.00 for all cash account vehicles. The minimum charge shall be adjusted by the covered load rebate as specified in subsection (b) of this section, and may also be reduced by application of the recycling credit provided in subsection (d) of this section. If both the rebate and the recycling credit are applicable, the rebate shall be calculated first.~~

(f) Total fees assessed at Metro facilities shall be rounded to the nearest whole dollar amount (a \$.50 charge shall be rounded up) for all cash account customers.

(g) A fee of \$5.00 is established to be charged at the Metro Household Hazardous Waste facilities for each load of Household Hazardous Waste.

(h) A fee of \$10.00 is established at the Metro Household Hazardous Waste facilities for special loads.

~~(i) The following table summarizes the disposal charges to be collected by Metro from all persons disposing of solid waste at Metro South Station and Metro Central Station:~~

METRO SOUTH STATION
METRO CENTRAL STATION
MSW-COMPOST FACILITY

Fee Component	\$/Ton	Tonnage Rate
Disposal Fee		\$38.2539.25
Regional User Fee (Tier One)		\$19.0017.50
Metro User Fee (Tier Two)		7.009.50
Regional Transfer Charge		9.007.20
Total Rate		\$73.2573.45
Additional Fees		
Enhancement Fee		\$.50
DEQ Fees		1.05
Total Disposal Fee:		\$75.00

Minimum Charge per Vehicle

Per Charge Account Vehicle	\$19.00
Per Cash Account Vehicle (subject to possible covered load rebate and recycling credit)	25.00

Tires	Type of Tire	Per Unit
	Car tires off rim	\$1.00
	Car tires on rim	\$3.00
	Truck tires off rim	\$5.00
	Truck tires on rim	\$8.00
	Any tire 21 inches or larger diameter off or on rim	\$12.00

~~* Total Rate does not include state imposed fees which are currently \$1.10 DEQ Promotion Program Fee and \$.15 DEQ Orphan Site Program Fee and enhancement fees currently \$.50 per ton or taxes other than excise taxes. The actual fees collected after addition of all taxes and fees shall be rounded up to the closest \$.50.~~

Section 4. Metro Code Section 5.02.045 is amended to read:

5.02.035 Litter Control Surcharge: A surcharge of \$100.00 per load shall be levied against a person-Metro credit account customer who disposes of waste at a Metro-operated solid waste disposal facility, transfer station, recycling center or compost facility, if when entering the facility any portion of the waste is visible to Metro scalehouse personnel, unless the waste is only visible through a secure covering. The surcharge shall be ~~One Hundred (\$100.00) Dollars for a load delivered by a vehicle greater than three quarter ton capacity,~~ and \$25.00 (Twenty five Dollars) for a load delivered by a vehicle of three quarter ton capacity or less, and shall be collected in the same manner as other disposal fees are collected at the facility.

Section 5. Metro Code Section 5.02.040 is repealed.

Section 6. Metro Code Section 5.02.045 is amended to read:

5.02.045 User Fees:

The following user fees ~~are established and~~ shall be collected and paid to Metro by the operators of solid waste disposal facilities, whether within or ~~without~~ outside of the boundaries of Metro, for the disposal of solid waste generated, originating, collected or disposed of within Metro boundaries, in accordance with Metro Code Section 5.01.150:

(a) Regional User Fee (Tier One):

For compacted or noncompacted solid waste, ~~\$19.00~~ \$17.50 per ton delivered.

(b) Metro User Fee (Tier Two):

~~\$7.00~~ \$9.50 per ton for all solid waste delivered to Metro-owned or operated facilities.

(c) Inert material, including but not limited to earth, sand, stone, crushed stone, crushed concrete, broken asphaltic concrete and wood chips used at the St. Johns Landfill for cover, diking, road base or other internal use shall be exempt from the above user fees.

(d) User fees shall not apply to wastes received at franchised processing centers that accomplish materials recovery and recycling as a primary operation.

(e) Notwithstanding the provisions of (a) and (b) above, Metro User Fees may be assessed as may be appropriate for solid waste which is the subject of a Non-System License under Chapter 5.05 of the Metro Code.

Section 7. Metro Code Section 5.02.050 is repealed.

Section 8. Metro Code Section 5.02.065 is amended to read:

5.02.065 Special Waste Surcharge and Special Waste Permit Application Fees, Conditionally Exempt Generator Waste:

(a) Special Waste.

- (1) ~~There is hereby established a~~ Special Waste Surcharge and a Special Waste Permit Application Fee ~~which shall be collected on all special wastes disposed of at Metro facilities and on all Special Waste Permit Applications. Said~~ The surcharge and fee shall be in addition to any other charge or fee established by this chapter. The purpose of the surcharge and permit application fee is to require disposers of special waste to pay the cost of ~~these services which are provided by the Metro Solid Waste Department to manage special wastes. The said~~ surcharge and fee shall be applied to all acceptable special wastes, ~~as defined in Metro Code Section 5.02.015, with the exception of CFC tanks and refrigeration units.~~
- (b)(2) ~~The amount of~~ The Special Waste Surcharge ~~collected shall be \$4.00 per ton of special waste delivered.~~
- (c)(3) ~~The amount of~~ The Special Waste Permit Application Fee shall be \$25.00. This fee shall be collected at the time Special Waste Permit Applications are received for processing.
- (d)(4) Lab or testing costs ~~which are incurred by Metro for evaluation of a particular waste may be charged to the disposer of that waste.~~
- (e)(5) The amount charged for residential refrigeration units and CFC containing tanks shall be \$15.00.
- (f)(6) The amount charged for commercial refrigeration units shall be \$20.00.
- (g)(7) Refrigeration units that can be certified as free of CFC chemical content shall be considered a recyclable and therefore exempt from any fee.

(b) Conditionally exempt generator (CEG) waste. The amount charged for acceptance of CEG waste and for household hazardous waste from non-household sources

shall be the actual disposal costs of such waste calculated from the current Metro contractor price schedules, Metro and/or contractor labor costs, and all applicable excise taxes.

Section 9. The following Section 5.02.075 is added to and made part of Metro Code Chapter 5.02:

5.02.075 Special Exemption From Disposal Fees

(a) The Solid Waste Director may issue a special exemption permit to a public agency, local government or qualified non-profit entity, waiving fees for disposal of solid waste generated within the Metro region, by making the following findings:

- (1) Total aggregate disposal fees to be waived for the entity requesting waiver does not exceed \$5,000 per Metro fiscal year;
- (2) The waiver of fees will address or remedy a hardship suffered by the applicant, or the public interest will be served by waiver of the disposal fees;
- (3) The waste in question is acceptable for disposal at a Metro facility;
- (4) The amount of the waiver is covered by budgeted funds; and
- (5) If the applicant for a special exemption permit is a nonprofit entity, such entity is qualified as specified in Code Section 5.07.030(a),(b),(c),(d), and (j).

(b) The Solid Waste Director shall notify the Council 14 days in advance of the date of issuance of an exemption permit under this section by filing a written report of the proposed action, including required findings, with the Clerk of the Council. If the Council notifies the Director within the 14-day period of its intent to review the proposed waiver, the Director shall not issue the permit unless so authorized by the Council.

ADOPTED by the Metro Council this ____ day of _____, 199__.

Judy Wyers, Presiding Officer

ATTEST:

Clerk of the Council

ds 1153

Meeting Date: February 24, 1994
Agenda Item No. 6.1

RESOLUTION NO. 94-1899

Staff Report

CONSIDERATION OF RESOLUTION 94-1899, FOR THE PURPOSE OF ACCEPTING A SIXTH ROUND OF NOMINEES TO THE METRO COMMITTEE FOR CITIZEN INVOLVEMENT (METRO CCI) TO FILL VACANCIES IN THE MEMBERSHIP OF THE COMMITTEE.

Date: February 8, 1994

Presented by: Judy Shioishi

Background. Metro Council adoption of the Regional Urban Growth Goals and Objectives (RUGGO) on September 26, 1991 included citizen participation as the first objective under Goal 1, the Regional Planning Process. Metro established the Metro Committee for Citizens Involvement (renamed from the Regional Citizen Involvement Coordinating Committee) to assist with the development, implementation and evaluation of its citizen involvement program and to advise in ways to best involve citizens in regional planning activities.

The Charter outlined an Office of Citizen Involvement, as well as a citizen committee within that office. The Council created the Office of Citizen Involvement and established the Metro CCI as the citizen's committee to assist in the same fashion as outlined above.

The first meeting of the committee took place in December of 1992. During the past year, the committee membership developed a number of vacancies, due to moves and other commitments for those involved. The fifth round of the selection process was attributable to the requirement in the bylaws which started staggered terms for the membership. Seven of the 19 positions had terms set to expire at the end of the calendar year. The fifth round was intended to fill those seats, in addition to filling vacancies which had developed.

That round of the selection process did not fill all of the vacant positions. In both Clackamas and Washington County, the citizen organizations expressed concern over having a small number of applications to review (in certain districts there were fewer applications than vacancies). This sixth round of nominations forwards candidates from Clackamas County, and one from Multnomah County. The meetings took place on December 31, 1993, and January 12, 1994. Rather than holding these nominees for the next round, they have been forwarded in an effort to help them become involved as early as possible.

BEFORE THE METRO COUNCIL

DRAFT

FOR THE PURPOSE OF ACCEPTING	)	RESOLUTION NO. 94-1899
A SIXTH GROUP OF NOMINEES TO)	
THE METRO COMMITTEE FOR CITIZEN	)	Introduced by The Governmental
INVOLVEMENT (METRO CCI)	)	Affairs Committee

WHEREAS, The Metro Council adopted the Regional Urban Growth Goals and Objectives (RUGGOs) on September 26, 1991 by Ordinance 91-418B; and

WHEREAS, A partnership is described therein between Metro, citizens, cities, counties, special districts, school districts, and state and regional agencies to work together in this planning process; and

WHEREAS, Citizen Participation is included in the RUGGOs as the first objective under Goal 1, the Regional Planning Process; and

WHEREAS, Objective 1.1 states that Metro shall establish a Regional Citizen Involvement Coordinating Committee (RCICC) to assist with the development, implementation and evaluation of its citizen involvement program, and

WHEREAS, a committee was formed to draft, develop, solicit comments upon, and revise, a set of bylaws to establish the RCICC; and

WHEREAS, These bylaws identify the committee as the Metro Committee for Citizen Involvement (Metro CCI); and

WHEREAS, These bylaws have been adopted by the Metro Council by Resolution No. 92-1580A on May 28, 1992; and

WHEREAS, The Metro Charter called for the creation of an Office of Citizen Involvement, and the establishment of a citizens committee therein; and

WHEREAS, The Metro Council created said Office and established the Metro CCI as the citizen committee within that Office, by adopting Ordinance No. 93-479A,

WHEREAS, The Metro Council accepted the initial membership of the Metro CCI by Resolution No. 92-1666 on August 27, 1992; and

WHEREAS, The Metro Council approved the second round of applicants nominated to the Metro CCI by Resolution No. 92-1702 on October 20, 1992; and

WHEREAS, A third round of the selection process was approved by Resolution No. 92-1763 which was required to fill remaining vacancies and to fill a vacancy resulting from a change in residence; and

WHEREAS, A fourth round of the selection process was required and approved by Resolution No. 93-1859 to fill subsequent vacancies; and

WHEREAS, A fifth round of the selection process was required to fill seats which were vacated due to the expiration of certain terms, and other circumstances.

WHEREAS, This sixth round of applicants have forwarded as nominees to the Metro CCI, these individuals were selected from their county's pool of applicants to act as their representatives and alternates in the activities of the Metro CCI; now, therefore,

BE IT RESOLVED,

That the Metro Council accepts the persons nominated for membership on the Metro Committee for Citizen Involvement (Metro CCI) identified in Exhibit A attached to this resolution.

ADOPTED BY THE METRO COUNCIL this ____ day of _____, 1994.

Judy Wyers, Presiding Officer

EXHIBIT A
METRO COMMITTEE FOR CITIZEN INVOLVEMENT (METRO CCI)
POSITION DESCRIPTIONS & NOMINEES TO FILL VACANT POSITIONS
PHASE VI - February 8, 1994

REPRESENTING AREAS WITHIN METRO COUNCIL DISTRICTS:

Position #5 member and alternate: Represents area within Metro Council district #5 in Clackamas County for a three year term; beginning January 1, 1994 and ending on December 31, 1996.

Member: Edward P. Gronke
4912 SE Rinearson Rd.
Milwaukie, OR 97267

Alternate: Patty Mamula
3119 Cottonwood Court
West Linn, OR 97068

Position #10 alternate: Represents area within Metro Council district #8 in Multnomah County for the remainder of a two year term; and ending on December 31, 1994.

Alternate: Robert L. Jones
11923 NE Sacramento Str.
Portland, OR 97222

Meeting Date: February 24, 1994
Agenda Item No. 6.2

RESOLUTION NO. 94-1907

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 94-1907 FOR THE PURPOSE OF ESTABLISHING A "METRO REGIONAL HAZARD MITIGATION AWARDS PROGRAM" TO: (1) RECOGNIZE EXCELLENCE IN THE DESIGN AND CONSTRUCTION OF BUILDINGS TO REDUCE THE RISK TO PUBLIC HEALTH AND SAFETY FROM SEISMIC HAZARDS; (2) RECOGNIZE SPECIAL EFFORT BY PRIVATE OR PUBLIC AGENCIES TO REDUCE RISKS TO THE PUBLIC OR TO THE WORK FORCE THROUGH NON-STRUCTURAL MITIGATION MEASURES; AND (3) HONOR INDIVIDUALS WHO HAVE DEMONSTRATED DEEP AND CONSISTENT COMMITMENT TO IMPROVING THE COMMUNITY'S EMERGENCY PREPAREDNESS CAPABILITY

Date: February 2, 1994

Presented by Andrew Cotugno

PROPOSED ACTION

The resolution provides that the Metro Council approve the establishment of a regional awards program to (1) recognize excellence in the design and construction of buildings to reduce the threat to the public health and safety from seismic hazards; (2) recognize special effort by private or public agencies to reduce risks to the public or to the work force through non-structural mitigation measures; and (3) honor individuals who have demonstrated deep and consistent commitment to improving the community's emergency preparedness capability.

FACTUAL BACKGROUND

In recent years, there has been growing awareness among residents that Oregon, in general, and the Portland metropolitan area, specifically, face greater risks from earthquake damage than had been generally appreciated.

Past earthquakes in other areas of the nation and the world have clearly demonstrated that the primary cause of death and injury from earthquakes is due to the failure of buildings and other structures that have high rates of human occupancy. Modern earthquakes in the United States, especially compared to the experience of lesser developed countries.

History has clearly demonstrated that creative and careful design, engineering and construction techniques can significantly reduce the amount of damage caused by earthquakes.

In addition to the positive effect of appropriate engineering and construction techniques, non-structural mitigation measures can also contribute substantially to improved survival rates and quicker recovery following a disaster. Non-structural mitigation measures may include securing water heater to the wall, securing computer and communications equipment to workstations, fastening shelving to wall studs and floor joists, and applying safety film to large glass windows in areas of high population.

Hard work is required to promote awareness of the need for hazard mitigation measures. Dedicated and energetic people committed to improving the community's ability to respond to and recover from disasters are essential to improving the regional emergency management system. It is relatively easy to espouse the importance of disaster preparedness after an emergency when the entire community recognizes the importance of being ready to respond. It is more difficult to maintain that commitment on a day-to-day basis, when other pressing societal needs compete for scarce resources with preparedness programs. There are individuals, however, of such vision, energy and dedication that their work has had a demonstrable positive impact on the preparedness capability of their communities. These individuals include not only governmental public safety personnel, but volunteers for private organizations, private executives and business owners.

As proposed, the "Metro Regional Hazards Mitigation Awards Program" will offer a mechanism to recognize exceptional merit in the three primary areas of disaster loss reduction -- (1) Excellence of design and construction techniques; (2) Implementation of non-structural hazard mitigation measures; and (3) Personal dedication and commitment to disaster preparedness programs.

The proposed program will begin during the **1994 Emergency Preparedness Conference** which is scheduled for June 16-17, 1994. Jointly sponsored by Metro and the State of Oregon, the conference provides an exciting opportunity to recognize excellence in the field of hazard mitigation.

As proposed, the existing Conference Planning Committee will act as the "Hazard Mitigation Awards Search Committee" to nominate persons to receive the awards. The selections will be made by the Metro Council Governmental Affairs Committee.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 94-1907.

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02/02/94

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ESTABLISHING)	RESOLUTION NO. 94-1907
A " <u>METRO REGIONAL HAZARD MITIGATION</u>)	
<u>AWARDS PROGRAM</u> " TO: (1) RECOGNIZE	)	Introduced by Rena Cusma,
EXCELLENCE IN THE DESIGN AND	)	Executive Officer
CONSTRUCTION OF BUILDINGS TO REDUCE)	
THE RISK TO PUBLIC HEALTH AND)	
SAFETY FROM SEISMIC HAZARDS;)	
(2) RECOGNIZE SPECIAL EFFORT BY)	
PRIVATE OR PUBLIC AGENCIES TO REDUCE)	
RISKS TO THE PUBLIC OR TO THE WORK)	
FORCE THROUGH NON-STRUCTURAL)	
MITIGATION MEASURES; AND (3) HONOR)	
INDIVIDUALS WHO HAVE DEMONSTRATED)	
DEEP AND CONSISTENT COMMITMENT TO)	
IMPROVING THE COMMUNITY'S EMERGENCY)	
PREPAREDNESS CAPABILITY)	

WHEREAS, An important mission of Metro is to promote awareness of the seismic risk issues facing the Portland metropolitan area, in partnership with state and local governmental agencies; and

WHEREAS, Metro recognizes that hazard mitigation measures can significantly reduce the loss of life, severity of injury and cost of property damage following an earthquake or other major emergency; and

WHEREAS, Metro desires to establish an awards program to recognize and honor those individuals and businesses that have voluntarily initiated important hazard mitigation measures in the metropolitan area; and

WHEREAS, Metro and the State of Oregon will co-sponsor the 1994 Emergency Preparedness Conference in Portland June 16-17, 1994; now, therefore,

BE IT RESOLVED,

1. That there is hereby established the "Metro Regional Hazard Mitigation Awards Program" to provide an annual opportunity to: (1) recognize excellence in the design and construction of buildings to reduce the threat to the public health and

safety from seismic hazards; (2) recognize special effort by private or public agencies to reduce risks to the public or the workforce through non-structural mitigation measures; and (3) honor individuals who have demonstrated deep and consistent commitment to improving the community's emergency preparedness capability.

2. That the first annual awards to be presented at the **1994 Emergency Preparedness Conference** scheduled for June 16-17, 1994.
3. That for the first year's award selection, the existing Emergency Preparedness Conference Planning Committee serve as the "Hazard Mitigation Award Search Committee" for the purpose of identifying and nominating individuals for receipt of the awards.
4. That final selection of award recipients be made by the Metro Council Governmental Affairs Committee.

ADOPTED by the Metro Council this ____ day of _____, 1994.

Judy Wyers, Presiding Officer

Meeting Date: February 24, 1994
Agenda Item No. 7.1

RESOLUTION NO. 94-1905



METRO

DATE: February 18, 1994

TO: Metro Council
Executive Officer
Agenda Recipients

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

RE: AGENDA ITEM NO. 7.1; RESOLUTION NO. 94-1905

The Planning Committee met on February 17 to consider the above resolution. Planning Committee reports will be distributed in advance to Councilors and available at the Council meeting February 24, 1994.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE) RESOLUTION No. 94-1905
FY 1994 METRO TRANSPORTATION)
IMPROVEMENT PROGRAM TO ALLOCATE)
FUNDS TO SUPPORT THE OREGON)
TRANSPORTATION FINANCE COMMITTEE) Introduced by
PUBLIC OUTREACH PROGRAM) Councilor Rod Monroe

WHEREAS, The Oregon Transportation Commission (OTC) adopted the Oregon Transportation Plan (OTP) to identify multi-modal solutions to the state's long-range transportation needs; and

WHEREAS, The OTP identifies the need to significantly increase transportation funding sources to meet these needs; and

WHEREAS, The Oregon Transportation Finance Committee (OTFC), formerly the Oregon Roads Finance Committee, is committed to identification of strategies to increase funding for multi-modal transportation system investment and has broadened its constituency to include transit districts and public ports; and

WHEREAS, The OTFC has concluded that a public outreach effort is necessary to inform citizens, elected officials and other stakeholders of the need for and benefits of transportation infrastructure investment; and

WHEREAS, The Portland metropolitan area receives direct allocation of Regional STP funds; and

WHEREAS, Use of other STP funds by the League of Oregon Cities and the Association of Oregon Counties to support their fair share of the study leaves Metro's local jurisdictions unrepresented; and

WHEREAS, The region's local jurisdiction share of the outreach effort is \$8,700; now therefore

BE IT RESOLVED:

1. That the FY 1994 Metro TIP be amended to allocate \$8,700 of Regional STP funds to support the OTFC public outreach effort.
2. That Metro request amendment of the state TIP to reflect this amendment.

ADOPTED by the Metro Council this ____ day of _____,
1994.

Judy Wyers, Presiding Officer

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TW:hmk
2-2-94

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 94-1905 FOR THE PURPOSE OF AMENDING THE FY 1994 METRO TRANSPORTATION IMPROVEMENT PROGRAM TO ALLOCATE FUNDS TO SUPPORT THE OREGON TRANSPORTATION FINANCE COMMITTEE PUBLIC OUTREACH PROGRAM

Date: February 2, 1994

Presented by: Andrew Cotugno

PROPOSED ACTION

Adoption of this resolution would amend the FY 1994 Metro TIP to allocate \$8,700 of regional STP funds to support the Oregon Transportation Finance Committee (OTFC) public outreach effort throughout Oregon in FY 1994. This action would reduce the Regional STP Reserve account to approximately \$20.9 million.

FACTUAL BACKGROUND AND ANALYSIS

The Oregon Transportation Finance Committee (OTFC) is the successor organization of the Oregon Roads Finance Committee. The name change reflects that the Committee's mission has been expanded to identify transportation funding strategies consistent with adoption of the Oregon Transportation Plan and the plan's emphasis on multi-modal solutions to Oregon's transportation needs. Accordingly, the committee composition has been expanded to encompass transit districts and ports and, in total, is composed of representatives of the following organizations: the Oregon Transit Association, the Oregon Public Ports Association, the League of Oregon Cities (LOC), the Association of Oregon Counties (AOC), and ODOT.

The OTFC proposes a public outreach effort to inform citizens, elected officials and stakeholders of the goals of the Oregon Transportation Plan's proposals for meeting future statewide transportation needs. Improved awareness of the needs and benefits of transportation infrastructure investment is expected to increase the understanding of citizens and elected officials when they are confronted with a decision to increase transportation funding.

The outreach effort will cost \$110,000 during calendar year 1994. The LOC and AOC will use STP funds for the study. The Metro region receives its own STP allocation so the LOC/AOC contributions will not "cover" participation in the study by local jurisdictions within the Metro area. The Metro area's share of the study is \$8,700. This resolution proposes to meet this responsibility using a portion of the region's STP allocation.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 94-1905.



CITY OF

PORTLAND, OREGON

OFFICE OF TRANSPORTATION

TRANSPORTATION DEPT.

JAN 20 1994

Earl Blumenauer, Commissioner
Felicia Trader, Director
1120 S.W. Fifth Avenue
Suite 702
Portland, Oregon 97204-1957
(503) 823-7001
FAX (503) 823-7576
TDD 823-6868

January 19, 1994

Andy Cotugno
Planning Director
Metro
600 NW Grand Ave.
Portland, Oregon 97232-2736

Dear Andy,

The Oregon Transportation Finance Committee (OTFC), formerly known as the Roads Finance Study Committee, will be conducting a public education and outreach effort across Oregon during 1994. This outreach effort is intended to make citizens, elected officials and stakeholders aware of the Oregon Transportation Plan and transportation needs throughout the state. It is the expectation of the OTFC that as a result of the outreach effort transportation needs will be better understood by the public and elected officials when they are confronted with a decision to increase transportation funding. The estimated cost of the public education and outreach effort during calendar year 1994 is \$110,000.

The entities represented on the OTFC: the Oregon Transit Association, the League of Oregon Cities, the Oregon Public Ports Association, the Association of Oregon Counties and the Oregon Department of Transportation, will share the cost of the outreach program. The League of Oregon Cities and the Association of Oregon Counties will be using Surface Transportation Program (STP) funds to pay for their share of the outreach effort (35.6 percent - combined), however, this leaves out a contribution by jurisdictions in the Portland region because the region receives a direct allocation of STP funds from the federal government. To fairly spread the costs of this study I would like to request that TPAC, JPACT and the Metro Council approve the allocation of \$8,700 in STP funds to cover the Portland region's share of the local government STP contribution.

Thank you for your attention to this matter and please call me at 823-7569 if I can answer any questions or be of any help.

Sincerely,

Kate Deane
Interim Steering Committee Chair
Oregon Transportation Finance Committee

Meeting Date: February 24, 1994
Agenda Item No. 7.2

RESOLUTION NO. 94-1900



M E T R O

To: Planning Committee

From: Gail Ryder, Senior Council Analyst

Date: February 3, 1994

Re: Resolution 94-1900, For the Purpose of Endorsing the NW 112th Linear Park for Funding as Part of the ODOT Region 1 Priorities for Transportation Enhancement Funding in the 1995-1998 Transportation Improvement Program (TIP)

PREVIOUS COMMITTEE/COUNCIL ACTION:

Resolution 93-1858, endorsing the ODOT Region 1 priority 1995 - 1998 Transportation Enhancement Projects was reviewed last October by the Transportation Policy Alternatives Committee (TPAC), the Joint Policy Advisory Committee on Transportation (JPACT), the Planning Committee and Metro Council. Following TPAC and JPACT review, the Planning Committee approved the resolution 5-1. The Metro Council, however, by an 8-3 vote chose to approve a minority report submitted by Councilor Moore that severed project 37, the 112th Linear Park in Washington County and remanded the project to JPACT and TPAC for further review.

This action by the Council was based upon significant testimony at JPACT, TPAC and the Planning Committee in opposition to inclusion of the project. This objection was based on what was believed to be:

- an inadequacy of the initial ranking procedure;
- the apparent lack of adherence to the public involvement process required under the Intermodal Surface Transportation Efficiency Act (ISTEA) for development of the project list; and
- failure to meet the criteria for funding.

Testimony before the Metro Council, however, was mixed. One witness provided an endorsement letter signed by 40 Cedar Mills citizens with residences bordering the proposed park. What was clear from all testimony was the fact that approval of this project is irrevocably linked to the NW 112th Extension Project; a controversial action by Washington County to link their northeast county transportation system between Cornell and Barnes Road. Further complicating the issue was the appeal that was then before the Land Use Board of Appeals (LUBA).

JPACT ACTION: On November 10, JPACT was informed of the Metro Council action. JPACT's response was to set up a subcommittee to "give ample time for all sides, and a summary of comments received will be brought before JPACT for further consideration. . . ." Beaverton Mayor Rob Drake agreed to serve as chair of the hearing, assisted by Metro staff."

On December 8, then JPACT Chair George Van Bergen sent a memo to JPACT that was entered for the record but never discussed verbally or voted on. In his memo he concluding that JPACT should not conduct a public hearing citing the hearing to be "an unnecessary burden on the concerned citizens who have already testified numerous times. . . ." "Further testimony would not, in my judgment, produce new information that we are not already familiar with." Instead, he directed the staff to summarize both sides of the issue as represented by all testimony, summarize the process followed at Metro and by ODOT, and discuss implications of proceeding or withdrawing this project from further consideration.

STAFF RECOMMENDATION: Department staff reviewed the project and concluded the project should be resubmitted to JPACT and Metro Council with the same recommendation. They prepared a more complete staff report that more fully clarified issues arising from the first round of discussions before the Planning Committee and Metro Council. Their complete rationale for this recommendation is found in the staff report, but basically this recommendation was based on the following:

- The project meets federal guidelines by having a relationship to the intermodal transportation system through function, proximity, and impact.
- The project will provide a quality bicycle and pedestrian connection from area neighborhoods through Peterkort to the Sunset Transit Center.
- A Washington County public process resulted in project support by

residents in the NW 112th area as mitigation above and beyond the norm for transportation projects.

- The project is consistent with the Washington County Comprehensive Plan and must be included to receive funding.

TPAC ACTION: Last Friday, TPAC discussed the issue. The staff outlined TPAC's options as: 1) approving the staff recommendation; or 2) substituting the next prioritized project on the contingency list - the Barlow Road Corridor/Moss Hill Preservation project in Clackamas County. No additional information was provided regarding substitution of the Barlow Road project from the contingency list. Washington County submitted a letter again expressing support of the staff recommendation.

Mollie O'Reilly, TPAC citizen member, asked whether citizens had been contacted during the time since the Metro Council remanded this action to JPACT and TPAC. She cited JPACT's promise to hold a public hearing. Staff explained that they had recommended that JPACT not hold a public hearing in lieu of a staff summarization of all comments. Ms. O'Reilly argued that without additional opportunity for citizen comment, this decision looks like a "back room deal". She moved to table the resolution until there is further public involvement. Gordon Hunter, TPAC citizen member, agreed.

Debate on the issue of tabling continued for nearly an hour. The Chair was reminded that the motion to table was not open to debate but debate continued. Ms. O'Reilly asked whether she believed there would be new testimony brought out by such a public hearing. She responded, "how do we know unless we allow it?" There was a suggestion that JPACT hold the hearing at the next meeting. Staff offered to send personal letters to all witnesses who had previously testified. It was pointed out, though, that even this would not allow for more than a few days notice.

The committee discussed the impact of deferring the issue until JPACT could hold a hearing with adequate notice. Also discussed was whether it was possible or appropriate for TPAC to hold such a hearing. Finally it was suggested the hearing could take place at the Planning Committee level rather than at the TPAC/JPACT level.

I responded that both the Planning Committee and the Metro Council routinely provide opportunity for public comment on all resolutions, including the former Resolution 93-1858B and the present Resolution 94-1900. I explained the *tentative* schedule for

today's meeting, the February 17 Planning Committee meeting, and the February 24 Metro Council meeting. When asked whether the Council would consider their upcoming public process adequate for purposes of this discussion, I expressed doubt. To my understanding, the Council had not addressed the issue of whether a hearing was even necessary, but had asked TPAC and JPACT for "further review". It was JPACT that had promised a hearing. Having the Planning Committee or Metro Council public process take the place of this hearing seemed to negate the question of whether TPAC and JPACT had conducted "further review".

Following more discussion about the inadequacy of TPAC or JPACT holding hearings, Ms. O'Reilly reworded her motion to table the decision "until next month". This motion failed by a 5-9 vote with 2 abstentions.

LUBA: The LUBA appeal was discussed. Prior to approval of Resolution 93-1858B, the Bicycle Transportation Alliance (BTA) brought suit against Washington County on ten issues related to the latest adoption of their comprehensive plan. Brent Curtis, Washington County, told TPAC that the county had prevailed on all but one of the issues before LUBA.

The Court of Appeals will now hear remaining issues pertaining to Goal 5 on three county ordinances. Mr. Curtis felt that this appeal has no effect on this linear park project because of the need for additional hearings for land use and design issues relative to zoning that must take place before funds are forwarded. He said the road extension and the linear park project are linked, money could not be spent on the park project without the road being built. He described the project as "a discretionary land use decision that is consistent with our Comprehensive Plan".

Larry Shaw, Assistant General Counsel, later corroborated to me that this is accurate because Washington County's current zoning allows for such a conditional use. Such a change can be accomplished with permits without necessitating an amendment to their zoning and comprehensive plan at this time. This is all that is necessary for the project to be in the program. However, to actually receive the funds will need to be amended into the comprehensive plan. That process will require more hearings on the part of the County.

LUBA remanded another ordinance back to Washington County saying the county needed to work on the corridors portion of the plan. According to Mr. Shaw, the county is now cross appealing that decision to the Court of Appeals. The issue is over the county's ability to realign streets without a land use decision and findings.

According to Mr. Shaw, Washington County prevailed with LUBA on the issue the BTA raised about the timing and location of bike trails paid for from 1% of road monies. BTA felt the money must be used immediately for the specific project from which the money is derived. LUBA disagreed, thereby allowing the county to bank the funds for use at a later date or for bike projects not related to the reconstructed project.

COUNCIL STAFF COMMENTS:

1. **Metro Council Action:** The decision by the Metro Council to sever one project while approving the remaining list of Enhancement Projects, is not unprecedented but is unusual. While there is no restriction on the Council to take such an action, there are also no established procedures. The Council's only specific guidance to TPAC and JPACT regarding the remand can be found in the final version of the resolution in the last resolve, where the Council recommends that ODOT delete the project "until there is further review" by JPACT and TPAC. There is no clear description about the nature of this expected review. Clearly the department considers their summarization of existing information on this project to be adequate. But this may be arguable if the Council intended "further review" to go beyond a look at existing information on the project or if the Council expected the department to take their lead in conducting the review from questions raised by Councilor initiating the minority report.

2. **Department Staff Action:** In the staff report, the department references two options - either submit the linear park project or defer to the next project on the contingency list (Barlow Road Corridor/Moss Hill Preservation). Inadequate attention was given to this second option. No supplemental materials were included about this or any of the contingency projects except for four sentences about Barlow Road in the last staff report. If this or any other project from the contingency list is truly an option, more information is needed at each point in the process to fairly weigh this option in comparison to the linear park project.

2. **JPACT Action:** In November, JPACT agreed to hold a hearing on this issue but then failed to do so. This resulted in confusion at TPAC regarding the need for further hearings and whether such hearings were indeed appropriate at the JPACT/TPAC level. Regardless of whether Metro Council anticipated such a hearing or even believed it necessary, members of the public observing the formation of a subcommittee for this purpose had reason to believe that such a hearing would occur. The memo to JPACT effectively calling off the hearing was not discussed at JPACT, it was merely distributed as part of the many extra pieces of information they get routinely. There is no reference to the memo in the December meeting minutes of either JPACT or TPAC.

In fact, the memo probably never reached TPAC.

In addition to this, the minority report approved by the Council was not distributed to either JPACT or TPAC for these early meetings. It has been included in the most recent JPACT packet for next Thursday's meeting. Instead it was left to staff, both Planning Department and Council, to describe what the Council intended.

3. TPAC Action: When TPAC was first informed of the Council's decision there was concern about the citizen involvement process. This resulted in formation of a TPAC subcommittee to consider this subject in more depth within a "short time frame". This committee has met twice and will make a recommendation sometime in the future that should prove valuable. But it will be too late to effect this action as originally intended.

At that same meeting there was also a concern raised by the department relative to the level of initial review to be undertaken by JPACT/TPAC and Metro Council when dealing with review and prioritization of projects, under the final authority of another body. This appears to me to be a valid question. Given our short staffing resources, should there be a difference, between the amount of expected staff involvement based on whether Metro is the final authority or whether some other entity fills this role.

And, if in the process of prioritization of projects list for any purpose, it appears that there are problems with citizen involvement at the local level, what corrective role, if any, should Metro play.

TPAC members also indicated concern about being placed in the position of having to negotiate disagreements between members of the Metro Council regarding approval or rejection of projects within their individual districts.

Of primary concern though, was whether TPAC should be placed in the position of holding public hearings. The group is made up of staff persons, rather than elected or appointed policy makers. JPACT's ability to hold such hearings on a regular basis was also questioned. Their meeting schedule is at 7:30 AM, a time recently criticized for the Region 2040 Growth Panel. JPACT's agenda is considered by many to be already over burdened.

SUMMARY: I raise all of these points first to bring you up to date on the process to date but also to express some concerns I have about that process, which I find flawed. I'm concerned that the minority report was not furnished to either JPACT or TPAC

until yesterday. And, laying aside the issue of whether additional public hearings were needed, the fact remains that a public hearing was promised. What was proposed at that first JPACT meeting left the impression there would be an evening hearing in the Beaverton area held that would have plenty of notice to citizens. The best that can occur now is an opportunity for the public to observe the three remaining public actions at JPACT, Planning Committee and Council.

In addition, it appears that the staff has really only offered one option from their review - approval of the linear park. If projects from the contingency list (Barlow Road) are really an option why hasn't there been more information about them. I'm also concerned the TPAC action is being characterized by the staff as merely unanimous approval of the staff recommendation, when there were significant reservations at TPAC about our public involvement process.

Mostly, I am concerned that Ms. O'Reilly's comment about a "back-room deal" may well be the perception of members of the public observing this process.

In the past two days I've discussed these issues with the Committee Chair, several Councilors and members of the department staff. Collectively there are a number of suggestions to could aid in preventing this situation from occurring in the future and improve the communication between JPACT and the Council: Understanding that this relationship between JPACT and the Council is ever evolving, here are some suggestions:

- When the Council chooses to sent all or any part of a decision back to JPACT, add a procedural step of referring the issue to the Planning Committee, empowering them to draft an official response from the Council. This response could include the expectations the Council has for the level of review by JPACT and TPAC. It could also communicate whether it is the Council's intent for either of these groups to hold a public hearing. In any case, it allows the Council to speak for themselves and does not force the staff at all levels to interpret your full intent.
- When an issue of this magnitude is identified early on as needing two meetings of the Planning Committee, utilize the first hearing, which occurs just following TPAC but before JPACT under the new procedures, and invite JPACT to participate in the public hearing. They may not avail themselves of the opportunity but the hearing can be summarized for their benefit.

- Ask the department to finer tune their parliamentary procedure to remove inconsistencies in application. Issues such as cancelling an important hearing should be verbally placed on the record so that JPACT understands that they are effectively taking an official action. Also, motions to table, perhaps, should not be accepted by the Chair until needed debate has ceased.
- Step up efforts in developing a clearer citizen involvement process. This may include the need to form a data base or list of interested parties that travels with the proposed legislation to be used at each level of the process to provide enhanced and more timely notification. What matters most is that the process is clear to all so that unrealistic expectations from citizens are at least reduced.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENDORSING)	RESOLUTION NO. 94-1900
THE NW 112TH LINEAR PARK FOR)	
FUNDING AS PART OF ODOT REGION 1))	Introduced by
PRIORITIES FOR TRANSPORTATION)	Councilor Monroe
ENHANCEMENT FUNDING IN THE 1995-))	
1998 TRANSPORTATION IMPROVEMENT)	
PROGRAM)	

WHEREAS, The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) requires the state to allocate 10 percent of its Surface Transportation Program (STP) funds to statewide Transportation Enhancement projects to address general environmental improvement activities; and

WHEREAS, ISTEA stipulates that states shall allocate Transportation Enhancement funds consistent with the Act and federal guidelines for eligibility and public process, and in consultation with the designated metropolitan planning organizations (MPOs); and

WHEREAS, Metro, in conjunction with the Joint Policy Advisory Committee on Transportation, is the designated MPO for the Portland, Oregon metropolitan area; and

WHEREAS, The state is currently programming funds, including the second iteration of Transportation Enhancement funds (FY 95, 96, and 97) for inclusion in the Oregon Department of Transportation's (ODOT) 1995-1998 Transportation Improvement Program (TIP); and

WHEREAS, Metro and the region have consulted in the development of the process and the proposed Transportation Enhancement Program; and

WHEREAS, JPACT previously adopted Resolution No. 93-1858 recommending approval of a package of Metro area projects for FY

95, 96, and 97; and

WHEREAS, The Metro Council adopted Resolution No. 93-1858 with the exception that the NW 112th Linear Park be remanded back to JPACT for further consideration; and

WHEREAS, JPACT, after further consideration, found that the project is eligible under ISTEA guidelines, meets ISTEA and Oregon Transportation Commission program objectives for enhancing the transportation system, is consistent with the relevant Washington County Transportation and Comprehensive Plans, and was reviewed and supported by residents in the vicinity of the NW 112th road project; and

WHEREAS, JPACT and the Metro Council recognize that the NW 112th Linear Park Transportation Enhancement funds are to support mitigation of the NW 112/113th arterial project; now, therefore,

BE IT RESOLVED,

1. That JPACT and the Metro Council adopt the NW 112th Linear Park as a Metro area Transportation Enhancement priority for inclusion in the ODOT 1995-1998 TIP and that the project be incorporated into the Regional Transportation Plan.

2. That staff be directed to forward NW 112th Linear Park in testimony during the appropriate hearings on the 1995-1998 TIP by the Oregon Transportation Commission.

3. That prior to obligation of federal Transportation Enhancement funds, Washington County will provide ODOT and Metro with necessary documentation ensuring incorporation of the NW 112th Linear Park project into the County Comprehensive Plan.

4. That obligation of Transportation Enhancement funds for the NW 112th Linear Park is restricted to mitigation support for the NW 112th/113th arterial project. If the arterial project

does not proceed, the Transportation Enhancement funds should be transferred to the contingency projects identified for Region 1.

ADOPTED by the Metro Council this _____ day of _____,
1994.

Judy Wyers, Presiding Officer

MH:lmk/2-10-94

94-1900 RES

JPACT version

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 94-1900 FOR THE PURPOSE OF
ENDORING THE NW 112TH LINEAR PARK FOR FUNDING AS PART OF
ODOT REGION 1 PRIORITIES FOR TRANSPORTATION ENHANCEMENT
FUNDING IN THE 1995-1998 TRANSPORTATION IMPROVEMENT PROGRAM

Date: January 19, 1994

Presented by: Andrew Cotugno

PROPOSED ACTION

This resolution endorses the NW 112th Avenue Linear Park project for priority FY 95, FY 96, and FY 97 Transportation Enhancement Program funding for inclusion in ODOT's 1995-1998 Transportation Improvement Program. The action supplements Resolution No. 93-1858B, adopted by the Metro Council in October 1993. That resolution endorsed the region's priority Transportation Enhancement Program recommendations with the exception of the 112th Avenue Linear Park proposal. At the request of the Metro Council, that project was remanded back to JPACT for further consideration.

The following staff report and attached resolution document the findings, options, and conclusions for that further consideration. The staff report focuses on four major elements: 1) review of the Enhancement funding program process and responsibilities; 2) review of the 112th Linear Park project and issues; 3) discussion of the alternative actions available to JPACT and the Metro Council; and 4) Metro staff recommendation.

The recommended project has been found to be consistent with the Transportation Enhancement Program eligibility standards as listed in Section 1007(c). As with Resolution 93-1858, the recommendation is developed for Oregon Transportation Commission (OTC) consideration during public hearings and testimony on the 1995-1998 TIP. Final OTC action on the entire TIP is scheduled for July 1994 and will essentially complete programming of state ISTE funds.

JPACT will take action on the resolution February 10. Metro Council action is tentatively set for February 24. The OTC is scheduled to hold hearings around the state on the entire TIP in March 1994.

TPAC has reviewed this resolution and recommends approval of Resolution No. 94-1900.

FACTUAL BACKGROUND AND ANALYSIS

Eligible Activities

As stated in ISTE, eligible Transportation Enhancement Program activities are as follows:

"The term 'transportation enhancement activities' means, with respect to any project or the area to be served by the project, provision of facilities for pedestrians and bicycles, acquisition of scenic easements and scenic or historic sites, scenic or historic highway program, landscaping and other scenic beautification, historic preservation, rehabilitation and operation of historic transportation buildings, structures or facilities (including historic railroad facilities and canals), preservation of abandoned railway corridors (including the conversion and use thereof for pedestrian or bicycle trails), control and removal of outdoor advertising archaeological planning and research, and mitigation of water pollution due to highway runoff."

Program Funds and Authority

ISTEA authority for the program is delegated to the state. The state in turn must develop the program in cooperation with Metropolitan Planning Organizations (MPOs) and local jurisdictions and the public. The OTC allocated approximately \$4.435 million for an Enhancement Program in Region 1 (consisting of Multnomah, Clackamas, Washington, Columbia, and Hood River counties). This figure acted as the target amount used in the programming exercise described below.

Program Development

In May 1993, the OTC directed ODOT staff to begin the process for developing the state's Transportation Enhancement Program for fiscal years 1995, 1996, and 1997. The process followed, with some refinement, an initial process developed in 1992 for programming Transportation Enhancement funds for the first three years of ISTEA (FYs 92, 93, and 94). The current process included the following elements:

- May 1993. The OTC approved a five-month process intended to solicit, evaluate, and recommend for funding the FY 95, FY 96, and FY 97 Transportation Enhancement Program. The process included the development of program objectives, project selection and prioritization criteria, and public review and adoption actions.

The original and refined process and Transportation Enhancement ranking criteria were developed by ODOT's ad hoc Transportation Enhancement Committee (comprised of public and private interests) and approved by the OTC. Members of the ad hoc committee are identified in Attachment A. The process was reviewed by TPAC in May.

- June 1993. ODOT provided notice to jurisdictions, the public, and interest groups soliciting program (project) recommendations.

- June 11, 1993. ODOT sponsored a Transportation Enhancement Program Public Information Workshop in Region 1. The workshop described the program, the grant application process, and other aspects for getting a project included in the program.
 - August 6, 1993. Project proposals submitted to ODOT.
 - August 1993. As per the OTC process, a Region 1 review panel independently reviewed and prioritized projects. The committee included representatives of Metro and Washington, Multnomah, Clackamas, Columbia, and Hood River counties. Over 40 applications (urban and rural) were submitted to Region 1. The projects were reviewed and scored relative to the OTC-approved criteria. The criteria are based on FHWA guidelines for the program and on key Oregon benchmark and policy objectives.
- A 100-point scoring system was developed and included the following categories: "Intermodal Relationship" (30 points); "Relationship to other Plans and Programs" (30 points); "Benefits to the Community and Environment" (20 points); "Statewide Significance" (10 points); and "Match Level, Source, Public/Private Commitment" (10 points). In addition, each application was independently reviewed for clarity, detail, and design. Each project required a sponsoring public agency or jurisdiction as per federal funding requirements. Results of the scoring are shown in Attachment B.
- Following the scoring, the ranking committee and ODOT staff reviewed the list for funding recommendations. Funding was recommended based on the "technical" score and on program objectives which also consider geographic distribution and cost-effectiveness. Projects recommended for funding are shown in Attachment C.
- October 1993. As noted, ISTEA requires the state to consult with MPOs on program development. MPO review in the Portland area is through JPACT/Metro Council. JPACT reviewed and approved Resolution No. 93-1858 in October. The resolution endorses the package of projects within Metro boundaries as recommended by the Region 1 review committee.
 - October 1993. Metro Council adopts Resolution No. 93-1858B with the exception of the NW 112th Linear Park Project. Following public testimony, the Council Planning Committee remands the project to JPACT for further review.
 - January/February 1994. TPAC/JPACT/Metro Council review and action on Resolution No. 94-1900.

- . March 1994. OTC hearings on the draft 1995-1998 TIP.
- . July 1994. OTC action the TIP.

NW 112th Linear Park

Project Description

As stated in the grant application, "Washington County proposes creating a linear park along 112th Avenue between Cornell and Barnes Roads. The park will include a bike and pedestrian connection between these two roadways, both of which are part of the bicycle route system in the adopted Washington County Transportation Plan, and will significantly improve access for non-auto traffic to the planned Sunset Light Rail Transit Center.

"The transportation link established by the project will complement a planned street connection made by the 112th Avenue project, which is anticipated to be built between Cornell Road and Barnes Road in 1996 or 1997. The 112th Avenue project and pathway system included in the linear park project will reduce the distance from the Cornell/112th intersection to the Sunset Highway and Transit Center area by more than 50 percent from current levels.

"The park will be approximately 2500 feet long and vary in width from 50 to 600 feet, occupying approximately 10 acres in all. It will include approximately one mile of eight-foot wide pedestrian/bicycle asphalt pathway." Attachment D shows the park concept.

Project Cost

The park is estimated to cost \$883,600. Washington County requested \$706,900 in Transportation Enhancement funds for the project. The ODOT/Region 1 review committee recommended funding \$308,000 of the cost to cover transportation-related right-of-way and pathway elements.

Project Issues

A number of issues and concerns were raised by the public and the Metro Council in review of Resolution No. 93-1858B. The following discussion focuses on the main issues as identified in letters and the Council minority report (Attachments E and F).

1. **Technical Score.** The project ranked second of 44 projects reviewed. The concern was that it ranked too high. Again, each project was reviewed independently based on the information included in the application. This project was felt to provide quality pedestrian/bicycle improvements within a developing area. The project was also felt to be a key link within a future system connecting area neighborhoods to the

Peterkort property on through to Barnes and the Sunset Transit Station. The project match, plan consistency, support, and general benefits were addressed through the application and review process.

2. **Bicycle Lanes.** A concern was raised that the project duplicates lanes planned for the NW 112th/113 road project. This fact was included in the application. However, the proposed project provides for both pedestrians and bicycles in an environment located off the arterial. The safe and pleasant nature of the Linear Park meets the intent of the Enhancement Program to fund projects which go beyond the scope of normal transportation investments.
3. **Funding.** A concern was raised that funds are already committed to the 112th/113th Avenue bicycle project. As noted, Washington County has programmed the NW 112th/113th road project for 1996-97 and is pursuing Enhancement funds for part of the Linear Park as part of an overall road/park project in the area. The Enhancement funds are for currently unfunded pedestrian and additional bicycle improvements in the corridor.
4. **Intermodal Relationship.** A concern was raised that the project is not "intermodal" since it is over one mile to the Sunset Transit Station. ISTEA guidelines, used by the review committee, clarify that the relationship to the intermodal system must be one of "function, proximity, or impact." Pedestrian and bicycle activities are specifically eligible under "function;" an enhanced visual appearance of a transportation corridor is explicitly listed under "proximity;" and mitigation which goes beyond the norm is included under "impact." The 112th Linear Park meets these tests.
5. **The project is not in the Comprehensive Plan.** Land use or transportation-related Enhancement projects need not be in a comprehensive plan to be included in the program. However, the project must be in the Comprehensive Plan to receive funds. The Enhancement evaluation criteria asked for projects that are in or consistent with Comprehensive Plans. The County provided findings of consistency in their application and follow-up materials. If the project does not meet necessary land use approvals in the future, it will not receive these funds.

Public Process and Comment

The public process was developed and approved by the OTC. The process was reviewed by TPAC and others within the region and was intended to identify and select projects within a five-month timeframe in order to be included in a public review draft of the 1994-1998 state TIP.

At the local level, Washington County has had a long history of public involvement regarding the 112th/113th road project. The Linear Park process is more recent. In August 1993, the County began a Linear Park public process. As a result, both County and public testimony indicates strong support for the proposal (see Attachment E, letters). Opposition to the Park included testimony that the funds should be used for other pedestrian and bicycle needs in the area (see also Attachment E, letters).

Alternative Action

Under ODOT program guidelines, the choices for JPACT and the Metro Council are: 1) recommend funding for the Linear Park; or 2) defer to the next project on the contingency list.

As shown in Attachment C, the next project is Project No. 29 -- Barlow Road Corridor/Moss Hill Preservation. The \$190,000 project would preserve and improve a segment of the Barlow Road segment of the Oregon Trail. The project is about four miles east of Oregon City and is outside the Metro boundary. Approximately \$118,000 would then remain to be applied to the Molalla River pathway in rural Clackamas County.

Conclusion and Staff Recommendation

A number of issues surfaced regarding the timing and location of the NW 112th Linear Park. Most significantly, does the project meet federal Transportation Enhancement eligibility; and does the project enhance the overall transportation system in the area?

First, as noted previously, the project meets federal guidelines by having a relationship to the intermodal transportation system through function, proximity, and impact. Second, the project will provide a quality bicycle and pedestrian connection from area neighborhoods through Peterkort to the Sunset Transit Center. Third, a Washington County public process resulted in project support by residents in the NW 112th area as mitigation above and beyond the norm for transportation projects. While other quality bicycle and pedestrian projects exist in the area, none were submitted as part of the ODOT process. Further, the project is consistent with the Washington County Comprehensive Plan and must be included to receive funding.

Given the further analysis of the project, program guidelines, and process, Metro staff recommends the 112th Linear Park be included as part of the region's priority Transportation Enhancement projects for FY 95, FY 96, and FY 97.

TPAC Recommendation

TPAC endorsed Resolution No. 94-1900 at its January 28 meeting. The endorsement was with an understanding that an opportunity for public comment be provided. As noted in Attachment G, a special JPACT-sponsored public meeting to discuss the 112th Linear Park was determined unnecessary. However, to provide public comment

on whether to include the park project as part of the region's recommendations for Enhancement funding, TPAC endorsed the original staff process to invite interested persons to the February 10 JPACT public meeting, the February 17 Council Planning Committee public hearing, and the February 24 Metro Council meeting.

The final result and recommendations of those meetings will be forwarded to the OTC at their March hearings on the state TIP.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No.94-1900.

MH:lmk
94-1900.RES
2-2-94

Attachment A

"ODOT Ad Hoc Transportation Enhancement Committee"

<u>Name</u>	<u>Organization</u>
Chris Beck	Trust for Public Lands
Richard Benner	Oregon Land Conservation and Development Department
Pete Bond	Oregon Parks Department
Pat Ehrlich	Association of Oregon Counties
Phil Hirl	U.S. Forest Service
Mike Hoglund	Metro
John Kowalczyk	Oregon Department of Environmental Quality
Lewis McArthur	Historic Columbia River Highway Advisory Committee
Mary McArthur	Oregon Tourism Alliance
Pat Napolitano	Local Officials Advisory Committee
Janet Neuman	Oregon Division of State Lands
Kristin Ramstad	Oregon Department of Forestry
Wes Reynolds	Ashland Parks Commission
Robbin Roberts	Economic Development Department
Val Paulson	League of Oregon Cities
John Savage	Oregon Department of Energy
Richard Schmid	Mid-Valley COG
Gary Shaff	Rogue Valley COG
Lee Shoemaker	Lane COG
Jill Thorne	Oregon Trail Coordinating Council
John Wichman	Federal Highway Administration
Cam Gilmour	ODOT
John Rist	ODOT
John Baker	ODOT

Average Scores 1993 Enhancement Program

Project	Medium Points	Intermodal Relationship 30	Relationship to Other Plans and Programs 30	Benefits to Community/Environment, and Statewide Significance 30	Match Level, Source Public and Private Commitment 10	Total 100	Total Cost Estimate (\$ thousands)	Federal Cost Estimate (\$ thousands)	Federal Fund Availability (\$ thousand)
24 B: Banks - Vernonia	30	19	21	21	10	70.00	250.0	200.0	\$4,345.0
37 112th Linear Park	30	21	22	19	8	69.71	863.8	708.700.0	4,143.0
17a Eastbank Bike/Ped Way B: OMSI	30	18	22	20	9	68.00	120.0	100.0	3,438.1
20 Eriecada Trails	30	18	22	20	9	68.00	419.1	83-914.4	2,078.1
8 Complete Cedar Creek Trail	30	19	23	18	8	68.57	288.0	228.9	1,978.1
33 Historic Highway: Moffet Creek - Tanner Creek	30	19	23	22	8	69.43	1,297.0	1,184.0	1,663.7
17b Eastbank Bike/Ped Way B: OMSI	30	19	23	18	8	68.57	288.0	228.9	1,643.7
17c Eastbank Bike/Ped Way C: Eastbank	30	19	23	18	8	68.57	288.0	228.9	1,314.8
21 Barlow Road Corridor/Moss Hill Preservation	30	17	20	21	9	68.14	340.0	190.0	150.8
19 Intermodal Transfer Park	30	20	20	18	7	66.00	296.0	252.8	
39 Springwater - Intermodal Links & Restroom	30	18	23	19	9	63.68	877.0	701.8	
34 Pedestrian Trail Expansion	30	18	17	22	8	63.14	150.7	113.1	
36 NY 185th Pedestrian Facility	30	18	22	19	8	63.00	30.8	24.8	
27 Hollywood Pedestrian Path	30	18	20	18	8	64.43	77.0	61.8	
28a Dr. United Junction - Deservion	30	17	20	18	8	64.00	250.0	200.0	
19 Historic Highway: Hood River - Mosier	30	18	18	20	8	63.71	984.0	683.0	
9 School Bike Path	30	18	20	17	8	63.43	248.8	197.2	
8 Fanno Creek Bikeway	30	18	20	18	7	62.43	105.8	84.8	
23 Historic Elevator Upgrade	30	17	18	20	8	61.71	120.0	96.0	
10 Milton Creek Bike & Pedestrian Bridge	30	19	18	18	8	60.84	60.0	48.0	
8 Depot Gutters & Insulation	30	17	18	21	8	60.43	6.4	5.8	
35 Barlow Road Corridor Phase One	30	14	18	21	8	58.43	468.0	419.4	
14 Barlow Road Corridor Full Project	30	14	18	22	7	58.29	1,410.0	1,180.0	
22 NE 201st Bike/Ped Connector	30	15	19	17	7	57.71	185.0	135.0	
42 Seavie Island Road Shoulder Bikeway	30	15	20	18	7	57.29	517.0	418.0	
40 Downtown Access Plan	30	14	17	18	7	57.00	324.8	259.8	
41 East Burnside Bike Lanes	30	14	20	18	7	56.71	440.0	344.0	
32 Highway 26 Ped/Bike Connection	30	14	19	18	7	55.57	37.4	30.0	
30 Storm Water Detention and Bio-Filtration	30	15	14	17	8	54.29	882.3	597.4	
44 Historic Foulton Bridge	30	14	14	18	8	53.08	30.0	27.0	
31 Historic Foulton Bridge	30	14	14	18	8	53.08	30.0	27.0	
18 Classic Light Poles	30	18	13	16	7	50.14	1,350.0	1,211.8	

printed 30-Aug-93

Exhibit "A"

ENHANCEMENT PROJECTS RECOMMENDED BY REGION 1 SELECTION COMMITTEE

ID#	Project Agency	Priority	Total (1,000)	Federal (1,000)	Match (1,000)	Total Federal
24	Intermodal Link West of Portland B: Banks - Vernonia Oregon State Parks	1	\$250.0	\$200.0	\$50.0	\$200.0
37	112th Linear Park, down-scooped Washington County	2	385.0	308.0	77.0	508.0 #
17a&b	Eastbank Bike/Ped Way A: Bridges, OMSI City of Portland	3	1,986.0	1,588.9	397.1	2,096.9 #
20	Estacada Trails City of Estacada	4	120.0	100.0	20.0	2,196.9
6	Complete Cedar Creek Trail, down-scooped City of Sherwood	5	103.8	83.0	20.8	2,279.9 #
33	Springwater - Boring Connection Clackamas County	6	150.0	120.0	30.0	2,399.9 #
1	Historic Highway: Moffet Creek - Tanner Creek Oregon Department of Transportation	7	1,297.0	1,164.0	133.0	3,563.9
38	Rock Creek Bike/Ped Path, down-scooped (Rock Creek-Evergreen) City of Hillsboro	8	332.5	266.0	66.5	3,829.9 #
28	Intermodal Transfer Park City of Tualatin	9	100.0	80.0	20.0	3,909.9 #
34	Molalla River Pathway, down-scooped Clackamas County	10	333.8	267.0	66.8	4,176.9
11	Pedestrian Trail Expansion Port of Cascade Locks	11	150.7	113.1	37.6	4,290.0
4	Milton Creek Bike & Pedestrian Bridge City of St. Helens	12	60.0	48.0	12.0	4,338.0
8	Depot Gutters & Insulation Mount Hood Railroad	13	6.4	5.8	0.6	
						Total \$4,343.8
Contingency Projects						
29	Barlow Road Corridor/Moss Hill Preservation Clackamas County	*14	340.0	190.0	150.0	
34	Molalla River Pathway, remaining portions Clackamas County	*15	2,276.1	1,820.8	455.3	
38	Rock Creek Bike/Ped Path, remaining portions City of Hillsboro	*16	211.5	169.2	42.3	#
18	Union Station Passenger Shelter, eligible portions City of Portland	*17	457.0	410.1	46.9	#

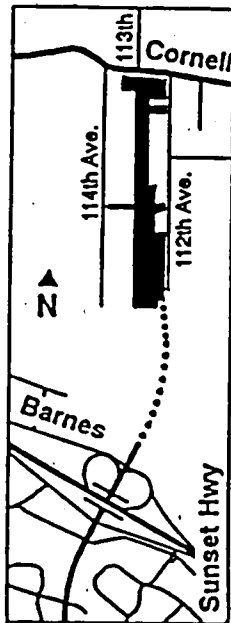
Projects within Metro Boundary

*If additional money becomes available these projects
will be funded in order of priority.



ATTACHMENT C

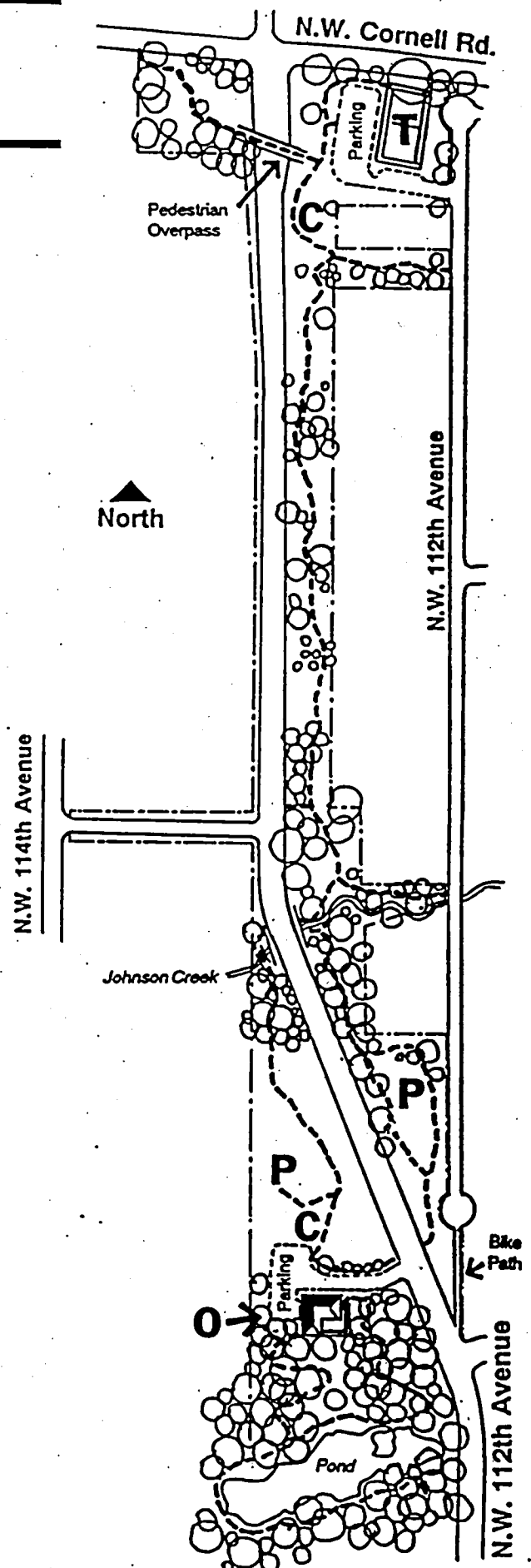
112th Avenue Linear Park

Project Area



Park Detail Map

-  Trail
-  Existing Trees
- C** Children's Play Area
- O** Overlook
- P** Picnic Area
- T** Tennis Court





**TUALATIN
HILLS
PARK &
RECREATION
DISTRICT**

ADMINISTRATION OFFICE

15707 SW Walker Road • Beaverton, Oregon 97006 • 645-6433 • FAX 690-9649

ATTACHMENT E

September 14, 1993

Mr. Jerry Parmenter, Manager
Washington County Department of Land Use and Transportation
Capital Project Management Division
155 N. First Ave., Suite 350-18
Hillsboro, OR 97124

Dear Jerry,

At it's September 8, 1993 Board meeting the Tualatin Hills Park and Recreation District's Board of Directors reviewed a design for the proposed construction of a linear park to be located at the 112th/113th realignment/extension and Washington County's request that the T.H.P.R.D. consider accepting management responsibilities of the proposed linear park.

The Board of Directors expressed their reluctance to become embroiled in the construction controversy between area neighbors and Washington County.

If the road and park is built the District would be interested in assuming ownership of the 112th/113th linear park site, however, at this time the Board wishes to remain non-committal.

Sincerely,

Neal Winters
Assistant General Manager

October 27, 1993

To: Terry Moore
Metro Council
District 13

From: Carol Gearin
2420 N.W. 119th Ave.
Portland, Or. 97229

Dear Ms. Moore:

It is my understanding that the Metro Council will hear testimony and vote tomorrow concerning funding for a bicycle\pedestrian strip park for N.W. 112th Avenue.

Since it is my belief that the completion of this street between the Sunset Highway and Cornell Road will eventually come to fruition; and because I would like to see this street be pedestrian and bicycle friendly, I urge you to vote for funding.

I am aware that there is a citizen movement attempting to block the completion of 112th. However, should they fail, I would hate to see a repeat of Cornell Road where bicyclists risk death every day.

VIA FAX: SENDING STATION 643-4311

RECEIVING STATION 273-5589

Carol Gearin

Metro Council
October 28, 1993
Agenda Item No. 6.4

Oct. 27, 1993

To: Metro's Joint Policy Advisory Committee on Transportation
Oregon Department of Transportation

Regarding: Project 37 of the Metro area Transportation
Enhancement Project

Dear Members,

It has come to my attention that Washington County is currently seeking funds for financing a portion of this project. I believe this portion is the "linear park" and/or bicycle and pedestrian paths.

First let me say the County had an open house, displaying their latest proposed alignment. Since this project is still in planning stages, with LUBA appeals pending, allocating money for it is not in the public's best interests.

This project does not support pedestrian or mass transit.

1. It is over one mile to the transit station.
2. Its connection to NW 113th north of Cornell is fruitless, as 113th is too steep and dangerous to walk. Even with sidewalks, 113th is not pedestrian friendly.
3. If any one of you were to come up to our neighborhood and ask what route we would take to and from Cornell Rd. by bicycle or walking we would say NW 119th. Why is it no one has asked?
4. The development taking place on the Peterkort property can be well served by bus from Barnes Rd. Even if 112th were to be built, a two lane, 25mph residential road is all that is necessary to serve the proposed Peterkort development.

Having three children, the oldest of whom is five, we are very much in favor of parks and sidewalks. Its a shame our County staff does not rate these items at a higher priority. Just look at their record, it speaks for itself. A linear park along a road such as they are proposing is not what most of us would call a neighborhood park. I prefer to call it "a road in waiting". We are not as gullible as some would like to think.

I find it very unfortunate we cannot walk as a family to the stores at Cornell and Barnes because the roads are treacherous with no shoulders, especially when funds are available for useless projects such as Project 37.

To correct a statement by Brent Curtis of Oct. 6th, this project is not partially old and partially new road. I believe it is entirely new. As for "significant" citizen involvement, it might be better explained by "significant citizen objection". I'm afraid we may be seen; but our comments fall on deaf ears. Yes, the project has been on the map for 25 years. Who would have thought then we would be seeing something of the scope now being proposed?

If now is a time to set priorities then it must be a good opportunity to take a look at all of the projects set before you and choose those that will benefit the greatest number of people. Please look at those that will benefit our neighborhoods, not by allowing more and larger roads, but by allowing us the ability to walk, bike and use our mass transit system.

Thank you for the opportunity to express my views and making this part of the record.

Sincerely,


Jane Finnegan

Roger M. Ellingson
8515 SW Barnes Road
Portland, OR 97225

October 27, 1993

Mr. Mike Hoglund
Metro Manager
Metro
600 NE Grand Ave.
Portland, OR 97232-2736

Dear Mike:

I am writing in regard to the ISTEA project funding meeting to be held October 28, 1993. My comment is specific to Washington County's project submitted for the 112 Ave area. It is a request for funding for a greenway ROW acquisition in coordination with ROW acquisition for the development of 112 Ave between Cornell and Cedar Hills Blvd.

I object to using ISTEA or other alternative transportation funding sources for this project for the following reasons:

- The 112th bike/ped link provided by the greenway is on the books in Washington county as a major roadway improvement project that has specific funding available via the gas tax, TIF, and other sources.
- The proposed project costs too much for the linear footage of inter-connected bike/ped facility it contributes to the transportation system.
- The ROW in question does have significant natural resource character and it is wonderful Washington County is interested in its protection. However, the entire segment between Cornell and the Barnes Road Extension needs to be included in this protective status/greenway study. To save the resource area north of Johnson Creek, but develop the 112th area wetland area along and south of the creek does not demonstrate wise ecological planning. Washington County administration officials should reconsider their lackluster support of projects like the Metro Greenspaces project which hopes to save such natural treasures and provides funding for doing so.
- Several bike/ped linkage projects have been identified by community in the vicinity of the proposed Sunset Transit Center that have no funding sources available. Specifically the SW 95th Transit Trail link north from the transit center to the SW 95th Ave vicinity could provide much more direct, convenient access to the transit center. Also a state bike path is being planned along the south side of hiway 26 in the area east of the transit center which has no access provisions to the north side of hiway 26, where the majority of users reside. The Cedar Hills/Cedar Mill Citizen Participation Organization has issued a

Mr. Mike Hoglund
October 27, 1993
Page - 2

detailed report (dated April, 1993) on these and other projects in our community to Mr. Hoglund and Washington County.

- There has been no public involvement in Washington county for prioritizing needs and functionality of this 112th project with other potential projects such as those mentioned above. Washington County's standard reponse to requests by the community for bike/ped linkages has been a pat answer that "no-funding is available". I am very pleased that Washington County has found some alternative sources for bike/ped facilities but object to their non-public assignment of such limited funds on projects that have already been funded through other sources.
- I would rather see CMAQ/ISTEA funds spent elsewhere in the region on bike/ped projects that will never be built due to lack of funding than see these limited funds go to fund roadway ROW bike/ped projects that have substantial funding support.

Sincerely,

Roger M. Ellingson



WASHINGTON
COUNTY,
OREGON

October 28, 1993

Council Members
Metropolitan Service District
600 NE Grand Avenue
Portland, Oregon 97232-2736

Dear Council Members:

**RE: RESOLUTION NO 93-1858
TRANSPORTATION ENHANCEMENT PROGRAM
112TH LINEAR PARK (WASHINGTON COUNTY)**

Thank you for the opportunity to comment on the subject project. The Washington County Board of Commissioners supports the Metro Planning Committee and JPACT recommendations to approve the Enhancement Program projects, and notes that the subject project ranked the highest of all urban projects in the metro area for Transportation Enhancement funding.

During the JPACT meeting on October 14, 1993, several persons testified against the 112th Avenue Linear Park project making statements that need clarification. In an effort to assist your deliberations on Resolution 93-1858, I have identified some of the key issues that have been raised about the proposal, and Washington County's response.

Issue No. 1: There is no specific project in the planning process at this time.

Washington County began planning for the NW 112th Avenue project in 1966 when right-of-way was purchased and a fill constructed across Johnson Creek. A city-county joint study, "The Patterns of Development," released in 1965, was the first document showing the 112th Avenue extension. Numerous public hearings and hearings have occurred over the past 27 years to confirm the County's intention to construct this road. The N.E. Community Plan, adopted in 1971 following extensive community involvement, and the 1973 Comprehensive Framework Plan included the 112th Avenue extension as a necessary link for the northeast county transportation system. Following extensive public involvement and hearings, the Board adopted its first transportation plan in 1983 and then updated it in

1988 using the same process. Both plans include 112th Avenue as a minor arterial roadway.

Progress on Westside Light Rail prompted the Board of County Commissioners (BCC) to form a Citizen Advisory Committee (CAC) two years ago to determine the best alignment for the road through the 112th Avenue neighborhood. Following ten meetings and two community open houses, the CAC presented the "least objectionable alignment" to the County Board of Commissioners in November, 1991. Staff have since refined this alignment and developed the linear park concept as a result of public testimony. An additional community open house was held in August of this year, at which time community support was offered for the linear park proposal. The BCC has since directed the Department of Land Use and Transportation to submit this alignment through the land use review process to assure that it adheres to the land use requirements of our County's Community Development Code.

Issue No. 2: Washington County already has the money to build the enhancements.

The total cost of purchasing right-of-way and constructing the road and linear park is approximately \$7.5 million. The County has spent \$680,000 to date on preliminary engineering, right-of-way purchases and citizen involvement. Another \$1.1 million has been budgeted, leaving a shortfall of \$5.8 million.

On a related note, the Federal Congestion Mitigation and Air Quality (CMAQ) funding recently approved by your Council is for the Highway 217 corridor from Sunset Highway to I-5. These funds cannot be used north of Sunset Highway, the area of the linear park proposal.

Issue No. 3: This funding will be used to buy land for a linear park.

Enhancement funds cannot be used to buy or develop parks. The funds are to be used to construct a bike/pedestrian bridge over the new roadway and to construct bike/pedestrian paths within an open space adjacent to the roadway. The open space land and pathways are intended to be turned over to the Tualatin Hills Park and Recreation District after completion of the project for future maintenance.

Issue No. 4: This land is already a greenway; why is this project necessary?

The land on which the roadway and pathways are being constructed is zoned for single family residential development. Several owners have already discussed partitioning their land to create more home sites. This project will preserve a minimum 50 foot wide open space between the roadway and the residential properties. The total acreage of the linear park is estimated at ten acres. Additionally, it will connect with approximately 20+ acres of open space that the County has conditioned on the Peterkort property, as well as several acres of open space north of Cornell Road.

Issue No. 5: Bike/pedestrian paths do not connect to the neighborhoods, so no one can use them.

The pathways connect to existing and future pathways along Cornell on the north and bikepaths on Barnes Road to the south, as well as a future bikepath on Cedar Hills Blvd. The Leahy Road neighborhood can access the pathways via Coleman Road, a local street which connects to 112th Avenue south of Cornell Road. Sidewalks along Barnes Road are a condition of development of the Peterkort properties. Given the proximity of the planned Sunset Light Rail transit station (opening in 1997), all of these linkages are critical to good bike/pedestrian access to the station.

Issue No. 6: The project is only a subterfuge to preserve land for a future widening of the new road to five lanes.

Traffic studies completed by a private consulting firm using the most recent Metro traffic projections showed that a three lane road would be sufficient for full buildout of the area north of Cornell Road. The County Transportation Plan was amended from five lanes to three lanes, based on this study. Turning the open space and pathways over to the Park District will also help preserve them from future development.

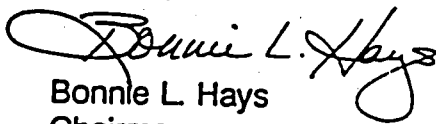
Issue No. 7: There is no need for the 112th Avenue road project or the pathways.

Tri-Met, ODOT, the City of Portland, Metro and Washington County have all publicly stated the need for this road connection in order to provide more efficient and effective access to the Westside Light Rail and the Sunset Highway. This need has been backed by numerous traffic studies over the past several

decades. As proposed, this project provides a unique opportunity to develop a multi-modal facility while preserving an open space buffer, with limited disruption to the existing residences along 112th and 114th Avenues.

The proposal before the Metro Council tonight for Enhancements Funds, in conjunction with the road improvement proposed by Washington County, is a clear commitment on the part of Washington County and the Metro Region that business as usual in the construction of urban highway facilities is no longer the norm. While all new road projects face some level of opposition, it is clear from the efforts to date by Washington County that urban road facilities can be constructed that address the mobility needs of the community and, at the same time, mitigate adverse impacts of those facilities. Completion of this improvement will complement and enhance the substantial public investment in the form of light rail and the Sunset Transit Station that is being developed just south and east of the subject property. The redesign of 112th Avenue by Washington County and the Enhancement Funds being requested from Metro are, in our minds, exactly what ISTEA is asking for from local jurisdictions. Thank you for your consideration of this information and please don't hesitate to contact me or staff if you have questions. Also, please note the enclosed Oregonian editorial on the road/linear park proposal.

Sincerely,



Bonnie L. Hays
Chairman

Enclosure

Roads with an attitude

Debate over a westside street underscores the need to put people ahead of cars

When Washington County asked Cedar Mill residents what they thought of the county's plan for a road to connect that neighborhood with the Sunset Highway and the new light-rail Sunset Transit Center, it got an earful.

Turning 112th Avenue, a dead-end road, into the five-lane street that county planners envisioned would have destroyed the peace of their quiet neighborhood, residents said.

Members of the local citizen advisory committee made it clear they thought the best road would be no road.

But since that wasn't an option, they came up with a list of design ideas they hoped the county could meet. Those included better bike and pedestrian paths and an attempt to limit the speed of cars going through their neighborhood.

The county's new plan for 112th is being presented this month. It features a narrower road, designed for 35-mph instead of 45-mph traffic. Its route cuts through larger-than-usual backyards instead of slicing off front property lines. A curving walkway removes pedestrians from the roadway, allowing them to walk through tall trees.

County transportation planners want to turn the street's route into a linear park, with children's play areas

and a tennis court.

In other words, the county's new proposal would build a street where bicyclists and pedestrians get equal consideration with motorists. That's exactly the kind of philosophy that should guide road building in a metropolitan area that must reduce its dependence on cars.

New roads must invite use by non-car travelers.

Of course, some residents still feel that a road — any road — will destroy their neighborhood and the natural areas that make it attractive.

And ideally, the 112th Avenue extension would not be built until the specific development projects for the Peterkort land at the Sunset Transit Center are finalized.

Questions still linger about the future of that Peterkort property. Friends of Cedar Springs, a community group, wants Metro to buy portions of the Peterkort property to save as a natural area. The group, however, has not made the case convincingly that such a move would be compatible with the need for intense development at light-rail stops. It also has been unsuccessful in getting the owners interested in such an idea.

Given that, some kind of future extension of 112th Avenue seems likely. Residents, at least, now have a proposal that strikes a better balance between cars and people.

Monday, November 1, 1993

Metro Council
2000 SW First Avenue
Portland, Or 97201-5398

RE: Resolution 93-1858 (ISTEA Enhancement Funding)

Your vote to refer the 112th Linear Park Project back to Committee for re-evaluation and a re-examination of the criteria used to judge submitted projects may seem like a safe vote, but I did not view it that way and neither will many people in the Cedar Mill Community.

Washington County did not develop the criteria. The State of Oregon sets the guidelines that your committees and local jurisdictions were to use in developing and rating the submitted projects. Metro's professional staff tells me the criteria and ranking method are not within your authority to change, and therefore, in my opinion, not a basis for rejecting a project because you don't like the outcome of the rankings.

The second criticism of the 112th project questions the honesty, integrity and commitment of Washington County to use these funds appropriately and as represented to build a linear park that does what the project claims to do....link our community together and to the light rail with a bicycle and pedestrian friendly green space. I hope our geography lesson and petition makes it clear a large segment of this community desires and believes it does!

Further, Washington County has insisted over and over and over and over, against significant public opposition, their commitment to building 112th. This idea of finding fault with the ranking because the new alignment and park hasn't been "technically" updated in the community plan is specious. There has been long years of public input and awareness. A LUBA appeal on ordinances affecting community plan amendments has delayed but not derailed 112th. Terry Moore knows this and this point is undeserving of further comment!

In response to local criticism of this project, Washington County responded with an absolutely terrific linear park concept that was received by an ovation of the 100-150 people present at its unveiling in August 1993. Even people who oppose this road endorse this design concept.. *You are seeing a few people using technicalities to try and delay and defeat a road project they oppose by attacking anything positive that moves this road closer to reality.* They threaten the livability of my neighborhood and this community with these short-sighted tactics.

This road and this park are the only North-South public access point bicyclist and pedestrians North of the canyon will have to the light rail between Miller-Barnes and Saltzman. This route is heavily used now and will be used even more after the new

Councilor McFarland, even if I had received an agenda for Thursday's meeting, I wouldn't have recognized resolution 93-1858 as something I needed to be concerned about. Obviously, my Metro Councilor who knows of my interest in this project, didn't make any effort to get my feedback.

I support the Council's interest in understanding and evaluating how criteria are generally established and reviewed if they do not reflect the realities of Region I. I didn't get the feeling this was a broad concern. It appeared you were all grasping to justify referring 112th when the full facts didn't warrant it.

Your own process is flawed! You didn't make sure or even know that the majority support the park on 112th. Maybe you need to refer all projects back to square one! If that's your true concern? Maybe other successfully funded projects didn't get an adequate public input process!. Maybe, even one of your favorites!

Consider me disenchanted!



Irma Trommlitz
515 NW 112th
Portland, Or 97229
644-6138

cc: Washington County Board of Commissioners ✓
ODOT REGION I
The Oregonian
The Valley Times
CPO I ✓
JPACT
Congresswoman Furse
Senator Hatfield

encl: Goals, recommendations, and public report on 112th Citizen's Advisory Co.

sent via Fax 11-2-93 to above list.

112TH AVENUE ALIGNMENT STUDY

At its October 24, 1991 meeting (and continued on November 4 and November 12, 1991) the Citizens Advisory Committee made the following recommendations:

The 112th Avenue Alignment Study Citizens Advisory Committee, recognizing the overwhelming opposition to the construction of an 112th Avenue extension, is forwarding the B1 alignment as the least objectionable, based on the goals and objectives and subject to the following design refinements:

Intersections:

- ◆ Provide cul de sacs on 112th and 114th at Cornell.
- ◆ Monitor traffic on Copeland; if necessary due to increased traffic, build traffic "calming" devices or close at 107th (based on community consent).
- ◆ Provide a four way stop at 111th & Rainmont.

Bike and Pedestrians:

- ◆ On 113th/111th from Cornell Road to McDaniel – build a bike path on one side and a pedestrian walkway on the other.
- ◆ Use standard 3-lane design [with bike paths on shoulders and with sidewalks] with the provision that this recommendation may change, based on development of a comprehensive circulation plan for bikes and pedestrians.

Right of Way:

- ◆ Reserve right of way for a possible right turn lane on 113th Avenue southbound to Cornell Road westbound.
- ◆ When purchasing right-of-way, Washington County should, where legally possible, include the following:
 - Purchase the whole property when touched by construction [if owner requests]
 - Provide displaced residents the first right of refusal on county purchased properties
 - Begin immediate purchase of those displaced [if owner requests]
 - Provide continued occupancy until removal/construction

Future Planning:

- ◆ Work with Tri Met for bus access in the Cedar Mill area.
- ◆ Establish a community task force, including members of the CAC and representatives from the community (including a representative from the north end of 114th Avenue), to be involved as liaisons to Washington County and the engineering team for final design recommendations.

WHAT IS THE CURRENT DESIGN?

- ▣ LINEAR PARK ADJACENT TO NEW ROADWAY
- ▣ RESERVED OPEN SPACES
- ▣ PEDESTRIAN PATH IN LINEAR PARK
- ▣ PEDESTRIAN OVERCROSSING NEAR CORNELL ROAD
- ▣ PEDESTRIAN UNDERCROSSING AT JOHNSON CREEK
- ▣ 35 M.P.H. DESIGN SPEED ON NEW ROAD ALIGNMENT
- ▣ 25 M.P.H. DESIGN SPEED ON 113th AVENUE
- ▣ REDUCED 1350 FEET OF NEW ROAD TO 2 LANES
- ▣ BIKELANES ON ROADWAYS
- ▣ SIDEWALKS ON CORNELL ROAD, NW 113th
AND PORTIONS OF NEW ROADWAY
- ▣ RETAINING WALLS TO REDUCE PROPERTY IMPACTS
BOTH SIDES NEAR WETLANDS
BOTH SIDES SOUTH OF CORNELL ROAD

WHAT DID THE CITIZENS ADVISORY COMMITTEE DO?

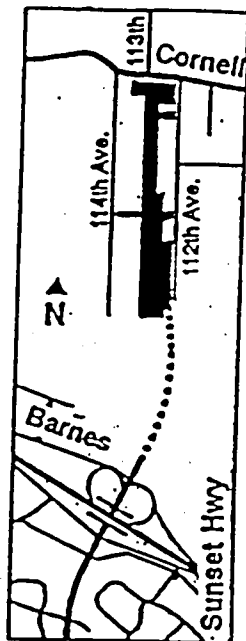
- ▣ ESTABLISHED GOALS AND OBJECTIVES FOR
SELECTION OF A N.W. 112th AVENUE ALIGNMENT
- ▣ HELD 10 MEETINGS AND 2 OPEN HOUSES
- ▣ WALKED THE ALIGNMENT CORRIDOR
- ▣ REVIEWED 6 DIFFERENT ALTERNATIVES
- ▣ ATTENDED NEIGHBORHOOD MEETINGS
- ▣ CONDUCTED A NEIGHBORHOOD SURVEY
- ▣ SUGGESTED DESIGN REFINEMENTS
- ▣ FORWARDED THE B1 ALIGNMENT TO THE
COUNTY AS THE LEAST OBJECTIONABLE

WHAT'S NEXT?



- ▣ CONTINUE DEVELOPMENT OF LINEAR PARK PROPOSAL WITH TUALATIN HILLS PARK AND RECREATION DISTRICT AND COMMUNITY.
- ▣ SUBMIT PROJECT PROPOSAL FOR LAND USE REVIEW IN FALL 1993.
- ▣ HOLD PUBLIC HEARING ON PROJECT WITH WASHINGTON COUNTY HEARINGS OFFICER IN LATE 1993 OR EARLY 1994.
- ▣ PENDING LAND USE APPROVAL, PURCHASE REQUIRED PROPERTY IN 1994.
- ▣ PENDING LAND USE APPROVAL, CONSTRUCT PROJECT IN 1995-1996.

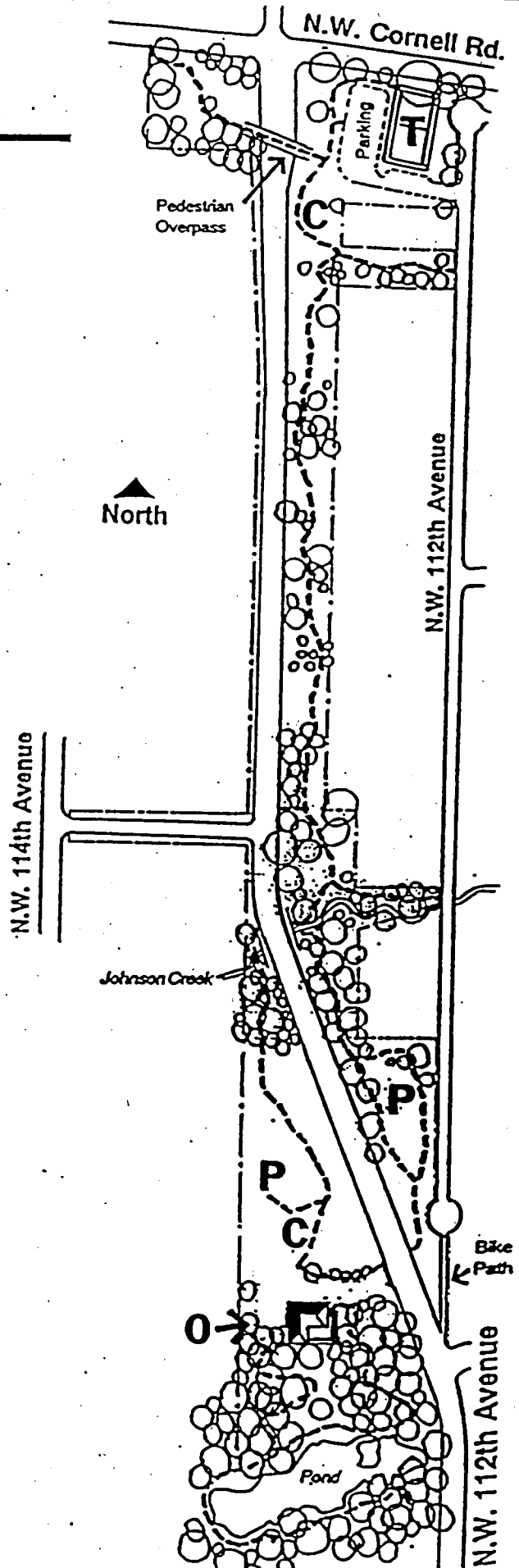
112th Avenue Linear Park

Project Area



Park Detail Map

-  Trail
-  Existing Trees
- C** Children's Play Area
- O** Overlook
- P** Picnic Area
- T** Tennis Court





METRO

4 November 1993

Memorandum

To: Mike Hoglund
TPAC Members
George VanBergen, Chair, JPACT
Roger Buchanan
Jon Kvistad
Rod Monroe, alternate
JPACT Members

From: Terry Moore, Councilor, District 13 *Terry*

Subject: ISTEА Enhancement Grants: Review of Ranking of Project #37

On October 28th, the Metro Council voted to ask that you further review one of the projects recommended for ISTEА enhancement funding (years 1995-1998) by an ODOT staff sub-committee. That project (#37) would provide \$308,000 for a bicycle/pedestrian pathway through a proposed linear park along a proposed new alignment for the unbuilt portion of NW 112th Avenue in the Cedar Mill area.

Because of the public comments I received before and during the hearing held by the Metro Planning Committee on these grants, I submitted the request for further review of the project rankings and of the 112th linear park project in particular. In your consideration, I ask that you respond to the following concerns that were raised and review the sub-committee's ranking rationale for all projects which received between 69.71 points and 59.43 points. I would appreciate another look at how well each of those projects technically meets the criteria developed for project ranking.

1. There are already funds committed by Washington County for construction of bicycle lanes within the 112th/113th Avenue right-of-way. (See attachments. These committed funds were used as justification for CMAQ funding of a bike lane on Cedar Hills Blvd. south of Sunset Highway.)
2. Bike lanes are included within the 112th/113th roadway in the design submitted by county staff, and the park pathway would duplicate those bike lanes. The reason given for bike lanes on the street is that commuting bicycle riders would not want to use the meandering pathway in the park area because it is about twice as long as the roadway.

3. The project is not really "intermodal" because of its distance from the Sunset//217 light rail station of approximately 1.3 miles. The project justification also portrayed the existence of "a bicycle pedestrian pathway" on NW Cornell Road linking to the proposed linear park; however, no such pathway currently exists.
4. The project is not currently in the adopted Transportation Element of the Washington County comprehensive plan. The alignment for 112th that is in the adopted plan calls for a five-lane, 90-foot right-of-way without bike lanes. The amendment to the comprehensive plan that would provide a three-lane 112th alignment with bike lanes is included as a "map error" in the county's ordinance 419 adopted in 1992 and on appeal at LUBA. The linear park is not included as part of the "map error" amendment.

Additionally, it has been brought to my attention on several occasions that there is a very real need for bicycle and pedestrian connections to the Sunset/217 light rail station from the Cedar Mill and Raleigh Hills neighborhoods surrounding the station. Those connections have been identified by CPO 1 (the Cedar Mill neighborhood organization) and are within the one-half mile intermodal distance used in regional transportation planning. Those connections, as well as other projects submitted for ISTE A enhancement funding (and ranking within 10 points of the 112th linear park project on a 100 point scale), led me to believe your further review was warranted. The merits of completing the 112th/Cedar Hills Blvd. extension road link between the Sunset Highway and Cornell Road is an issue with no relevance to my request and should have no relevance to your review.

c Gail Ryder
 Andy Cotugno

attachments (4)

tshm

COMMITTED WASHINGTON COUNTY ROAD PROJECTS

~~Bike Lane Scheduling~~
1993-1996

PROJECT	LENGTH	*ESTIMATED COST	FUNDING	**SCHEDULE
Cornell Road: 179th-185th	.27	\$ 46,959	RF	1993
185th Ave: Rock Creek-Tamarack	1.31	\$265,224	MSTIP2	construct 1993-1994
Durham Rd: Hall Blvd.-Upper Boones Ferry	1.28	\$222,622	MSTIP2	construct 1994
Baseline Rd: Brookwood-231st Avenue	2.16	\$440,628	MSTIP2	construct 1995
Main Avenue: 10th Avenue-Brookwood	4.00	\$816,077	MSTIP2	construct 1995-1996
Baseline Rd: 158th-185th	2.90	\$504,378	MSTIP2	construct 1994-1995
Cornell Rd: Sunset Highway-Barnes Road	3.22	\$560,032	MSTIP2	construct 1994
Farmington Road: Murray Blvd.-209th Avenue	7.28	\$1,266,160	MSTIP1	unknown
179th-185th	1.89	\$328,714	TIF	construct 1994
185th-209th	.38	\$100,000	TIF	construct 1994
Cedar Hills: Berkshire-Parkway	.03	\$ 6,588	MSTIP2	construct 1996(?)
TOTAL	24.92	\$4,550,795		

*Costs are based on estimated material and labor costs for bike lane portion.
 **These schedules are subject to change
 ***This project is currently under design. STP funds are being sought.

PLANNING COMMITTEE MINORITY REPORT

CONSIDERATION OF RESOLUTION NO. 93-1858A FOR THE PURPOSE OF ENDORSING ODOT REGION 1 PRIORITY FY 95, FY 96, AND FY 97 TRANSPORTATION ENHANCEMENT PROJECTS FOR INCLUSION IN THE 1995-1998 TRANSPORTATION IMPROVEMENT PROGRAM

Date: October 20, 1993

Presented By: Councilor Moore

Recommendation: The Metro Council adopts this minority report which substitutes Resolution 93-1858A for the original Resolution 93-1858 that has been forwarded for approval by the Council Planning Committee.

Issues/Discussion: The following points support this recommendation:

1. The initial ranking process used by an ODOT subcommittee was inadequate and did not provide sufficient information for TPAC, Planning Committee or JPACT review.

2. The Intermodal Surface Transportation Efficiency Act (ISTEA) requirements for broad public involvement in development of the project list appear not to have been followed.

3. Project 37, 112th Linear Park, Washington County, does not merit funding from this source and should be deleted from the projects listed in Exhibit A for the following reasons:

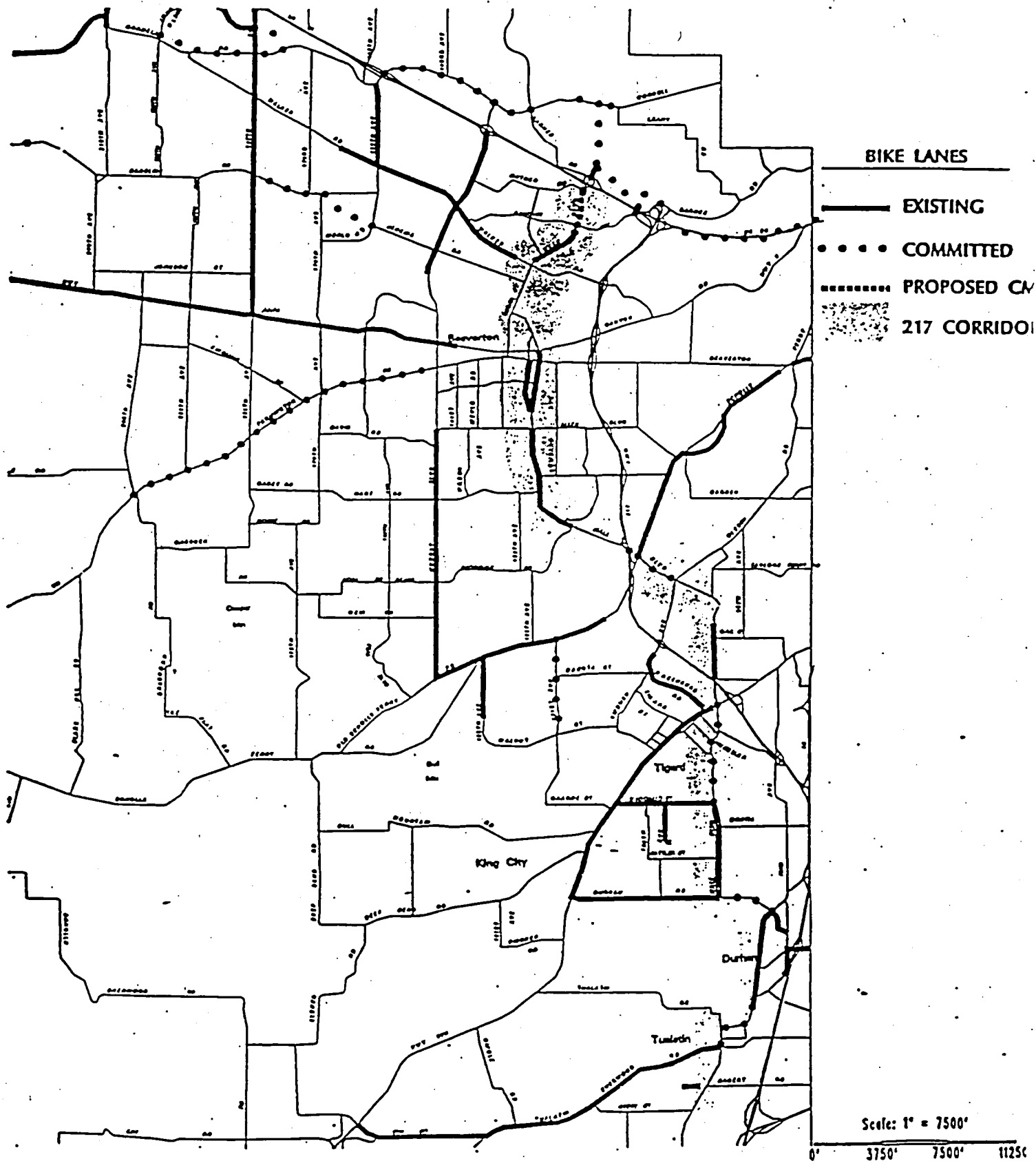
A. There are already committed Traffic Impact Fees (TIF) dedicated to this project (see attached Exhibit A from JPACT packet, "Highway 217 Corridor Bike Lanes", prepared by the Washington County Planning Division). The 112/113th project would also appear to be eligible for funding from state gas tax monies (see Washington County Ten Year Transportation Improvement Plan).

B. The project is not in the Transportation Element of the adopted Washington County Comprehensive Plan. (NOTE: The 112th alignment that is included is a five lane, 90 foot right-of-way, without bike paths.)

C. The Washington County Comprehensive Plan amendment that would provide for a three-lane 112/113th project with bike lanes, is included as a "map error" in Washington County Ordinance 419. Ordinance 419 is currently on appeal before the Land Use Board of Appeals. A linear park is not included as part of the "map error" amendment.

4. Project justification as supportive of the pedestrian/bicycle connection to the Sunset/217 light rail transit station is misleading. The location of the 112/113th project is 1.3 miles from the Sunset LRT Station and there is no current commitment to provide a pedestrian link from 112th to the station. (NOTE: County staff indicated construction of both pedestrian and bike links would be tied to unspecified future development of the Peterkort property.)
5. The project description of the facility on Cornell Road leading to this project erroneously indicated existence of bike/pedestrian facilities on that road.
6. There is a demonstrated need for pedestrian/bicycle access to the Sunset LRT station from the neighborhoods to its north that should be constructed in time for LRT start-up. This access would not be within an existing roadway right-of-way and would qualify for funding under ISTEA. (A Cedar Hills/Cedar Mill CPO April, 1993 Transportation Report identified preferable alternatives and has been submitted to ODOT, Metro and Washington County.)
7. There was strong public objection to inclusion of Project 37, 112th Linear Park, Washington County.

PREPARED BY THE WASHINGTON COUNTY PLANNING DIVISION





METRO

ATTACHMENT G

Date: December 8, 1993

To: JPACT

mta for GVB
From: George Van Bergen, JPACT Chair

Re: 112th Avenue Linear Park - Transportation Enhancement Project

After further discussions with staff, I have concluded that JPACT should not conduct a public hearing regarding the 112th Avenue Linear Park Transportation Enhancement Project in Washington County. I feel that such a hearing would be an unnecessary burden on the concerned citizens who have already testified numerous times at the local level, at JPACT, at the Metro Planning Committee, and at the Metro Council. Further testimony would not, in my judgment, produce new information that we are not already familiar with.

Rather than conduct a hearing, I have directed staff to summarize the relevant testimony on both sides of the issue from all levels of public meetings, summarize the process Metro and ODOT followed to rank the projects under consideration, and discuss the implications of proceeding with or withdrawing this project from further consideration for funding under ODOT's Transportation Enhancement Program. This staff report will be available for your consideration at the January JPACT meeting.

GVB/bc

Meeting Date: February 24, 1994
Agenda Item No. 7.3

RESOLUTION NO. 94-1892

SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 94-1892, FOR THE PURPOSE OF REVISING CHAPTER 5 OF THE REGIONAL SOLID WASTE MANAGEMENT PLAN AND ADJUSTING TONNAGES AT METRO FACILITIES

Date: February 15, 1994 Presented by: Councilor Monroe

Committee Recommendation: At the February 15 meeting, the Committee voted 3-2 to recommend Council adoption of Resolution No. 93-1892. Voting in favor: Councilors McFarland, Monroe and Wyers. Voting against: Councilors Hansen and McLain. Councilor Buchanan was absent.

Committee Issues/Discussion: Councilor Wyers indicated that she had requested the drafting of this resolution to address several issues that emerged during the debate over the Wilsonville Transfer Station. She explained that the intent of the resolution was to: 1) provide for a comprehensive revision of the Regional Solid Waste Management Plan (RSWMP) as it relates to the development and regulation of solid waste disposal and recycling facilities in the region, 2) provide Council support for the implementation of plan to divert a minimum of 60,000 tons/yr. from Metro South to Metro Central, and 3) establish a five-year moratorium on new large-scale transfer stations. Revisions in the RSWMP would be completed by the end of 1994 and implementation of the tonnage diversion would be completed by July 1, 1994.

Bob Martin testified in support of the resolution, noting that staff was initiating an RSWMP revision and the implementation of a tonnage diversion plan. He indicated that the RSWMP revision would be an open process involved all interested parties.

Merle Irvine, Willamette Resources, expressed concern that the transfer station moratorium would preclude addressing the need for additional transfer station capacity during the proposed revision of the RSWMP. He urged that the moratorium be removed or that a sunset date of December 31, 1994 be inserted.

Councilor McLain expressed concern that the moratorium would tie the hands of future Councils and would limit Metro's options for the next five years. She asked legal staff if the moratorium was legal. Todd Sadlo, Assistant Legal Counsel, responded that the resolution only expressed Council intent and that, because the moratorium was included in a resolution, the Council would be free to rescind or modify its provisions at any time. Councilor McLain expressed her desire to remove the moratorium.

Councilor Wyers opposed deleting the moratorium. She noted that it would serve as a guide to those revising the RSWMP and it would avoid new arguments regarding transfer stations. He commented that the future disposal system may look at types of facilities other

than transfer stations.

Councilor Hansen supported the need to give the new Council a new facility plan derived from an open process and that the moratorium would limit plan flexibility.

Councilor McFarland expressed support for the need to transfer waste from Metro South to Metro Central to eliminate the negative impact of the "put-or-pay" provision of the Metro Central contract. She noted that Metro paid an additional \$503,000 last year for waste that was not delivered to Metro Central.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF REVISING	)	RESOLUTION NO. 93-1892
CHAPTER 5 OF THE REGIONAL SOLID)	
WASTE MANAGEMENT PLAN AND	)	INTRODUCED BY SOLID WASTE
ADJUSTING TONNAGES AT METRO	)	COMMITTEE
FACILITIES		

WHEREAS, The Composter facility is no longer operational;

WHEREAS, The Council has determined that new transfer facilities will not be built or franchised in the near future;

WHEREAS, A number of new processing and recycling facilities addressing specific wastestreams will likely be sited;

WHEREAS, The organic wastestream study may produce recommendations affecting facility configuration and development;

WHEREAS, Major industrial waste generators may develop new non-Metro-related disposal options;

WHEREAS, Review of the solid waste revenue system may produce recommendations affecting facility financing; and

WHEREAS, Tonnage adjustments between existing facilities are needed to maximize their efficient and cost-effective operation; now, therefore,

BE IT RESOLVED,

1. That the Metro Council authorizes the revision of Chapter 5 and such other elements of the Regional Solid Waste Management Plan and Metro Code as may be necessary to prepare a new facility plan. This revision shall address Metro's regulatory relationship with existing and potential new types of disposal and processing facilities and the nature and configuration of the Metro region's solid waste disposal and processing system.

2. That the Metro Council authorizes the development of a plan

to adjust tonnage levels between Metro Central and Metro South Stations, for the purpose of reducing projected annual tonnage levels at Metro South Station by a minimum of 60,000 tons.

3. The revised chapter shall be presented for Council consideration prior to December 31, 1994. The tonnage adjustment plan shall be implemented by July 1, 1994.

4. That it is the Metro Council's intent that no new transfer stations, as defined in Metro Code Section 5.01.010 (u), with a capacity of over 75,000 tons per year shall be franchised for a period of five years from the date of approval of this resolution.

ADOPTED by the Metro Council this _____ day of

_____, 1993.

Judy Wyers, Presiding Officer

Meeting Date: February 24, 1994
Agenda Item No. 7.4

RESOLUTION NO. 94-1894

SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 94-1894, FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO THE COMPETITIVE PROCEDURES OF METRO CODE CHAPTER 2.04.053 AND AUTHORIZING A CHANGE ORDER TO DESIGN SERVICES AGREEMENT WITH PARAMETRIX, INC.

Date: February 16, 1994 Presented by: Councilor Hansen

Committee Recommendation: At the February 15 meeting, the Committee voted 5-0 to recommend Council adoption of Resolution No. 94-1894. Voting in favor: Councilors Hansen, McFarland, McLain, Monroe and Wyers. Councilor Buchanan was absent.

Committee Issues/Discussion: The purpose of this resolution is to authorize additional design and construction management services related to the closure of the St. Johns Landfill under an existing agreement between Metro and Parametrix, Inc. Funding for these additional services is already provided for the present fiscal year. Funding needed in future fiscal years would require additional approval by the Council.

Dennis O'Neil, Solid Waste Engineering Staff, provided the committee with a brief review of the current status of the closure project. He noted that work in Subarea 1 was completed. Work in Subareas 2 and 3 and a small portion of Subarea 4 was begun last summer and will be completed this summer. Contracts for the closure of the remainder of Subarea 4 and Subarea 5 will be let during the next fiscal year and the work completed by the summer of 1996. He also noted that installation of the gas motor blower flaring system has been completed.

O'Neil reviewed the history of the existing Parametrix contract for design and construction management services. He explained that Parametrix was one of two bidders for the original contract which was awarded for \$2.3 million. Earlier change orders increased the amount of the contract to \$2.825 million. The effect of the proposed change order would be to provide for specified additional services at a maximum cost of \$575,000, bringing the total maximum cost of the contract to \$3.4 million.

The additional requested funding would finance design and construction management services for the remainder of the closure of Subareas 2 and 3 and the development of bid documents related to contracts for the closure of Subareas 4 and 5. O'Neil indicated that it would be staff's intent to bid out construction management services for the actual closure work on Subareas 4 and 5.

O'Neil indicated that the increased costs for design and construction management services resulted from changes in the closure plan and regulatory requirements that were not known when the original contract was awarded to Parametrix. He cited several

examples including the need for a low-permeable soil layer, installation of monitoring wells, increased monitoring of construction activities, and the development of the gas collection system. He noted that these types of costs will continue as additional portions of the landfill are closed. He concluded by noting that the cost of this additional work is included in the current estimate of \$40.6 million for all closure-related work.

Councilor Wyers asked if the additional design and construction management services would require additional Metro staff. Jim Watkins, Solid Waste Engineering Manager, indicated that it would not require additional staff. He noted that the decision not to build the Wilsonville transfer station would free up some staff time that would be assigned to the landfill and that scalehouse scheduling would allow these personnel to perform some monitoring functions at the landfill.

Councilor Wyers asked legal counsel staff to explain when the Council must approve change orders. Todd Sadlo, Assistant Legal Counsel, noted that for personal services contracts, such as the Parametrix contract, change orders exceeding \$10,000 must be approved.

Councilor Hansen asked why the construction management services for Subareas 4 and 5 would be bid, instead of continuing the existing Parametrix contract. Watkins indicated that the dollar amount involved (possibly \$800,000) was significant and that Metro should insure that it would be receiving these services for the best possible price.

Councilor McLain expressed concern that since Parametrix had done all of the previous design and construction management services work, how fair would such a bidding process be to other firms?

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING	)	RESOLUTION NO. 94-1894
AN EXEMPTION TO THE COMPETITIVE)	
PROCUREMENT PROCEDURES OF	)	Introduced by Rena Cusma
METRO CODE CHAPTER 2.04.053 AND	)	Executive Officer
AUTHORIZING A CHANGE ORDER)	
TO DESIGN SERVICES AGREEMENT)	
WITH PARAMETRIX, INC.)	

WHEREAS, It is in the public interest that the St. Johns Landfill closure process move forward in an expeditious manner; and

WHEREAS, The closure process can be expedited through the use of the existing engineering contractor to perform tasks described in Change Order No. 15 attached as Exhibit A; and

WHEREAS, The project requires additional engineering services that could not have been anticipated at the time of Contract award; and

WHEREAS, It is impractical to solicit proposals for the work described in Change Order No. 15; and

WHEREAS, Change Order No. 15 cannot be approved unless an exemption to the Competitive Procurement Process pursuant to Metro Code 2.04.054 is granted by the Metro Contract Review Board; and

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

BE IT RESOLVED, That the Metro Contract Review Board exempts Change Order No. 15 to the Design Services Agreement with Parametrix, Inc. from the Competitive Procurement Procedures of Metro Code 2.04.053 and authorizes execution of Change Order No. 15.

ADOPTED by the Metro Council this _____ day of _____, 1994.

Judy Wyers, Presiding Officer

RESOLUTION NO. 94-1894
Exhibit A

CHANGE ORDER NO. 15
METRO CONTRACT NO. 901270

TO THE CONTRACT BETWEEN PARAMETRIX, INC. AND METRO
ENTITLED, "DESIGN SERVICES AGREEMENT"

PROJECT: Design Services Agreement
METRO POC: Dennis O'Neil
CONTRACTOR POC: George Drake
COMPLETION DATE: April 30, 1996

The "Scope of Work/Schedule" and "Exhibit A, Compensation to Contractor" in the "Design Services Agreement" entered into June 1990 is hereby modified to incorporate the changes described below:

1. All language within Scope of Work, Section 5. "Construction Management (Task II)" is deleted and replaced with the following language:

"5. Construction Related Engineering Services

Contractor shall provide qualified personnel to perform construction related services which may include design modifications, construction document preparation, bidding process assistance, construction observation, inspection and testing, surveying, contract administration, and other similar services when authorized in writing by Metro.

The specific tasks and responsibilities of the Contractor will be determined by negotiation periodically throughout the term of the Contract. The work required of the Contractor and the compensation for the work will be described in a written Work Order issued by Metro. Contractor shall not incur expenses for work prior to issuance of a Work Order signed by Metro's Engineering Manager or Solid Waste Director.

Contractor shall not exceed the fee authorized by work orders without prior written authorization of Metro through additional work orders. Contractor shall notify Metro in writing if any additional fee is required to complete the assigned work. Such notice shall include an estimate of the additional cost and an explanation of the reasons for the need for any additional fees. The notice shall be submitted at least 30 days prior to the anticipated date that the authorized fee will be reached. Work performed by the Contractor without prior written authorization shall be at Contractor's sole risk.

2. Exhibit A, paragraph B., in the original Design Services Agreement provided that the total cost of the contract was not to exceed \$2,301,692. This sum has been increased by previous change orders to the amended total cost of \$2,825,865. This total cost is amended and increased by this change order, to pay for the additional services described above, to the new total cost not to exceed \$3,400,865.

All other terms and conditions of the original agreement and previous agreements shall remain in full force and effect.

PARAMETRIX, INC.

METRO

Signature

Signature

Print Name & Title

Print Name & Title

Date

Date

DO:clk
94-1894.RES

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 94-1894 FOR THE PURPOSE
OF AUTHORIZING AN EXEMPTION TO THE COMPETITIVE
PROCUREMENT PROCEDURES OF METRO CODE CHAPTER 2.04.053
AND AUTHORIZING A CHANGE ORDER TO THE DESIGN SERVICES
AGREEMENT WITH PARAMETRIX, INC.

Date: February 2, 1994

Presented by: Jim Watkins
Dennis O'Neil

PROPOSED ACTION

Adoption of Resolution No. 94-1894 which grants exemption from the competitive procurement process and authorizes execution of Change Order No. 15 to the Design Services Agreement with Parametrix, Inc., for engineering services related to St. Johns Landfill Closure.

FACTUAL BACKGROUND AND ANALYSIS

In early 1990, Metro requested proposals for final design and construction management services for St. Johns Landfill Closure. After reviewing the two proposals submitted, Metro awarded Contract No. 901270 to Parametrix, Inc., for a total of \$2.3 million dollars. The other proposer offered to perform all tasks for a total of \$3.7 million dollars.

Since the work scope was developed, there have been several changes in the approach to closing the St. Johns Landfill. Some of the changes were mandated by Oregon Department of Environmental Quality (DEQ); and some changes were seen as desirable by Metro as Metro gained experience in carrying out the closure. The result of these changes has increased the costs for engineering services.

For example, DEQ mandated that Metro construct a low permeable soil layer below the geomembrane in the cover to serve as a second line of defense in case the geomembrane developed future leaks. This significantly increased construction management costs because the recycled and imported low permeable soil and the compacted soil layer construction method had to be inspected according to detailed criteria mandated by DEQ. Construction management of the low permeable soil layer was not a part of the original scope of work.

DEQ also required that Metro achieve certain percent slopes in the future. This required that Metro closely monitor settlement of the Landfill in order to predict future settlement. Parametrix's subcontractor, Cornforth Consultants, has monitored this settlement and has predicted future settlement. This settlement monitoring and predicting was an additional cost item.

The soil procurement project of 1991-92 was itself not contemplated as a separate construction effort in the original Parametrix work scope. During this project, Parametrix and Cornforth personnel inspected soil quality and moisture content for conformance to the specifications, inspected placement of soil to build the engineered piles, and monitored settlement as noted above. The actual cost of all additional work related to soil procurement including design and construction document preparation was \$557,000.

In the Spring of 1992, DEQ directed Metro to construct shallow monitoring wells and piezometers. Parametrix and Cornforth staff designed the installations, developed plans and specifications, supervised the drilling contractor and also assembled and installed the sophisticated piezometers. These services were not anticipated in the 1990 work scope. The actual cost of this additional work was \$226,000.

Parametrix has also rendered technical assistance to Metro's effort to market landfill gas. This included the construction and operation of a large-scale field test to determine landfill gas production rates and production conditions. This information was important for contract negotiations between Metro and its prospective pipeline contractor B.I.O. Gas Industries. The production rates and conditions are also being actively studied by at least two prospective customers. A total of \$93,000 has been authorized for services related to energy recovery from landfill gas, which were not anticipated in the original contract.

Other engineering services not anticipated in the 1990 contract are expected to cost up to \$106,000. These services include technical assistance in continuing negotiations with regulators and assistance in operating and maintaining the gas collection system.

Engineering services for the above-activities, plus the closure of 103 acres of Sub-Area 1 and Sub-Area 2 and the construction of the Motor Blower Flare station have exhausted the \$2.8 million authorized so far. More money for engineering services related to closure construction will be needed over the next three years to complete closure of Sub-Areas 3, 4 and 5.

Although Metro is assuming as much responsibility at St. Johns Landfill as staffing availability allows, there still remains a need for engineering services in the following areas:

- Update existing landfill closure design as necessary based on new information
- Prepare technical sections of construction contract documents
- Assist in the bidding process
- Preconstruction planning and preparation
- Inspect offsite borrow sources for imported soils
- Inspect imported soils for compliance with specifications
- Evaluate existing topsoil and low permeable soil on St. Johns Landfill to decide how much can be recycled
- Inspect subgrade embankment application and compaction
- Inspect application and compaction of low permeable soil layer to ensure that it complies with DEQ mandates
- Inspect and test plastic geomembrane to detect any damage and leaking seams

- Inspect layers above the geomembrane
- Inspect the construction of the gas collection system
- Inspect construction of the condensate collection system
- Inspect the construction of the stormwater collection system
- Review shop drawings and equipment specifications submitted by construction contractor
- Evaluate design change proposals submitted by construction contractor
- Prepare voluminous construction certification report required by DEQ
- Render technical assistance in negotiations with regulators

Since Parametrix designed the closure improvements, it is important that Parametrix make any necessary modifications in the design and interpret the design. Examples of design interpretation include preparing technical sections of the construction contract documents, evaluating design change proposals submitted by the construction contractor and reviewing shop drawings and equipment specifications submitted by the construction contractor. The Parametrix team has gained a working knowledge of the on-site soil characteristics which is invaluable in deciding how much on-site soil to recycle. This experience is also important in inspecting the construction of the low permeable soil layer. In summary, it is important to retain Parametrix to interpret the design. The responsibility for the quality of the improvements resulting from a design is clearer if the designer shares responsibility for constructing these improvements. The Parametrix team has gained significant experience with construction issues specific to St. Johns Landfill closure.

Change Order No. 15 increases the Parametrix fee limit for design and construction management-related services from \$2,825,865 to \$3,400,865. This is an increase of \$575,000 dollars. This would provide enough funds to assist Metro to finish quality assurance oversight of the current Sub-Area 2 and 3 closure being performed by Tri-State Construction Co. It would also provide funds for assisting Metro to prepare construction documents and solicit bids for one more construction contract covering the remainder of St. Johns Landfill. Under Change Order No. 15 Metro would officially assume some construction management functions in order to reduce cost increases. The role of Parametrix would shift toward assuring that the quality of the construction met the requirements of the plans and specifications. Metro would then solicit open competitive proposals for construction management related services for the closure of Sub-Area 5 and 4 which will be completed in 1995 and 1996 respectively.

BUDGET IMPACT

The fiscal year 1993-1994 budget allocates \$455,000 for design and construction management-related services for the St. Johns Landfill Closure. The draft of the proposed fiscal year 1994-1995 budget allocates \$550,000 for these services. The authorization for work after June 30, 1994 will be determined by the Metro Council through the regular budget process.

The additional cost of \$575,000 dollars for construction management-related services is already included in the current \$40.6 million dollar estimate of St. Johns Landfill Closure costs.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 94-1894.

DO:clk
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CONTRACTOR: Parametrix, Inc.

PROJECT: St. Johns Landfill Closure

CONTRACT NO.: 901270 **BUDGET NO. 531-319000-526900-75960**

DEPARTMENT: Solid Waste **ACCOUNT NAME** Closure

THIS REQUEST IS FOR APPROVAL OF CHANGE NUMBER: 15

- | | |
|--|----------------|
| 1. The original contract sum was | \$2,301,692.00 |
| 2. Net change by previously authorized change order | \$524,173.00 |
| 3. The contract sum prior to this request was | \$2,825,865.00 |
| 4. Total amount of this change order request | \$575,000.00 |
| 5. The new contract sum, including this change order | \$3,400,865.00 |
| 6. The total contract sum paid | \$2,700,820.37 |
| 7. Fiscal Year appropriation for FY 94-95 | \$550,000.00 |

Estimated appropriation remaining as of 1/28/94	\$550,000.00
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8. Start Date: 1/28/94 Expire Date: 4/30/96

REVIEW AND APPROVAL:

Jim Watkins 2-7-94
 Division Manager, Solid Waste Department Date Fiscal Review Date

Director, Solid Waste Department	Date	Budget Review	Date
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Director, Regional Facilities	Date	Legal Review	Date
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Note: Additional monies will be appropriated in the following Fiscal Years for this change order.
VENDOR # 4106

Meeting Date: February 24, 1994
Agenda Item No. 7.5

RESOLUTION NO. 94-1920

REGIONAL FACILITIES COMMITTEE REPORT

RESOLUTION NO. 94-1920, REJECTING AN APPEAL BY ROLLINS & GREENE BUILDERS, INCORPORATED, OF THE AWARD OF A \$361,150 CONTRACT TO REMODEL THE RESEARCH BUILDING AT THE METRO WASHINGTON PARK ZOO AND AUTHORIZING THE EXECUTIVE OFFICER TO EXECUTE THE AGREEMENT WITH LONIGAN CONSTRUCTION COMPANY

Date: February 17, 1994

Presented by: Councilor McFarland

COMMITTEE RECOMMENDATION: At its February 16, 1994 meeting the Regional Facilities Committee voted 5-0 to recommend Contract Review Board approval of Resolution No. 94-1920. All committee members were present and voted in favor.

COMMITTEE DISCUSSION/ISSUES: Mr. John Thomas testified, identifying himself as an attorney representing the appellant, Rollins & Greene. Mr. Thomas argued that the Metro Code requires bidders on construction contracts to identify, at the time of bid opening, those minority and women-owned businesses to be used on a project. He said the successful bidder, Lonigan Construction Company, did not do so, and their bid for the remodel of the research building at the Zoo should be rejected. He said the Executive Officer's rejection of Rollins & Greene's appeal is flawed because the Executive does not have authority to rule that failure to submit the names of minority and women-owned businesses (MBE and WBE) is a minor irregularity. He added that the Code does not allow bidders to submit the pertinent MBE and WBE information after bid opening, which Metro allowed Lonigan to do.

Chair Hansen called on Senior Assistant Counsel Mark Williams. Mr. Williams said the Code does allow the Executive to waive Lonigan's omission as a minor irregularity; he said the question is not whether Metro can do so, but whether it should, and that is a judgment call for the Contract Review Board to make. He stated the issue as a question of whether Lonigan's omission was simply a failure to provide information or was it more significant and produced an inequity in the bidding process. Councilor Hansen asked Mr. Williams to clarify that both firms' bids contained some omissions, and he said they did. Rollins & Greene's bid did not contain some information on their good faith efforts to secure MBE and WBE subcontractors.

In response to a question from Councilor Gates, Mr. Williams summarized the good faith efforts section of the Code, and described those sections missing in the Rollins & Greene bid. He discussed the process followed in awarding the bid, saying that either firm in question could have been considered low bidder, depending on alternatives selected. Metro contracting staff saw that both bids had deficiencies, gave both firms two days to provide the missing information (which both did), and then chose to award the contract to Lonigan.

Councilor Washington asked why Metro has an MBE/WBE Code if we cannot require their participation. Mr. Williams said this Code section was adopted to replace Metro's former MBE/WBE Code, which counsel determined was no longer in compliance with federal court rulings. Without a disparity study to document industry discrimination, Metro cannot require MBE/WBE contracting and can do no more than require good faith efforts in locally funded contracts.

Councilor Washington asked what MBE/WBE firms would be subcontracting with Lonigan. Procurement Officer Rich Wiley said the Lonigan bid had Portland Custom Interiors as the MBE (for 7.7% of the contract), and Hobson General, Commercial Interiors and Specialties, and Aztec as WBE's (for 5%). The Rollins & Greene bid had the same MBE and WBE subcontractors, with the exception that Rollins & Greene did not include Aztec, and their WBE participation was 4.2%. Mr. Wiley added that all five bids received on the project contained some errors in completing the forms. Since there were no clean bids, his office chose to offer the two apparent low bidders the opportunity to provide the missing information.

Mr. William Lonigan, President of Lonigan Construction, testified. He spoke to the difficulty of concluding agreements with MBE's and WBE's by the time of bid opening.

Councilor McFarland moved to recommend Contract Review Board rejection of the appeal. Councilor Moore said she would probably feel differently about strict application of the Code if Metro had the authority to require MBE and WBE participation in construction contracts, but since there aren't such requirements she considers Lonigan's omission to be a minor irregularity. She said she believes it was equitable to offer both firms the same amount of time to provide the information lacking in their bids.

- (1) Projection of the number and types of contracts to be awarded by Metro;
 - (2) Projection of the number, expertise and types of MBEs likely to be available to compete for the contracts;
 - (3) Past results of Metro's efforts under the MBE Program; and
 - (4) Existing goals of other Portland metropolitan area contracting agencies, and their experience in meeting these goals.
- (c) Metro will publish notice regarding proposed contract goals not later than ten (10) days prior to adoption of the goals.

2.04.150 Good Faith Efforts at Maximizing MBE Opportunities:

- (a) Good faith efforts at maximizing MBE opportunities shall be required for construction contracts over \$50,000.
- (b) At the discretion of the Liaison Officer, good faith efforts at maximizing MBE opportunities may be required for any other contract. This requirement shall be made in writing prior to the solicitation of bids for such contract.
- (c) Where good faith efforts are required, the Liaison Officer shall direct the inclusion of a clause in any RFP or bid documents which requires that the prime contractor, prior to entering into any subcontracts, make good faith efforts at maximizing MBE opportunities, as that term is defined in Section 2.04.160.

2.04.155 Contract Award Criteria:

- (a) To be eligible for award of contracts subject to good faith efforts requirements, prime contractors must prove that they have made good faith efforts at maximizing MBE opportunities prior to the time bids are opened or proposal are due. Bidders/Proposers are required to utilize the most current list of MBEs certified by the Executive Department in all of the bidders'/proposers' good faith efforts solicitations. The address where certified lists may be obtained shall be included in all applicable bid/proposal documents.
- (b) All invitations to bid or request for proposals on contracts for which good faith efforts requirements have been established shall require all bidders/proposers to submit with their bids and proposals a statement indicating that they have made good faith efforts as defined in Section 2.04.160. To document good faith efforts, all bidders and proposers shall complete and endorse a Minority Business Program Compliance form and include said form with bid or proposal documents. The form shall be provided by Metro with bid/proposal solicitations.

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

(d) Bidders/proposers shall, at the time of bid opening, (or proposal submission date when no public opening is had), submit to Metro detailed MBE Utilization forms listing names of MBEs who will be utilized and the nature and dollar amount of their participation. This form will be binding upon the bidder/proposer. Within five (5) working days of bid opening or proposal submission date, such bidders/proposers shall submit to Metro signed Letters of Agreement between the bidder/proposer and MBE subcontractors and suppliers to be utilized in performance of the contract. A sample Letter of Agreement will be provided by Metro. The MBE Utilization forms shall be provided by Metro with bid/proposal documents.

(e) An apparent low bidder/proposer who states in its bid/proposal that good faith efforts at maximizing MBE opportunities were performed shall submit written evidence of such good faith efforts within two (2) working days of bid opening or proposal submission in accordance with Section 2.04.160. Metro reserves the right to determine the sufficiency of such efforts.

(f) Except as provided in paragraph (g) of this section, apparent low bidders or apparent successful proposers who state in their bids/proposals that they will show good faith efforts at maximizing MBE opportunities, but who fail to comply with paragraph (d) or (e) of this section, shall have their bids or proposals rejected and shall forfeit any required bid security or bid bond. In that event the next lowest bidder or, for personal services contracts, the firm which scores second highest shall, within two (2) days of notice of such ineligibility of the low bidder, submit evidence of good faith efforts as provided above. This process shall be repeated until a bidder or proposer is determined to meet the provisions of this section or until Metro determines that the remaining bids are not acceptable because of amount of bid or otherwise.

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

2.04.160 Definition and Determination of Good Faith Efforts:

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

- (1) Identifying project elements for which a significant minority capability exists for execution and/or a significant interest by minority firms has

MINORITY BUSINESS ENTERPRISE UTILIZATION FORM

Name of Metro Project Metro Washington Park Zoo Research Building Remodel

Name of Bidder/Proposer Wm. L. Lonigan General Contractors, Inc.

Address of Bidder/Proposer 4000 SW 114th, Beaverton, Oregon 97005


Phone Number (503) 641-6727

THE ABOVE BIDDER/PROPOSER:

- A. xx Will contract/subcontract with MBEs. Please complete the form below.

- B. Will not contract/subcontract with MBEs. Attach explanation.

**BIDDER/PROPOSER INTENDS TO SUBCONTRACT
WITH THE FOLLOWING MINORITY BUSINESS ENTERPRISE(S) (MBES)**

SUBCONTRACTOR/SUPPLIER	NATURE OF WORK BY COMMODITY CODE (SEE REVERSE)	DOLLAR VALUE OF PARTICIPATION
		

Amount of MBE Utilization 100%

Authorized Signature [Signature]

Total Bid/Proposal Amount _____

Percentage MBE Utilization _____ Date: _____

**THIS FORM MUST BE SUBMITTED AT THE TIME OF BID OPENING
OR PROPOSAL SUBMISSION**

WOMEN-OWNED BUSINESS ENTERPRISE UTILIZATION FORM

Name of Project Metro Washington Park Zoo Research Building Remodel

Name of Bidder/Proposer Wm. L. Lonigan General Contractors, Inc.

Address of Bidder/Proposer 4000 SW 114th, Beaverton, Oregon 97005

Phone Number (503) 641-6727

THE ABOVE BIDDER/PROPOSER:

A. ☒ Will contract/subcontract with WBEs. Please complete the form below.

B. ☐ Will not contract/subcontract with WBEs. Attach explanation.

BIDDER/PROPOSER INTENDS TO SUBCONTRACT WITH THE FOLLOWING WOMEN-OWNED BUSINESS ENTERPRISE(S) (WBES)

SUBCONTRACTOR/SUPPLIER	NATURE OF WORK BY COMMODITY CODE (SEE REVERSE)	DOLLAR VALUE OF PARTICIPATION

Amount of WBE Utilization 2

Authorized Signature [Signature]

Total Bid Proposal Amount: _____

Percentage WBE Utilization: _____ Date: _____

**THIS FORM MUST BE SUBMITTED AT THE
TIME OF BID OPENING OR PROPOSAL SUBMISSION**

**Advertisement
under "COMBINATION"**

**PUBLISHED
1ST TIME TODAY
3ON TRANSPORTATION
COMMISSION
BUILDING DEMOLITION
AND REMOVAL OF
RESULTING DEBRIS**

Is due 5:00 pm, Dec. 14
INVITATION TO BID
d bids will be received by the Oregon Transportation Commission, Right of Way at 5821 NE Glisan, Room 4, or 97213 for the DEMOLITION BUILDING AND REMOVAL OF ING DEBRIS. The demolition is one to clear right of way for a construction project. This is a construction in a business park located in or near Beaverton, Washington Oregon as follows:

SW BARNES ROAD, BEAVERTON N (LOCATED IN SUNSET BUSINESS) ODOT FILE 6125-025.
must be received by 5 PM, Tuesday, December 14, 1993. An agent from will open the parcel for inspection on hand to answer questions 9:30 AM and 11:30 AM, Friday, December 10, 1993.

has been a hazardous material report made, a synopsis of which included in the specifications. on must be done in accordance local, State and Federal laws and cable permits must be obtained. Contractor. All bidders must be and insured in the State of Oregon capable of being bonded. Liability and a performance bond required to do this work.

30,000 bid bond will be submitted written bid. For unsuccessful bid a bid bond will be returned after opening. For the successful bidder, d will be returned at the time of signing. Oregon Prevailing wage apply as will the Reciprocal Preference Law.

Construction will be completed within a 3 time frame. Failure to complete within the specified time will result in damages assessed against contractor.

Oregon Transportation Commission has the right to reject any or all bids, except the proposal deemed best by the State of Oregon.

Additional information and specifications obtained by contacting Right of Way Division of the Oregon Highway Division, 21 NE Glisan St., Portland 97213, phone at 731-3275. With reference to Aid Highway projects, the State of Oregon, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (Stat. 252) and the regulations of the Department of Transportation, (29 C.F.R. part 21) issued pursuant to the Act, hereby notifies all bidders that it affirmatively insures that in any contract entered into pursuant to this advertisement, minority business enterprises will be given full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color or national origin in connection with an award.

ad Dec. 6, 7, 8 & 9, 1993.

9680CB-4:

**PUBLISHED
1ST TIME TODAY
COUNTY OF ADAMS
1994 CRUSHING PROJECT
Is due 2:30 pm, Dec. 20
ADVERTISEMENT FOR BIDS
RESOLUTION NO. R-115-93**

TO CONTRACTORS
d bids will be received by Adams County at the office of the Board of Commissioners located in the court- at 210 W. Broadway, Ritzville, Washington 99169, until 2:30 p.m., December 20, 1993 and will then be opened and publicly read for the 1994 Crushing Project, ERP-781.

3 proposals shall be accompanied by a proposal deposit in cash, certified cashier's check or surety bond equal to five percent (5%) of the estimated cost of the project. Should

their opinion best serves the interest of Adams County.

Pre-qualification of bidders is required. Maps, plans, specifications, and proposals may be obtained from the office of the Department of Public Works, 210 W. Broadway, Ritzville, Washington, 99169; phone (509) 659-0090.

Informational copies of maps, plans and specifications are on file for inspection in the office of the Adams County Engineer in Ritzville, Washington, the chapter office of the Associated General Contractors of America in Spokane, Washington and Support Services Center, Seattle, Washington. DATED this 29th day of November, 1993.

(SEAL) **BOARD OF ADAMS COUNTY COMMISSIONERS**
BILL WILLS, Chairman
DEAN H. JUDD, Commissioner
BILL SCHLAGEL, Commissioner
Published Dec. 6 & 7, 1993.

9666CB-2t

**PUBLISHED
FIRST TIME TODAY
CITY OF CORVALLIS
ROOFING MATERIALS
AND INSTALLATION
Bids due 2:30 pm, Dec. 27
REQUEST FOR BIDS
BID #93-35**

NOTICE IS HEREBY GIVEN that sealed bids are invited and will be received for the ROOFING MATERIALS AND INSTALLATION OF A HYPALON MEMBRANE TYPE ROOF FOR THE RE-ROOFING OF FIRE STATION #1 AND THE MAJESTIC THEATRE, for the City of Corvallis.

The work consists of: providing all materials, equipment and labor and installation necessary to re-roof Fire Station #1 and the Majestic Theatre per specifications.

Specifications and bid documents are available and may be examined or obtained for no charge at the City of Corvallis, Public Works Department, 1245 NE 3rd Street, P.O. Box 1083, Corvallis, Oregon 97339. Copies of the Standard Construction Specifications may be obtained at a one time cost of Thirty Dollars (\$30) per set. Bids must be delivered to the City of Corvallis, Public Works Department, on or before 2:30 p.m., Monday, December 27, 1993, at which time the sealed bids will be publicly opened and read. Bid proposals submitted after the above specified time shall not be received or opened.

A pre-bid project tour will be held. Meet at the City of Corvallis Public Works Department Offices at 2 p.m., Wednesday, December 15, 1993. All prospective bidders are required to attend.

Bidders shall be prequalified in accordance with the requirements set forth by the City of Corvallis and ORS 279.039 prior to the opening of bids. Prequalification forms may be obtained from the Public Works Department. No bid shall be received or considered by the city unless the bid contains a statement by the bidder as a part of its bid that the provisions of ORS 279.350 (Prevailing Wage) or 40 U.S.C. 276a are to be complied with.

Bids shall be submitted on the forms provided with the request for bids published by the City of Corvallis, and the documents are to be returned intact. All items contained in the invitation and specifications are applicable in preparing bids. Said bid shall be accompanied by a certified or cashier's check or bid bond in the amount of ten (10) percent of the total amount of the bid. The bid bonds shall be issued by a surety authorized and licensed to issue such bonds in the State of Oregon.

Each bid must contain a statement as to whether the bidder is a resident bidder as defined in ORS 279.029. No bid for a construction contract shall be received or considered by the City unless the bidder is registered with the Construction Contractors Board as required by ORS Chapter 701.

The City of Corvallis reserves the right to reject any or all bids, to add or delete items and/or quantities; to waive irregularities and/or informalities in any bid proposal, to postpone the award of bid for no more than forty (40) working days from the date of the bid opening and to further advertise the project for bids, and to make the award that is in the best interest of the City.

For additional information contact Liz Orman, Secretary, Public Works Department, at (503) 757-6916.

Dated this 1st day of December, 1993.

CITY OF CORVALLIS
MARY STECKEL,
Administrative Division Manager
Published Dec. 6 & 8, 1993.

9665CB-2t

**PUBLISHED
FIRST TIME TODAY
METRO WASHINGTON
PARK ZOO
RESEARCH BUILDING REMODEL
Bids due 3:00 pm, Jan. 6
INVITATION TO BID**

Metro is soliciting bids for construction of the Research Building Remodel at the Metro Washington Park Zoo. Sealed bids must be delivered to the Metro Washington Park Zoo, 4001 SW Canyon Road, Portland, OR 97221, to the attention of Dr. A.M. Rich, Assistant Zoo Director, no later than 3:00 p.m. PST, on January 6, 1994, at which time they will be publicly opened in Metro Washington Park Zoo's Facilities Management Resource Room. Bid envelopes must be clearly marked as BID: RESEARCH BUILDING REMODEL, METRO WASHINGTON PARK ZOO. ATTENTION: DR. A.M. RICH. If bids are delivered earlier they must be delivered to Dr. Rich at the Zoo Administration Building.

Bidding documents, including Drawings and Specifications depicting the Work, may be examined after December 6, 1993 at the offices of Mahlum & Nordfors, 50 SW Second Avenue, Portland, OR 97204, Monday through Friday between the hours of 9:00 a.m. and 4:30 p.m. PST. Copies of the Bidding Documents can be obtained from the same office upon receipt of a reimbursable deposit of \$50.00. Potential Bidders may contact Glen Taylor, Project Coordinator, Metro Washington Park Zoo, at (503) 797-1716 for additional information.

All bidders must certify that they will pay and comply with the minimum prevailing wage requirements of ORS 279.350.

Each bidder must indicate if it is a resident or nonresident bidder as defined in ORS 279.029.

All bidders must be registered with the Oregon Construction Contractors Board pursuant to ORS 671.530.

Bidders and Subcontractors may need to be licensed under ORS 468.883 (regarding licensing of contractors on projects involving asbestos abatement).

Metro may reject any bid not in compliance with all prescribed public bidding procedures and requirements and may reject for good cause any or all bids upon a finding of Metro that it is in the public interest to do so.

A Pre-Bid Conference is mandatory for all potential prime bidders and is scheduled for Wednesday, December 22, 1993, at 1:00 p.m., in the Metro Washington Park Zoo, Facilities Management Resource Room (Enter through Gate A), 4001 SW Canyon Road, Portland, Oregon.

Metro Code provisions 2.04.100 and 200 require all Bidders/Proposers to follow and document their specific good faith outreach efforts to State certified Minority and Women-owned Businesses. Certification of such good faith compliance and the declaration of any actual utilization pursuant to both programs is required at the time of Bid Opening/Proposal Submission.

The Successful Low Bidder/Proposer will be required to submit written evidence of good faith efforts within two (2) and signed Letters of Agreement within five (5) working days of Bid Opening/Proposal Submission. Metro reserves the right to determine the sufficiency of such efforts, accept or reject any Bid or Proposal, and retain any Bidder/Proposer's security or bid bond.

Published Dec. 6, 1993.

9673CB-11

**CITY OF SEATTLE
WATERMAIN RELOCATION
Bids due 2:00 pm, Jan. 12
ADVERTISEMENT FOR BID**

Sealed bids will be received for the following work:

ONLY UP TO 2:00 PM on Wednesday, January 12, 1994, after which time bids will be publicly opened and summarily read in Suite 740. BIDS RECEIVED AFTER 2:00 PM (PST) WILL NOT BE ACCEPTED OR READ.

This project is located on the North and South shores of the Duwamish Waterway between 200 and 600 feet west of First Avenue South bascule bridge and along First Avenue South from the river to the intersection with East Marginal Way South in Seattle.

This project requires special qualifications (see Section 6-12.1(2)(B) and consists of constructing a 550-foot utility tunnel under the Duwamish Waterway and two (2) 20-foot diameter access shafts 90 feet deep, 30-inch steel water main in utility, sump pumps, tunnel lighting, electrical service, access hatches, cathodic protection, and relocation of a 30-inch water main from the north access shaft of the utility to the south side of the intersection of First Avenue SW and East Marginal Way South, including installation of fire hydrants, valves, vaults, cathodic protection, pavement patching, and other related and incidental work necessary for connection to the existing water main.

The Engineer's Estimate for this work is between \$6,500,000 and \$8,500,000, with the work to be completed in 200 Working Days.

Said bids shall be made in accordance with approved Drawings (unless otherwise noted), the Project Manual, and the City of Seattle Standard Specifications. Copies of the Drawings and Project Manual may be obtained by bidders at Construction Contracts, Seattle Engineering Department, Room 606 of the Municipal Building, 600 Fourth Avenue, Seattle, Washington 98104, telephone (206) 684-7616. Sets requested by phone will be sent C.O.D. via express service. There is no charge or deposit for the Bid Documents.

THE SEATTLE STANDARD SPECIFICATIONS ARE AN INTEGRAL PART OF THE BID DOCUMENTS. COPIES MAY BE OBTAINED FROM THE 5TH FLOOR INFORMATION COUNTER IN THE MUNICIPAL BUILDING, 600 4TH AVENUE, SEATTLE, WA (206) 684-5349 AT \$35 PLUS TAX PER COPY.

THIS CONTRACT CONTAINS PROVISIONS THAT REQUIRE THE SUCCESSFUL BIDDER TO: 1) PRESERVE AND SUBMIT INTO ESCROW WITHIN 7 CALENDAR DAYS AFTER THE CONTRACT IS EXECUTED, A COPY OF ALL DOCUMENTATION USED TO PREPARE THE BID FOR THIS CONTRACT (SEE SECTION 1-02.15); AND 2) PARTICIPATE IN A DISPUTES RESOLUTION PROCESS THAT INCLUDES A THREE PARTY DISPUTES REVIEW BOARD (SEE SECTION 1-04.5).

Pre-Bid Conference and Pre-Bid Tour of Project Site.

There will be an optional Pre-Bid Conference and an Informative tour of the project site conducted by Seattle Engineering Department representatives for the benefit of all prospective bidders.

Date: December 15, 1993.

Time: Pre-Bid Conference 9 a.m.; Site Tour following.

Place: Washington Department of Transportation Office, 6431 Corson Avenue South, Room 216, Seattle, Washington 98108.

Prospective bidders who want additional information about the project and reports/studies, which may be available may write or call:

Katherine Claeys, P.E. at (206) 684-8175 or Rob Gorman, Engr., at (206) 233-7205.

Address: Municipal Building Room 806, 600 4th Avenue, Seattle, Washington 98104.

All substantive questions regarding the Drawings, Project Manual or bidding requirements shall be submitted to Katherine Claeys in writing or via fax at the sender's responsibility, (206) 684-8581.

One copy of the Drawings and Project Manual may be viewed at the Public Works and Consultant Contracting Section.

Drawings and Project Manuals are on file at the following plan centers: Associated General Contractors, Seattle; Construction Data Plan Center, Seattle; General Contractors, Tacoma; Association of Subcontractors, Tacoma; Eastside Plan Center, Bellevue; and Valley Plan Center, Kent.

PURSUANT TO CHAPTER 378, WASH.



METRO

Date: February 9, 1994

To: Presiding Officer Judy Wyers
Councilor Sandi Hansen
Chair, Regional Facilities Committee

From: Mark B. Williams, Senior Assistant Counselor

Regarding: APPEAL BY ROLLINS & GREENE BUILDERS, INCORPORATED, OF
THE AWARD OF THE CONTRACT TO REMODEL THE RESEARCH
BUILDING AT THE METRO WASHINGTON PARK ZOO TO
LONIGAN CONSTRUCTION COMPANY
Our file: 11. §3.5

I. INTRODUCTION

Rollins & Greene Builders, Incorporated (Rollins & Greene) has appealed the award of a contract to Lonigan Construction Company (Lonigan) for the remodel of the Research Building at the Metro Washington Park Zoo. The contract was awarded through a Request for Bids (RFB) in which it was determined that Lonigan was the low bidder.

Rollins & Greene's appeal is brought under Metro Code Section 2.04.031, a copy of which is included in the attachments to this memo. Section 2.04.031 allows an unsuccessful bidder to appeal for relief first to the Executive Officer, and then to the Contract Review Board. In a letter issued to Rollins & Greene's attorney dated February 1, 1994, the Executive Officer rejected Rollins & Greene's appeal, and Rollins & Greene has now appealed to the Contract Review Board.

The Metro Council Presiding Officer, who also presides over the Contract Review Board, can either schedule this matter for a hearing before the full Council (sitting as the Contract Review Board) or refer it to the Regional Facilities Committee, which can then make its recommendation to the full Board. Rollins & Greene is not entitled to a contested case hearing, but it is entitled to be heard either before the Regional Facilities Committee or the full Board. It is likely that the successful bidder, Lonigan, will wish to be heard as well. Each party or their attorney should be notified in advance of the hearing. The Committee or the full Board has the discretion to allow written statements to be filed, and to set the time

Presiding Officer Judy Wyers
Councilor Sandi Hansen
February 9, 1994
Page 2

allowed for any oral presentations. The project is being delayed pending the outcome of these proceedings.

ATTACHMENTS

Attachment "1"	Metro Code Section 2.04.031.
Attachment "2"	Copy of Advertised Notice, Invitation to Bid.
Attachment "3"	Request for Bids. Note: Due to the size of the document, only one copy has been produced and it is available in the Council office for inspection.
Attachment "4"	Bid Proposal submitted by Lonigan Construction Company.
Attachment "5"	Bid Proposal submitted by Rollins & Greene Builders, Incorporated.
Attachment "6"	Supplemental information on compliance with MBE/WBE. Program submitted by Lonigan Construction Company.
Attachment "7"	Supplemental information on compliance with MBE/WBE. Program submitted by Rollins & Greene Builders, Incorporated.
Attachment "8"	Good Faith Analysis of Bid by apparent low bidder, Lonigan Construction Company.
Attachment "9"	Notice of Award issued to Lonigan Construction Company.
Attachment "10"	Letter of Appeal submitted by Rollins & Greene Builders, Incorporated, dated January 24, 1994.
Attachment "11"	Letter in response to Rollins & Greene Builders, Incorporated, appeal submitted by Lonigan Construction Company, dated January 24, 1994.
Attachment "12"	Executive Officer Rena Cusma's letter rejecting appeal, dated February 1, 1994.
Attachment "13"	Letter of Appeal from Rollins & Greene Builders, Incorporated, to the Metro Contract Review Board, dated February 7, 1994.

II. BASIS OF APPEAL OF AWARD

Lonigan was awarded this contract as the low bidder. Rollins & Greene was the second low bidder. Rollins & Greene's appeal alleges that Lonigan failed to comply with portions of Metro's Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) Programs. Specifically, Rollins & Greene asserts that Lonigan failed to submit, at the time of bid opening, a list of the minority and women business contractors to be utilized and the nature and dollar amount of their participation as required by Metro Code Sections

Presiding Officer Judy Wyers
Councilor Sandi Hansen
February 9, 1994
Page 3

2.04.155(d) (MBE Program) and 2.04.255(d) (WBE Program). Rollins & Greene request that the Contract Review Board grant its appeal, and award it the contract.

III. BACKGROUND OF APPEAL

This contract was put out to bid as a base contract with alternatives. Depending upon which alternatives the Zoo ultimately selected, the low bidder was either Lonigan or Rollins & Greene. Upon opening the bids, Metro staff determined that both Lonigan and Rollins & Greene had failed to completely comply with different elements of Metro's MBE and WBE programs.

A. Lonigan

Metro Code Sections 2.04.155(d) and 2.04.255(d) are identical, and require bidders to submit to Metro at the time of bid opening, detailed MBE and WBE Utilization forms stating whether any MBE or WBE subcontractors will be used, and, if so, the nature and dollar amount of their participation. Lonigan submitted the required forms, and indicated that both MBE and WBE subcontractors would be used, but failed to list the names of the subcontractors, or the nature and dollar amount of their participation. Lonigan complied with all other requirements of the programs.

B. Rollins & Greene

Rollins & Greene submitted the required MBE and WBE Utilization forms discussed above. However, Rollins & Greene's bid failed to comply with other, separate parts of the Code. Metro Code Sections 2.04.160(b) and 2.04.260(b) are substantively identical, and require bidders to perform and document six required types of "good faith efforts" at maximizing MBE and WBE opportunities. Rollins & Greene's bid failed to respond to the last three of the six requirements. Rollins & Greene complied with all other requirements of the program.

Upon discovering that both Lonigan and Rollins & Greene had failed to comply strictly with the provisions of Metro's MBE and WBE programs, Metro contracting staff contacted both bidders, and advised them to supply any missing information. Both bidders supplied the missing information and documentation within two working days. Metro staff treated both bids as responsive, determined that Lonigan was the low bidder based upon the alternatives selected by the Zoo, and awarded the contract to Lonigan.

Presiding Officer Judy Wyers
Councilor Sandi Hansen
February 9, 1994
Page 4

Rollins & Greene appealed the awarding of the contract to Lonigan to the Executive Officer in a timely manner. In a letter dated February 1, 1994, the Executive Officer rejected Rollins & Greene's appeal. On February 7, 1994, Rollins & Greene filed a timely appeal to the Contract Review Board.

IV. ANALYSIS OF APPEAL

Metro Code Section 2.04.031 requires that an appellant "describe the specific citation of law, rule, regulation, or procedure upon which the appeal is based." Rollins & Greene's appeal is based solely on claimed violations of Metro Code Sections 2.04.155(d) and 2.04.255(d). Therefore, those are the only provisions of the Code which the Contract Review Board must consider.

As Rollins & Greene claims, Metro Code Sections 2.04.155(d) and 2.04.255(d) do require bidders to submit detailed MBE and WBE Utilization forms at the time of bid opening. However, Rollins & Greene overstates its case somewhat when it argues that Metro Code Sections 2.04.155(f) and 2.04.255(f) mandate rejection of bids which fail to supply these forms at the time of bid opening, without leaving any room for discretionary judgment. These sections of the Code provide in pertinent part:

(f) Except as provided in paragraph (g) of this section, apparent low bidders...who fail to comply with [Metro Code Sections 2.04.155(d) and 2.04.255(d)]...shall have their bids or proposals rejected.... (emphasis added)

Thus the mandate of rejection for failure to supply detailed MBE/WBE Utilization forms at the time of bid opening is subject to the exception contained in Metro Code Sections 2.02.155(g) and 2.04.255(g). These sections of the Code provide in pertinent part:

(g) The Liaison Officer, at his/her discretion, may waive minor irregularities in a bidder's...compliance with the requirements of this section provided, however, that the bid or proposal substantially complies with public bidding requirements as required by applicable law. Any such waivers shall be in writing, and shall be kept in the appropriate files. (emphasis added)

In her letter rejecting Rollins & Greene's appeal, a copy of which is included as Attachment "12" to this memo, the Executive Officer gave several reasons for rejecting the appeal. The Executive first noted that Metro's MBE/WBE programs do not actually require that a bidder contract with any MBEs or WBEs, and that a bid indicating that no such contracts would be signed would comply with the Code. From this, the Executive concluded that failure to list the specific MBEs and WBEs selected as subcontractors should not in and

of itself be fatal to Lonigan's bid, since the Code does not require the bidder to subcontract with any MBEs or WBEs in the first place. Secondly, the Executive pointed out that Metro Code Sections 2.04.155(e) and 2.04.255(e) allow apparent low bidders to submit final documentation of their good faith efforts within two working days, and that both Lonigan and Rollins & Greene had been afforded this opportunity. Finally, the Executive determined that any late compliance by Lonigan should be waived as a minor irregularity:

[T]he requirements contained in Metro Code Section 2.04.155(f) are subject to Section 2.04.155(g), which allows Metro to waive minor irregularities in a bidder's compliance with the requirements of the MBE program. I find that any irregularities in Lonigan's compliance with the MBE program are minor in nature, and those irregularities are therefore waived. There is no allegation here that Lonigan actually failed to comply with the "good faith" requirements of the Code. The only allegation is that Lonigan did not completely fill out the MBE Utilization Form at the time of its bid. Since Lonigan did sign and file the form, and since it filed it again within two working days indicating which MBE/WBE subcontractors had been selected, and since Lonigan complied with all other requirements of the MBE program, I find that any irregularities in Lonigan's bid are minor, and that Lonigan has substantially complied with both the spirit and the letter of the applicable public bidding requirements.

Rollins & Greene argues that Lonigan's late filing of the MBE and WBE Utilization forms cannot be waived as a minor irregularity. This Office disagrees with that contention. The section of the Code which states that a failure to supply those forms at the time of bid opening must result in rejection of a bid is explicitly made subject to Metro's right to waive minor irregularities. Therefore, it seems clear that the intent behind the Code was to allow a failure to comply with this provision to be waived as a minor irregularity, provided that the bid substantially complies with public bidding requirements. In this case, Metro staff and the Executive Officer determined that Lonigan's failure to supply the information requested by the form on time was a minor irregularity, and that Lonigan had complied with all of the other public bidding rules and extensive good faith effort requirements of the MBE and WBE programs, thus establishing "substantial compliance."

V. CONCLUSION

This Office does not agree that Lonigan's failure to file the MBE/WBE Utilization forms on time cannot be waived as a minor irregularity. The question before the Contract Review Board, therefore, is not whether Metro has the power to waive this minor irregularity, but whether Metro should waive it. In considering this appeal, the Contract Review Board should

Presiding Officer Judy Wyers
Councilor Sandi Hansen
February 9, 1994
Page 6

consider Lonigan's overall compliance with applicable public bidding requirements, including Metro's MBE/WBE programs and the purpose of those programs. The Contract Review Board should also consider the first two basis for the Executive's rejection of the appeal: (1) the fact that Lonigan's bid would have complied with the Code in total if Lonigan had simply failed to contract with any MBEs or WBEs at all, and indicated that on the form, and (2) the fact that the Code in general permits successful bidders to submit evidence of good faith efforts within two working days of award. These two factors may properly be considered in determining whether Lonigan's late filing of the MBE/WBE Utilization forms should be waived as a minor irregularity.

Metro staff involved in this project and I will be available to answer questions at the time set for Rollins & Greene to address the Committee or the Board, as the case may be.

gl
1749

Attachments

cc: Metro Council
Rena Cusma
Sherry Sheng
Douglas E. Butler
Glenn Taylor
Rich Wiley

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF REJECTING AN)
APPEAL BY ROLLINS & GREENE BUILDERS,))
INCORPORATED, OF THE AWARD OF A)
\$361,150 CONTRACT TO REMODEL THE)
RESEARCH BUILDING AT THE METRO)
WASHINGTON PARK ZOO AND AUTHORIZ-)
ING THE EXECUTIVE OFFICER TO)
EXECUTE THE AGREEMENT WITH)
LONIGAN CONSTRUCTION COMPANY)

RESOLUTION NO. 94-1920

Introduced by the Council
Regional Facilities Committee

WHEREAS, The Metro Washington Park Zoo issued a Request for Bids for a contract to remodel the research building at the Metro Washington Park Zoo; and

WHEREAS, Several bids were received and were evaluated by the Zoo; and

WHEREAS, Following evaluation of all proposals, the Department determined that Lonigan Construction Company was the low bidder; and

WHEREAS, Rollins & Greene Builders, Incorporated, objected to the award of the contract to Lonigan Construction Company and filed an appeal to the Executive Officer within the time frame specified in the Metro Code; and

WHEREAS, The Executive Officer, by letter to Lonigan Construction Company's attorney dated February 1, 1994, rejected Rollins & Greene's bid; and

WHEREAS, Rollins & Greene appealed the Executive Officer's decision to the Metro Contract Review Board in the time frame specified in the Metro Code; and

WHEREAS, After reviewing all relevant material, and providing Rollins & Greene an opportunity to be heard, the Board has concluded that the appeal should be rejected and the contract awarded to Lonigan Construction Company; now, therefore,

BE IT RESOLVED,

That the Metro Contract Review Board hereby rejects the appeal of Rollins & Greene Builders, Incorporated, of the award to remodel the research building at the Metro Washington Park Zoo, and authorizes the Executive Officer to execute the agreement with Lonigan Construction Company.

ADOPTED by the Metro Contract Review Board this ____ day of February, 1994.

Judy Wyers, Presiding Officer

gl
1155

Meeting Date: February 24, 1994
Agenda Item No. 7.6

RESOLUTION NO. 94-1909

REGIONAL FACILITIES COMMITTEE REPORT

RESOLUTION NO. 94-1909, WAIVING COMPETITIVE BIDDING AND
AUTHORIZING A DESIGN-BUILD CONTRACT WITH RAY MENDEZ FOR A NAKED
MOLE RAT EXHIBIT

Date: February 18, 1994 Presented by: Councilor Washington

COMMITTEE RECOMMENDATION: At its February 16, 1994 meeting the Regional Facilities Committee voted 5-0 to recommend Contract Review Board adoption of Resolution No. 94-1909. All committee members were present and voted in favor.

COMMITTEE DISCUSSION/ISSUES: Zoo Graphics Coordinator Jennifer Agnew presented the staff report. She summarized her written report and addressed questions raised by Council staff in a February 11 memo. She said funds would be available for this \$55,500 contract because certain budgeted projects had been postponed or scaled back. The elephant interpretives project has been postponed until next year, awaiting results of visitor evaluations. Projects to build restrooms at the elephant exhibit and build a security/first aid facility have been scaled back.

Councilor Washington asked whether there would be any liability problems if any of the animals escaped. Ms. Agnew said she didn't expect they would be able to escape, and that they probably wouldn't survive in our climate if they did escape.



METRO

DATE: February 11, 1994
TO: Regional Facilities Committee
FROM: Casey Short, *CS* Council Analyst
RE: Resolution No. 94-1909

Resolution No. 94-1909 is on your committee agenda for February 16, 1994, and would authorize a sole source contract for the design, fabrication, and installation of a naked mole rate exhibit at the Zoo. The contract is for an amount not to exceed \$55,500, and the work is to be completed by May 10, 1994. The staff report accompanying the resolution says that funds are available in the budget of the Zoo's Design Services division.

My review of the budget for Design Services shows that there is only one line item in the division's budget with sufficient appropriation to cover the amount of this contract. That is the line item for Construction Work/Materials - Building Related, which amounts to \$298,500. The budget notebook lists projects anticipated for 1993-94 (totaling \$273,500), and does not include funds for the naked mole rat exhibit. This leads to a couple of questions.

- Where will the funds come from to pay for this project?
- Will other projects anticipated in the budget notebook be eliminated or deferred to make funds available for this project?
- Are there other costs associated with this project? If so, where will the funds come from to cover those costs?

cc: Sherry Sheng
Kay Rich
Jennifer Agnew

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF WAIVING COMPETITIVE BIDDING AND AUTHORIZING A DESIGN-BUILD CONTRACT WITH RAY MENDEZ FOR A NAKED MOLE RAT EXHIBIT))))))	RESOLUTION NO. 94-1909 Introduced by Rena Cusma, Executive Officer
--	----------------------------	---

WHEREAS, The naked mole rat is an elusive colonial mammal that resides in underground burrows of the African Savannah; and

WHEREAS, The naked mole rat possesses jaws that enable it to chew through concrete, PVC, and other materials, that it requires an environment of high temperature (75-90°F) and humidity (60-70 percent), and that it is highly sensitive to noise and vibration; and

WHEREAS, Knowledge of naked mole rat husbandry requirement is essential to the successful maintenance of a display colony; and

WHEREAS, Expertise and experience in mole rat exhibit design and fabrication is crucial to an exhibit that can stand the test of mole rat chewing and visitor activities; and

WHEREAS, Zoo staff, upon an exhaustive review has identified an exhibit at the Philadelphia Zoo as most closely resembling the Metro Washington Park Zoo's vision for its naked mole rat exhibit, and identified Ray Mendez as the only independent contractor who has successfully demonstrated the experience in the design, fabrication, and installation of a mole rat exhibit that resembles their underground burrows in the African Savannah; and

WHEREAS, Given the limited existence of mole rat experts, a design build contract is a cost-effective approach to producing a naked mole rat exhibit at the Metro Washington Park Zoo; and

WHEREAS, A traditional design bid process would be more expensive in that any contractor who had no previous experience with a project of this complexity would charge a premium; and

WHEREAS, The Metro Council as public Contract Review Board declares that pursuant to Metro Code Chapter 2.04.041(c) the use of Ray Mendez for the design, fabrication, and installation of a naked mole rat exhibit is a sole source transaction not

subject to competitive bidding since this single exception will not encourage favoritism or substantially diminish competition for public contracts, in that only one qualified vendor exists, and will result in substantial cost savings and project enhancement for the Zoo, in that unqualified vendors would need to charge an excessive amount; now, therefore,

BE IT RESOLVED,

That the Contract Review Board declares the use of Ray Mendez under the terms stated above to be a sole source procurement exempt from competitive bidding, and authorizes the Executive Officer to execute a contract in a form substantially similar to the attached Exhibit "A" for the design, fabrication, and installation of the naked mole rat exhibit.

ADOPTED by the Metro Contract Review Board this ____ day of _____, 1994.

Judy Wyers, Presiding Officer

gl
1151

DESIGN/BUILD CONTRACT

THIS Contract is entered into between Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, whose address is 600 N.E. Grand Avenue, Portland, Oregon 97232-2736, and Raymond A. Mendez, whose address is PO Box 485 - Pogo Hill, Portal, Arizona 85632, hereinafter referred to as the "CONTRACTOR."

THE PARTIES AGREE AS FOLLOWS:

ARTICLE I

SCOPE OF WORK

CONTRACTOR shall perform the work and/or deliver to METRO the goods and services described in the Scope of Work attached hereto as Attachment A. All services and goods shall be of good quality and, otherwise, in accordance with the Scope of Work.

ARTICLE II

TERM OF CONTRACT

The term of this Contract shall be for the period commencing February 15, 1994 through and including June 30, 1994.

ARTICLE III

CONTRACT SUM AND TERMS OF PAYMENT

METRO shall compensate the CONTRACTOR for work performed and/or goods supplied as described in Attachment A. METRO shall not be responsible for payment of any materials, expenses or costs other than those which are specifically included in Attachment A.

ARTICLE IV

LIABILITY AND INDEMNITY

CONTRACTOR is an independent contractor and assumes full responsibility for the content of its work and performance of CONTRACTOR's labor, and assumes full

responsibility for all liability for bodily injury or physical damage to person or property arising out of or related to this Contract, and shall indemnify, defend and hold harmless METRO, its agents and employees, from any and all claims, demands, damages, actions, losses, and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Contract. CONTRACTOR is solely responsible for paying CONTRACTOR's subcontractors and nothing contained herein shall create or be construed to create any contractual relationship between any subcontractor(s) and METRO.

ARTICLE V

TERMINATION

METRO may terminate this Contract upon giving CONTRACTOR seven (7) days written notice. In the event of termination, CONTRACTOR shall be entitled to payment for work performed to the date of termination. METRO shall not be liable for indirect or consequential damages. Termination by METRO will not waive any claim or remedies it may have against CONTRACTOR.

ARTICLE VI

INSURANCE

CONTRACTOR shall purchase and maintain at CONTRACTOR'S expense, the following types of insurance covering the CONTRACTOR, its employees and agents.

A. Broad form comprehensive general liability insurance covering personal injury, property damage, and bodily injury with automatic coverage for premises and operation and product liability. The policy must be endorsed with contractual liability coverage.

B. Automobile bodily injury and property damage liability insurance.

Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an aggregate limit, the aggregate limit shall not be less than \$1,000,000. METRO, its elected officials, departments, employees, and agents shall be

named as an ADDITIONAL INSURED. Notice of any material change or policy cancellation shall be provided to METRO thirty (30) days prior to the change.

This insurance as well as all workers' compensation coverage for compliance with ORS 656.017 must cover CONTRACTOR'S operations under this Contract, whether such operations be by CONTRACTOR or by any subcontractor or anyone directly or indirectly employed by either of them.

CONTRACTOR shall provide METRO with a certificate of insurance complying with this article and naming METRO as an insured within fifteen (15) days of execution of this Contract or twenty-four (24) hours before services under this Contract commence, whichever date is earlier.

CONTRACTOR shall not be required to provide the liability insurance described in this Article only if an express exclusion relieving CONTRACTOR of this requirement is contained in the Scope of Work.

ARTICLE VII

PUBLIC CONTRACTS

All applicable provisions of ORS chapters 187 and 279, and all other terms and conditions necessary to be inserted into public contracts in the State of Oregon, are hereby incorporated as if such provision were a part of this Agreement, including, but not limited to, ORS 279.310 to 279.320. Specifically, it is a condition of this contract that Contractor and all employers working under this Agreement are subject employers that will comply with ORS 656.017 as required by 1989 Oregon Laws, Chapter 684.

ARTICLE VIII

ATTORNEY'S FEES

In the event of any litigation concerning this Contract, the prevailing party shall be entitled to reasonable attorney's fees and court costs, including fees and costs on appeal to any appellate courts.

ARTICLE IX
QUALITY OF GOODS AND SERVICES

Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of the highest quality. All workers and subcontractors shall be skilled in their trades. CONTRACTOR guarantees all work against defects in material or workmanship for a period of one (1) year from the date of acceptance or final payment by METRO, whichever is later. All guarantees and warranties of goods furnished to CONTRACTOR or subcontractors by any manufacturer or supplier shall be deemed to run to the benefit of METRO.

ARTICLE X
OWNERSHIP OF DOCUMENTS

All documents of any nature including, but not limited to, reports, drawings, works of art and photographs, produced by CONTRACTOR pursuant to this agreement are the property of METRO and it is agreed by the parties hereto that such documents are works made for hire. CONTRACTOR does hereby convey, transfer and grant to METRO all rights of reproduction and the copyright to all such documents.

ARTICLE XI
SUBCONTRACTORS

CONTRACTOR shall contact METRO prior to negotiating any subcontracts and CONTRACTOR shall obtain approval from METRO before entering into any subcontracts for the performance of any of the services and/or supply of any of the goods covered by this Contract.

METRO reserves the right to reasonably reject any subcontractor or supplier and no increase in the CONTRACTOR's compensation shall result thereby. All subcontracts related to this Contract shall include the terms and conditions of this agreement. CONTRACTOR shall be fully responsible for all of its subcontractors as provided in Article IV.

ARTICLE XII

RIGHT TO WITHHOLD PAYMENTS

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

If a liquidated damages provision is contained in the Scope of Work and if CONTRACTOR has, in METRO's opinion, violated that provision, METRO shall have the right to withhold from payments due CONTRACTOR such sums as shall satisfy that provision. All sums withheld by METRO under this Article shall become the property of METRO and CONTRACTOR shall have no right to such sums to the extent that CONTRACTOR has breached this Contract.

ARTICLE XIII

SAFETY

If services of any nature are to be performed pursuant to this agreement, CONTRACTOR shall take all necessary precautions for the safety of employees and others in the vicinity of the services being performed and shall comply with all applicable provisions of federal, state and local safety laws and building codes, including the acquisition of any required permits.

ARTICLE XIV

INTEGRATION OF CONTRACT DOCUMENTS

All of the provisions of any bidding documents including, but not limited to, the Advertisement for Bids, General and Special Instructions to Bidders, Proposal, Scope of Work, and Specifications which were utilized in conjunction with the bidding of this Contract are hereby expressly incorporated by reference. Otherwise, this Contract represents the entire and integrated agreement between METRO and CONTRACTOR and supersedes all prior

negotiations, representations or agreements, either written or oral. This Contract may be amended only by written instrument signed by both METRO and CONTRACTOR. The law of the state of Oregon shall govern the construction and interpretation of this Contract.

ARTICLE XV

ASSIGNMENT

CONTRACTOR shall not assign any rights or obligations under or arising from this Contract without prior written consent from METRO.

RAYMOND A. MENDEZ

METRO

By: _____

By: _____

Date: _____

Date: _____

PUBLIC.FOR

Attachment A

SCOPE OF WORK AND TERMS OF PAYMENT

A. GENERAL

Contractor will design, fabricate, and install at the Metro Washington Park Zoo ("Zoo") in Portland Oregon the naked mole rat exhibit as described in this Scope of Work. In addition Contractor will provide training to Zoo staff and will warranty Contractor's work for a period of one year. Project Manager for the Zoo is Jennifer Agnew.

B. DESIGN PHASE

1. Contractor will design the exhibit to meet the Contract Performance Specifications included herein. Contractor shall make a single submittal of complete and detailed shop drawings, design drawings and specifications for review and approval by Project Manager prior to fabrication. Shop drawings shall include all dimensions of Contractor's work within 1/4 inch tolerance and shall include all electrical requirements. Design drawings shall include concept drawings depicting the dioramas. The Project Manager will review the submittal and return such, noting any modifications required, within 5 working days of initial receipt.

2. Contract Performance Requirements:

- a. The exhibit will consists of three panel and two dioramas. The panels and dioramas shall fit into an existing exhibit space which will be renovated by the Zoo to accept the mole rat exhibit (See Exhibit A) Diorama 1 will be located above the three panels; Diorama 2 will be located immediately to the west of the panels. Approximate dimensions of the panels and the dioramas are given below. Contractor shall field measure to ensure proper fabrication and installation.

Panel A	5' 3" high by 8' wide
Panel B	5' 3" high by 4' 6" wide
Panel C	5' 3" high by 3' wide
Diorama 1	18" high by 24" deep - field measure for all other dimensions
Diorama 2	20" deep - field measure for all other dimensions

- b. The three panels shall accommodate at least 30 adult mole rats and shall contain at a minimum the following elements:
- 22 mole rat chambers
 - 12 activity centers
 - 30 lineal feet of inter-connected runs
 - 15 lineal feet of public viewing area
 - 1 insect chamber
 - 1 snake chamber
- c. All chambers shall include a light source adequate for public viewing. All chambers shall be fabricated to allow the separation of any individual chamber to facilitate cleaning, maintenance and/or separation of animals.
- d. The panels shall be fabricated in such a way as to provide living conditions suitable to the eusocial behavior of the mole rat. Fabrication shall support the environmental requirements of the mole rat and enable the population to thrive. Special consideration is required to provide panels which can withstand the tunneling and burrowing abilities of the mole rat. The chambers shall include an access mechanism to allow daily maintenance of the mole rats from a keeper's station located behind the panels.
- e. The dioramas shall depict the natural habitat of the mole rat in the African Savannah and shall appear life-like and life sized. The dioramas shall consist of a painted background mural and a foreground to include natural or natural-like plant material, "volcano" shaped mounds of soil which are created by the mole rat as they kicking up soil during tunnel-building, and both a model of a natural predator of the mole rat and a mole rat. At least one of the dioramas will include a mechanized "volcano" which simulates the forming of the "volcano" by kicking up soil.
- f. All materials used shall be first quality, durable and Vandal resistant. All hardware shall be stainless steel.

C. FABRICATION AND INSTALLATION PHASE

1. Contractor shall commence fabrication of the exhibit per the approved shop drawings, including required modifications, within five working days of receipt of such.

2. Contractor shall be responsible for all arrangements and costs associated with the preparation and FOB shipping of exhibit pieces to the exhibit site.
3. Contractor shall provide Project Manager with at least five working days notice prior to commencement of on-site installation activities.
4. Contractor shall provide all tools and equipment necessary for the proper installation of the exhibit.
5. Contractor shall allow for sufficient time on-site to perform all installation activities.
6. Except for the items required by this Scope of Work, the Zoo shall be responsible for providing all other work necessary for a fully functioning mole rat exhibit. To ensure proper installation of the exhibit, Contractor shall work in cooperation with Zoo staff and other contractors during the installation period. Some of the items which the Zoo is responsible for and which shall be provided either prior to or in conjunction with Contractor's installation activities are:
 - a. Construct metal structure to hold panels
 - b. Construct wood boxes to hold dioramas
 - c. Provide glazing to be placed in front of dioramas
 - d. Provide wiring and hook-up for chamber lights
 - e. Provide gunite facade for front of exhibit
7. Contractor shall personally perform all installation work required by this contract without the assistance of employees and document same through completion of Exhibit B attached.

D. TRAINING

Upon completion of the exhibit installation, Contractor shall train Zoo staff in all aspects of operation of the Mole Rat exhibit. This training shall include on-site training of key Zoo staff, assisting the Zoo staff in the preparation of a husbandry manual, and preparation of a repairs and maintenance schedule. During the one year warranty period, Contractor shall consult with Zoo staff as requested to ensure the proper operation of the exhibit, including the care of the mole rat population.

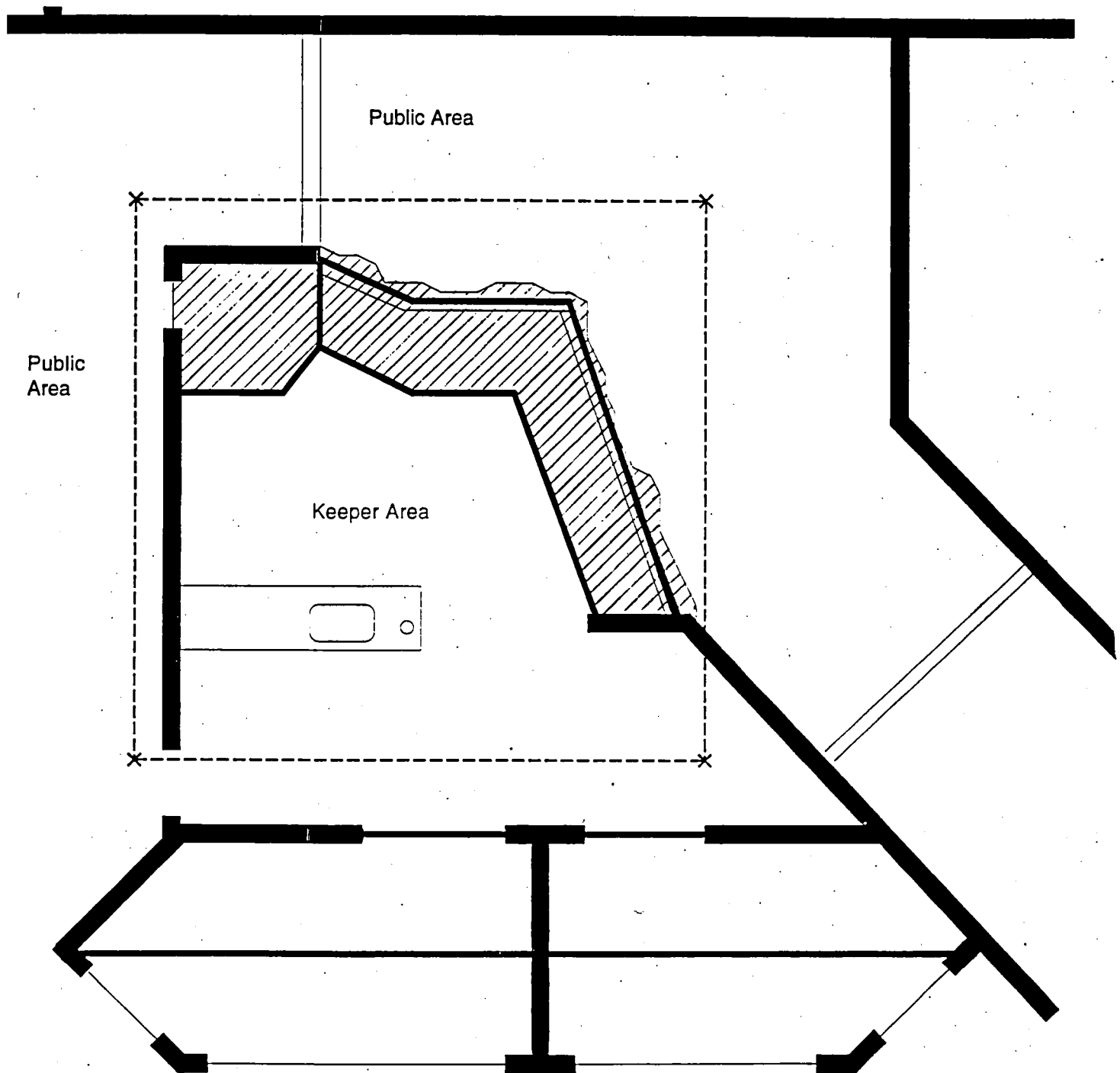
E. SCHEDULE

Contractor shall complete all tasks including installation and training by May 10, 1994.

F. COMPENSATION AND PAYMENT

1. Contractor shall act as an independent contractor in the performance of all work, shall in no event be considered an employee of Metro, and shall be entitled only to the maximum compensation due which is \$55,500.00
2. Upon review and return of the required submittal, Contractor shall deliver an invoice to the Project Manager in an amount of \$11,100 which equals 20% of the contract amount. Upon final acceptance, Contractor shall deliver a final invoice to Project Manager in the amount of \$44,400 or 80% of the contract amount.
3. Contractor shall receive payment based on approved invoices within 30 days from receipt of such.
4. Contractor shall identify and certify his tax status by execution of IRS form W-9, attached as Exhibit C, prior to or simultaneous with Contractor's first invoice request.

EXHIBIT A



Naked Mole Rat Exhibit

The area within the dashed line will be the exhibit area.

(Africa Treetops Exhibit / Programming Room)

EXHIBIT B

NO EMPLOYEES CERTIFICATE

The undersigned Contractor in the attached Metro Personal Services Agreement certifies:

1. I provide services under my own name or under the assumed business name shown on the attached agreement.
2. I have no employees.
3. I am not incorporated.
4. No employees of any employer will provide services in the performance of the attached Metro Personal Services Agreement.

Contractor: _____ Date: _____

EXHIBIT B

WORKERS' COMPENSATION EXEMPTION CERTIFICATE
for
SMALL CORPORATIONS

I certify that all labor necessary to complete the services described in the attached Agreement will be performed only by the undersigned and _____, and that each such person is an officer, director and owner of a substantial interest in _____, a corporation organized under the laws of the state of _____.

Dated this ____ day of _____, 19____

Form **W-9**

(Rev. January 1993)

Department of the Treasury
Internal Revenue Service**Request for Taxpayer
Identification Number and Certification****Give this form to
the requester. Do
NOT send to IRS.**

Please print or type

Name (If joint names, list first and circle the name of the person or entity whose number you enter in Part I below. See instructions on page 2 if your name has changed.)

Business name (Sole proprietors see instructions on page 2.) (If you are exempt from backup withholding, complete this form and enter "EXEMPT" in Part II below.)

Address (number and street)

List account number(s) here (optional)

City, state, and ZIP code

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. For individuals, this is your social security number (SSN). For sole proprietors, see the instructions on page 2. For other entities, it is your employer identification number (EIN). If you do not have a number, see **How To Obtain a TIN** below.

Social security number

--	--	--	--	--	--	--	--	--	--

OR

Employer identification number

--	--	--	--	--	--	--	--	--	--

Note: If the account is in more than one name, see the chart on page 2 for guidelines on whose number to enter.

Part II For Payees Exempt From Backup Withholding (See Exempt Payees and Payments on page 2)

Requester's name and address (optional)

Certification.—Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding.

Certification Instructions.—You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because of underreporting interest or dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, the acquisition or abandonment of secured property, contributions to an individual retirement arrangement (IRA), and generally payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (Also see **Signing the Certification** on page 2.)

**Sign
Here**

Signature ►

Date ►

Section references are to the Internal Revenue Code.

Purpose of Form.—A person who is required to file an information return with the IRS must obtain your correct TIN to report income paid to you, real estate transactions, mortgage interest you paid, the acquisition or abandonment of secured property, or contributions you made to an IRA. Use Form W-9 to furnish your correct TIN to the requester (the person asking you to furnish your TIN) and, when applicable, (1) to certify that the TIN you are furnishing is correct (or that you are waiting for a number to be issued), (2) to certify that you are not subject to backup withholding, and (3) to claim exemption from backup withholding if you are an exempt payee. Furnishing your correct TIN and making the appropriate certifications will prevent certain payments from being subject to backup withholding.

Note: If a requester gives you a form other than a W-9 to request your TIN, you must use the requester's form.

How To Obtain a TIN.—If you do not have a TIN, apply for one immediately. To apply, get Form SS-5, Application for a Social Security Card (for individuals), from your local office of the Social Security Administration, or Form SS-4, Application for Employer Identification Number (for businesses and all other entities), from your local IRS office.

To complete Form W-9 if you do not have a TIN, write "Applied for" in the space for the TIN in Part I, sign and date the form, and give it to the requester. Generally, you will then have

60 days to obtain a TIN and furnish it to the requester. If the requester does not receive your TIN within 60 days, backup withholding, if applicable, will begin and continue until you furnish your TIN to the requester. For reportable interest or dividend payments, the payer must exercise one of the following options concerning backup withholding during this 60-day period. Under option (1), a payer must backup withhold on any withdrawals you make from your account after 7 business days after the requester receives this form back from you. Under option (2), the payer must backup withhold on any reportable interest or dividend payments made to your account, regardless of whether you make any withdrawals. The backup withholding under option (2) must begin no later than 7 business days after the requester receives this form back. Under option (2), the payer is required to refund the amounts withheld if your certified TIN is received within the 60-day period and you were not subject to backup withholding during that period.

Note: Writing "Applied for" on the form means that you have already applied for a TIN OR that you intend to apply for one in the near future.

As soon as you receive your TIN, complete another Form W-9, include your TIN, sign and date the form, and give it to the requester.

What Is Backup Withholding?—Persons making certain payments to you after 1992 are required to withhold and pay to the IRS 31% of such payments under certain conditions. This is called "backup withholding." Payments that could be subject to backup withholding include interest,

dividends, broker and barter exchange transactions, rents, royalties, nonemployee compensation, and certain payments from fishing boat operators, but do not include real estate transactions.

If you give the requester your correct TIN, make the appropriate certifications, and report all your taxable interest and dividends on your tax return, your payments will not be subject to backup withholding. Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester, or
2. The IRS notifies the requester that you furnished an incorrect TIN, or
3. You are notified by the IRS that you are subject to backup withholding because you failed to report all your interest and dividends on your tax return (for reportable interest and dividends only), or
4. You do not certify to the requester that you are not subject to backup withholding under 3 above (for reportable interest and dividend accounts opened after 1983 only), or
5. You do not certify your TIN. This applies only to reportable interest, dividend, broker, or barter exchange accounts opened after 1983, or broker accounts considered inactive in 1983.

Except as explained in 5 above, other reportable payments are subject to backup withholding only if 1 or 2 above applies. Certain payees and payments are exempt from backup withholding and information reporting. See **Payees and Payments Exempt From**

Backup Withholding, below, and Exempt Payees and Payments under Specific Instructions, below, if you are an exempt payee.

Payees and Payments Exempt From Backup Withholding.—The following is a list of payees exempt from backup withholding and for which no information reporting is required. For interest and dividends, all listed payees are exempt except item (9). For broker transactions, payees listed in (1) through (13) and a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker are exempt. Payments subject to reporting under sections 6041 and 6041A are generally exempt from backup withholding only if made to payees described in items (1) through (7), except a corporation that provides medical and health care services or bills and collects payments for such services is not exempt from backup withholding or information reporting. Only payees described in items (2) through (6) are exempt from backup withholding for barter exchange transactions, patronage dividends, and payments by certain fishing boat operators.

(1) A corporation. (2) An organization exempt from tax under section 501(a), or an IRA, or a custodial account under section 403(b)(7). (3) The United States or any of its agencies or instrumentalities. (4) A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities. (5) A foreign government or any of its political subdivisions, agencies, or instrumentalities. (6) An international organization or any of its agencies or instrumentalities. (7) A foreign central bank of issue. (8) A dealer in securities or commodities required to register in the United States or a possession of the United States. (9) A futures commission merchant registered with the Commodity Futures Trading Commission. (10) A real estate investment trust. (11) An entity registered at all times during the tax year under the Investment Company Act of 1940. (12) A common trust fund operated by a bank under section 584(a). (13) A financial institution. (14) A middleman known in the investment community as a nominee or listed in the most recent publication of the American Society of Corporate Secretaries, Inc., Nominee List. (15) A trust exempt from tax under section 664 or described in section 4947.

Payments of dividends and patronage dividends generally not subject to backup withholding include the following:

- Payments to nonresident aliens subject to withholding under section 1441
- Payments to partnerships not engaged in a trade or business in the United States and that have at least one nonresident partner.
- Payments of patronage dividends not paid in money.
- Payments made by certain foreign organizations.

Payments of interest generally not subject to backup withholding include the following:

- Payments of interest on obligations issued by individuals.

Note: You may be subject to backup withholding if this interest is \$600 or more and is paid in the course of the payer's trade or business and you have not provided your correct TIN to the payer.

- Payments of tax-exempt interest (including exempt-interest dividends under section 852).
- Payments described in section 6049(b)(5) to nonresident aliens.
- Payments on tax-free covenant bonds under section 1451
- Payments made by certain foreign organizations
- Mortgage interest paid by you

Payments that are not subject to information reporting are also not subject to backup withholding. For details, see sections 6041, 6041A(a), 6042, 6044, 6045, 6049, 6050A, and 6050N, and their regulations.

Penalties

Failure To Furnish TIN.—If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil Penalty for False Information With Respect to Withholding.—If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal Penalty for Falsifying Information.—Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs.—If the requester discloses or uses TINs in violation of Federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name.—If you are an individual, you must generally provide the name shown on your social security card. However, if you have changed your last name, for instance, due to marriage, without informing the Social Security Administration of the name change, please enter your first name, the last name shown on your social security card, and your new last name.

If you are a sole proprietor, you must furnish your individual name and either your SSN or EIN. You may also enter your business name or "doing business as" name on the business name line. Enter your name(s) as shown on your social security card and/or as it was used to apply for your EIN on Form SS-4.

Signing the Certification.—

1. **Interest, Dividend, and Barter Exchange Accounts Opened Before 1984 and Broker Accounts Considered Active During 1983.** You are required to furnish your correct TIN, but you are not required to sign the certification.

2. **Interest, Dividend, Broker, and Barter Exchange Accounts Opened After 1983 and Broker Accounts Considered Inactive During 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. **Real Estate Transactions.** You must sign the certification. You may cross out item 2 of the certification.

4. **Other Payments.** You are required to furnish your correct TIN, but you are not required to sign the certification unless you have been notified of an incorrect TIN. Other payments include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services, payments to a nonemployee for services (including attorney and accounting fees), and payments to certain fishing boat crew members.

5. **Mortgage Interest Paid by You, Acquisition or Abandonment of Secured Property, or IRA Contributions.** You are required to furnish your correct TIN, but you are not required to sign the certification.

6. **Exempt Payees and Payments.** If you are exempt from backup withholding, you should complete this form to avoid possible erroneous

backup withholding. Enter your correct TIN in Part I, write "EXEMPT" in the block in Part II, and sign and date the form. If you are a nonresident alien or foreign entity not subject to backup withholding, give the requester a completed Form W-8, Certificate of Foreign Status.

7. **TIN "Applied for."** Follow the instructions under How To Obtain a TIN, on page 1, and sign and date this form.

Signature.—For a joint account, only the person whose TIN is shown in Part I should sign.

Privacy Act Notice.—Section 6109 requires you to furnish your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, or contributions you made to an IRA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 31% of taxable interest, dividend, and certain other payments to a payee who does not furnish a TIN to a payer. Certain penalties may also apply.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual ¹	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
5. Sole proprietorship	The owner ³
For this type of account:	Give name and EIN of:
6. Sole proprietorship	The owner ³
7. A valid trust, estate, or pension trust	Legal entity ⁴
8. Corporate	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

¹ List first and circle the name of the person whose number you furnish.

² Circle the minor's name and furnish the minor's SSN.

³ Show your individual name. You may also enter your business name. You may use your SSN or EIN.

⁴ List first and circle the name of the legal trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.)

Note: If no name is circled when there is more than one name, the number will be considered to be that of the first name listed.





STAFF REPORT

FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO METRO CODE CHAPTER 2.04.041 (C) TO ENTER INTO A SOLE SOURCE CONTRACT WITH RAY MENDEZ FOR THE DESIGN-BUILD OF A NAKED MOLE RAT EXHIBIT.

Date: February 7, 1994

Presented by: Jennifer Agnew

FACTUAL BACKGROUND AND ANALYSIS

The Metro Washington Park Zoo is in the process of adding naked mole rats to its animal collection. Naked mole rats have proven to be highly popular where they have been on display in several U.S. zoos since 1988. The proven drawing power of naked mole rats is important to the zoo. With Tri-Met construction in the zoo's parking lot to begin in September, the summer of 1994 is a critical time for the zoo. This year, the zoo's summer promotion will include the giant Rodriguez fruit bats, young ostriches, young hippos, and a colony of naked mole rats.

The naked mole rat is a little-known mammal which resides in underground burrows in the African Savannah. It lives in colonies of 75 to 300, and exists in a caste-like social system similar to that of bees and termites. For each colony, there is one breeding female, and one to three males to mate with the queen and help care for the young. The rest of the colony members work to dig tunnels and find food, tend the queen and her young, or defend the colony.

Naked mole rats require a living condition of high temperature (80-90°F) and humidity (60-70%). They are highly sensitive to noise and vibration, and possess strong jaws that can chew through concrete and PVC.

Knowledge of naked mole rat husbandry requirement is essential to the successful maintenance of the display colony, and few people in North America possess the expertise and experience in keeping a breeding colony of naked mole rats. In addition, the design and fabrication of a natural appearing mole rat exhibit requires not only a knowledge of the animal's lifestyle and physical abilities, but also the expertise and experience in exhibit design and fabrication.

Since September, 1993, the zoo staff has conducted an exhaustive review of naked mole rat exhibits in North American zoos. We concluded that the Philadelphia Zoo's exhibit most closely resembles our vision for a naked mole rat exhibit. While there are a number of experts who have worked with and kept colonies of naked mole rats, most are full-time employees of North American zoos, or researchers at North American universities. Only one person, Ray Mendez, has been identified to possess the necessary knowledge of these elusive animals, and the knowledge, expertise,

and capability of exhibit design and fabrication for a naked mole rat display. He pioneered a special mixture which hardens to produce a ceramic-like quality. This material will line the chambers housing naked mole rats, and carries with it a one year warranty for defect.

The zoo staff believes that, given the unique nature and requirements of the naked mole rat and challenges of design and construction of a durable yet naturalistic exhibit, the selection of Ray Mendez on a sole source basis for the design, fabrication, and installation of a naked mole rat exhibit, will allow the zoo to successfully complete this project while benefitting from substantial cost-savings and project enhancement.

BUDGET IMPACT

Funds for this project are available from the zoo's Operating Budget in Design Services.