

AGENDA ITEM NO. 8.4  
Meeting Date: October 13, 1994

RESOLUTION NO. 94-2031A

## REGIONAL FACILITIES COMMITTEE REPORT

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RESOLUTION NO. 94-2031A, EXEMPTING THE LONG DISTANCE SERVICE CARRIER FOR THE METRO WASHINGTON PARK ZOO FROM COMPETITIVE BIDDING, AND AUTHORIZING A SOLE SOURCE CONTRACT WITH SPRINT

Date: September 23, 1994      Presented by: Councilor Washington

**COMMITTEE RECOMMENDATION:** At its September 21, 1994 meeting the Regional Facilities Committee voted 5-0 to recommend Contract Review Board adoption of Resolution No. 94-2031A. All committee members were present and voted aye.

**COMMITTEE DISCUSSION/ISSUES:** Zoo Facilities Manager Judy Munro presented the staff report. Councilor Gates asked what the current long distance bills are. Ms. Munro said it averages some \$1,400 to \$1,500 per month.

Councilor Washington asked whether the Zoo is changing its system or just going to a new billing system, and Ms. Munro said they are just changing the billing system. Councilor Washington encouraged Ms. Munro pin down the vendor on cost as much as possible before the contract is signed, saying that costs often go up after the service is contracted. Ms. Munro agreed that was a good idea, but added that the Zoo would benefit from the improved service they will receive even if there were no savings projected. (Savings are projected at some 25%.)

Councilor Moore suggested adding a provision to the resolution's second Whereas statement, to say the three-year contract would be subject to review after one year. Committee members discussed whether this would be practicable, and Councilor Gates pointed out an item in Exhibit A which said there will be "no penalty for contract withdrawal if dissatisfied with service." Councilor Washington said the Zoo should get a letter from the provider acknowledging the escape clause. The committee voted to amend the resolution to add Councilor Moore's language. The committee also asked Zoo staff to determine whether the language in the second Whereas is accurate in saying, "Sprint has been awarded a . . . contract" and to change that language if necessary.

Council Analyst Casey Short asked whether anyone would object to the sole source provision of the resolution, and claim that they should have been given an opportunity to bid. Ms. Munro said no one should object because there is not an opportunity to match the service, and the three major carriers as well as one small independent carrier were included in the process.

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF EXEMPTING THE LONG ) RESOLUTION NO. 94-2031A  
DISTANCE SERVICE CARRIER FOR THE METRO )  
WASHINGTON PARK ZOO FROM COMPETITIVE ) Introduced by  
BIDDING, AND AUTHORIZING A SOLE SOURCE ) Rena Cusma, the  
CONTRACT WITH SPRINT ) Executive Officer

WHEREAS, Metro seeks to exempt from competitive bidding the long distance carrier contract for Metro Washington Park Zoo and Sprint; and,

WHEREAS, The Metro Washington Park Zoo wishes to award to Sprint [~~has been awarded~~] a three-year long distance carrier contract with twelve-month review, for its [~~the~~] telephone system [~~at Metro Washington Park Zoo~~]; and,

WHEREAS, there is limited competitive bidding potential for this service, it is unlikely that exemption would encourage favoritism or diminish competition for such contracts, and there are obvious potential savings in utilizing a contract with Sprint; now, therefore,

BE IT RESOLVED,

That the Metro Contract Review Board pursuant to Metro Code Section 2.04.041(c) hereby declares Sprint to be a sole source procurement exempt from competitive bidding and authorizes the Executive Officer to execute the appropriate contract to accomplish the scheduled service.

ADOPTED by the Metro Contract Review Board this \_\_\_\_\_  
day of \_\_\_\_\_, 1994

Judy Wyers, Presiding Officer

## STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 94-2031 REQUESTING THE METRO CONTRACT REVIEW BOARD EXEMPT THE LONG DISTANCE SERVICE CONTRACT FOR METRO WASHINGTON PARK ZOO FROM COMPETITIVE BIDDING AND AUTHORIZE A SOLE SOURCE CONTRACT TO SPRINT

Date: August 31, 1994

Presented by: Judy Munro

### PROPOSED ACTION

We hereby request that the Metro Council, acting as Metro Contract Review Board, adopt the attached resolution exempting long distance telephone service from the competitive bid process and authorize a contract with Sprint Communications for long distance carrier service for the Zoo. Metro Code 2.04.041(c) allows the Metro Contract Review Board to exempt specific contracts from the general requirement for competitive bidding and direct the use of alternate contracting and purchasing practices.

Metro Code references ORS 279.015 as the basis for requiring public contracts be based on competitive bid and sets forth a process by which the following findings permit an exemption and allow execution of a sole source contract. The Board must find that:

1. It is unlikely that the exemption will encourage favoritism or substantially diminish competition for public contracts; and,
2. The award of a public contract pursuant to the exemption will result in substantial cost savings to the public contracting agency.

### FACTUAL BACKGROUND AND ANALYSIS

1. A preliminary review was made of our past and current long distance service system. As a result, it was determined that an upgrade to the current processing system should take place. Research was conducted in two phases--a study of possible software programs to track long distance charges; and a study of major long distance service carriers, both for better accountability, security, and processing timeliness in order to experience cost and time savings.
2. Study was made of a number of software programs to track internal long distance calls. The cost and administration of these programs was found to be excessive and would not result in the desired savings.
3. Further study was made of four long distance service carriers, including MCI, AT&T, Sprint, and BCN (see Exhibit A, attached). The study detailed recommended service including trapping system for long distance calls, caller identification codes, billing detail, contract terms, possible discounts, and monthly impact. To ensure objectivity, exact service and cost comparison criteria were established. Selection was based on evaluation of vendor response to the above criteria alone.

- a. From the final study it was determined that Sprint would provide the most cost efficient system. Sprint's Clarity Service with Fonview Billing Option provided the exact service specified and, by the vendor not charging for change-over costs and offering Fonview Billing at no charge, Sprint services calculated out the lowest projected cost.
- b. MCI offered options which met the service requirements but monthly costs were approximately \$86 higher than Sprint. Based on service and cost comparison criteria their system would not provide cost savings desired.
- c. AT&T offered a similar service, possibly at a lower price but did not have the user identification system and billing service needed. Their lower cost was based on "possible" cost savings which they were unable to guarantee.
- d. BCN offered services similar in cost to Sprint but their system would not provide the caller security desired with the billing service needed.

#### BUDGET IMPACT

Significant cost savings should result from exempting the proposed move from competitive bidding authorizing a sole source contract with Sprint based on the following:

1. Sprint's security and billing features prevent caller abuse of long distance service through greater security and allow reasonable monitoring of call records so any ensuing abuse or mis-use can be spotted, should it occur.
2. Since most long distance carriers prepackage a complex mix of services, make periodic rate adjustments, and extend a variety of promotional enticements, competitive bidding would be a difficult, time consuming and expensive task, and might not offer additional savings over those anticipated.
3. An exemption from competitive bidding allows procurement of a much improved and enlarged service over the current service at an estimated annual savings of 25% (approximately \$3,600/year), a significant savings.

#### EXECUTIVE OFFICER RECOMMENDATION

As presented, the situation provides ample justification for the Metro Contract Review Board to waive competitive bidding of the long distance service from the current carrier and directs the Executive Officer to execute a sole source contract with Sprint.

### EXHIBIT A

CARRIER Contact and phone	MCI Michael Podoba 684-6500	ATT Andy Kayser 229-3444	BNC Martin Bail 1-206-944-6122	SPRINT Marc Husain 627-0662
<b>RECOMMENDED SERVICE</b>	Vision service with Perspective billing	Customnet Flex Plan	(Private sub-contractor)	Clarity Service
<b>TRAP LONG DISTANCE CALLS</b> *Zoo software Requires maintenance (Matrix?) to add new lines and program to catch misdialed prefixes *Dailer Carrier installed (can catch misdialed prefixes)	Yes Yes - their recommendation  Yes - Needs over \$150 interlata for them to install.	Yes Yes - will reimburse programming charges up to \$250  Yes - Installation fee credited in 90 days	Yes Yes  Did not offer	Yes Yes - will reimburse programming charges within reason  Did not offer - old technology, updating Zoo's software and calling tables best approach.
<b>CALLER ID CODES</b> Forced Verification Random selection of ID numbers  Mandatory department groupings	Yes - 3 to 8 digits Yes Yes - with Perspective billing system; No - with standard billing Not necessary with Perspective billing, otherwise not a factor	Yes - 3 to 8 digits Yes No - Grouped by first digits (etc)  Yes	Yes - 1 to 6 digits \$10/mo Yes - (forced validation) No Yes	Yes - 1 to 5 digits \$10/mo Yes - (forced validation) Yes - with Fonview billing No - with standard billing Not necessary with Fonview billing
<b>BILLING</b> By Caller ID Codes Totals by department	Yes - with full call details Yes - with Perspective billing No - with regular billing	Yes - with full call details Yes	Yes No	Yes - with full call details Yes
Options	Perspective Billing System-monthly bill and software downloaded to our system- requires a modem	PC Billing - Floppy disc contains billing and data base for various calling reports. Can't sort out random ID numbers.\$10/mo	None	Fonview - Floppy disc contains billing information; can sort random ID #s by department. No charge
<b>CONTRACT TERM and conditions</b> Satisfaction Guarantee Usage guarantee Penalty	1, 2, or 3 years None offered \$12,000/yr guaranteed Pay difference	1, 2, or 3 years 90 Day Satisfaction \$12,000/yr (\$500/mo. limit) No discount for month less than \$1,000 Pay difference to \$500	Month to month  Unknown	1, 2, or 3 years 90 Day Satisfaction \$ 1,000/mo. Lose Discount
<b>DISCOUNT</b> Longer Term Higher usage	10% off current plan, 1 year term 3% for each additional year Additional discounts for each \$1,000/mo increase in usage 20% off LD calls to other MCI customers (we give them the list)	15% off current plan, 1yr term (approx) 16% 2 year term, 18% 3yr term (approx) Additional discounts for each \$500/mo increase in usage	No discounts; one basic rate	15% off current plan, 3yr term lesser discounts for shorter terms Additional discount over \$2,500 per month usage
Others		3 Free months promotional discount for 3yr term. Additional free months for continuing service to new term.		3 Free months for three yr term; sign up by 6/13-1 additional month free
<b>MONTHLY IMPACT</b>	-\$212.00 (approx)	-\$349.15 Includes assumed savings of \$75 for more accurate billing method	-\$296.00	-\$297.00
<b>SUMMARY and Notes</b> NOTE: Matrix Communications: Contacted Jim at 731-9166; he assures that the Zoo's current telephone system is programmable to direct all long distance calls to the selected carrier and has programmable tables for screening out local prefixes improperly dialed as long distance. Process takes a couple of hours and prefix screening tables can be done separately at any time. Needs a few days notice.	*Must get perspective Billing to have bill sub-totaled by department. That requires proper hardware configuration at Zoo's cost. Demo of perspective system available. *Other change over expenses covered in one way or another. *No free months offered making savings less. Base rate second best.	*Does not offer any way to have randomly selected ID numbers. *Covers change over costs up to \$250. *Gives the largest discounts (volume, term, and free months). *Customer service team (Local Account) *Guaranteed best ATT rate. *Free airline ticket for 800 number sign up. *Corporate calling card.	*Does not offer random ID numbers *Does not offer department billings *Lowest base rate (no discounts/free months) *Month to month contract	*Random ID #s, requires Fonview billing *Change over costs covered. *Has lowest base rate that meets all needs. *Customer service team (Premier) *Offers frequent flyer mileage and other benefits. *No penalty for contract withdrawal if dissatisfied with service (\$1000/mo penalty won't be used against the Zoo).

C:CONTRACT:PHNSRVY

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C:CONTRACT:PHNSRVY

AGENDA ITEM NO. 8.5  
Meeting Date: October 13, 1994

RESOLUTION NO. 94-2046A



## REGIONAL FACILITIES COMMITTEE REPORT

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RESOLUTION NO. 94-2046A, AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS AND AUTHORIZING THE EXECUTIVE OFFICER TO ENTER INTO A MULTI-YEAR CONTRACT WITH THE MOST QUALIFIED PROPOSER TO MANAGE THE LAKE HOUSE AT BLUE LAKE REGIONAL PARK

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Date: October 7, 1994

Presented by: Councilor Gates

**COMMITTEE RECOMMENDATION:** At its October 5, 1994 meeting the Regional Facilities Committee voted 4-1 to recommend Contract Review Board adoption of Resolution No. 94-2046A. Voting in favor were Councilors Hansen, Gates, Moore, and Washington. Councilor McFarland voted in opposition.

**COMMITTEE DISCUSSION/ISSUES:** Regional Parks and Greenspaces Director Charlie Ciecko presented the staff report. He described the purpose of the Lake House, and pointed out typographical errors that needed correction. He then discussed item C under Contract Term and Remuneration on page 7 of the Request For Proposal. As originally drafted, item C read, "Remuneration for fulfilling contract by Contractor currently is at a cash value equal to forty-nine percent (49%) of Lake House gross income." Mr. Ciecko requested a sentence be added, to read, "However, bidders may propose an alternate financial arrangement." He said he wanted to provide flexibility for proposers to offer alternative financial arrangements and marketing plans, and not have the department be locked in to a 51/49 split of revenues.

Councilor Gates asked if this resolution included any significant changes from the current agreement. Mr. Ciecko said the department is trying to put more emphasis on the contractor's marketing of the facility. He said the Lake House does fine on weekends and in attracting wedding receptions, but he would like to get more bookings for weekdays, for events such as retreats and workshops. Councilor Gates asked how many bidders would be expected. Mr. Ciecko said he didn't know, but would go through the normal process, sending the RFP out to as many qualified potential proposers as could be identified.

Councilor McFarland asked why the revenue was to be split based on gross income rather than net. She did not agree that the split should be based on gross revenues, before the bills were paid. Mr. Ciecko said that the contractor has certain responsibilities and Metro has other responsibilities for facility maintenance, and that split pretty much evens out. Councilor McFarland said if the costs even out, then the basis should be on net revenue. Councilor Gates said he had no problem basing the split on the gross, because it would be difficult to establish what constitutes the net, and because using the gross requires the contractor to make a profit out of the portion they receive.



**METRO**

**DATE:** October 7, 1994

**TO:** Metro Council

**FROM:** Charles Ciecko, Director, Regional Parks and Greenspaces

**SUBJECT:** Resolution No. 94-2046A, Lake House Management Contract

The Regional Facilities Committee directed that revisions be made to Exhibit A of Resolution No. 94-2046 at the October 5, 1994 meeting.

Revisions have been made to Exhibit A as directed, and the revised version is included in the October 13 Council agenda packet. Changes have been made to the Contract Terms and Remuneration Section, pages 7-9 of the RFP and to the consultant selection timeline. Changes for the most part are minor wording or spelling changes.

A version showing the specific changes via overstriking and shading is not included, however. This will be available prior to the Council meeting.

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING ) RESOLUTION NO. 94-2046A  
ISSUANCE OF A REQUEST FOR PROPOSALS )  
AND AUTHORIZING THE EXECUTIVE ) Introduced by Rena Cusma,  
OFFICER TO ENTER INTO A MULTI-YEAR ) Executive Officer  
CONTRACT WITH THE MOST QUALIFIED )  
PROPOSER TO MANAGE THE LAKE HOUSE )  
AT BLUE LAKE REGIONAL PARK )

WHEREAS, on December 9, 1994, by Resolution No. 93-1877, the Metro Council approved an intergovernmental agreement with Multnomah County transferring management of regional parks, natural areas, golf courses, cemeteries, trade and spectator facilities to Metro; and

WHEREAS, the Lake House at Blue Lake Regional Park is one of the facilities for which management responsibility was transferred to Metro; and

WHEREAS, the Lake House is an outstanding venue for special events leasing including wedding receptions, small conferences, business seminars and similar events that generate revenue to support Regional Parks and Greenspaces programs and operations; and

WHEREAS, it was the practice of Multnomah County to enter into multi-year contracts with the most qualified vendor to market the Lake House, book reservations and manage events; and

WHEREAS, the contract with the current vendor terminates on November 15, 1994; and

WHEREAS, funds have been appropriated in the Adopted FY 1994-95 Budget to contract with a private vendor to manage the Lake House consistent with historic practices; now, therefore,

BE IT RESOLVED, that the Metro Council, acting as the Metro Contract Review Board, approves issuance of the Request for Proposals (RFP # 94R -29-PK), attached as Exhibit A to this resolution, and authorizes the Executive Officer to enter into a multi-year contract with the most qualified proposer.

ADOPTED by the Metro Council this \_\_\_\_\_ day of October, 1994.

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

Exhibit A

**REQUEST FOR PROPOSAL**  
**LAKE HOUSE MANAGEMENT CONTRACTOR**

**By:**

**Metro Regional Parks and Greenspaces**

**October 7, 1994**

Metro Regional Parks and Greenspaces is soliciting responses from qualified candidates for the position of Lake House Management Contractor.

The Lake House has been in operation since 1983 as a meeting and wedding facility. Prior to 1983 the facility had been used as a single family residence. No major improvements were made to the Lake House until 1987 when a separate entry, 70 car parking lot, courtyard, landscaping and arbor were constructed.

Metro is seeking proposals from motivated firms and/or individuals who can demonstrate a high level of experience, creativity and professionalism in marketing, managing and maintaining a meeting and wedding facility.

The primary function of the Lake House Manager will be to provide marketing, scheduling, contracting, and supervising private events held at the Lake House, and to maintain the Lake House interior in a clean and attractive condition.

Metro will specifically evaluate the potential for each candidate to aggressively market and promote the use of the facility and thereby increase annual bookings. Traditionally, bookings have been primarily spring and summer, centered on evenings and weekends. However, Metro wants to further promote mid-week, mid-day and year-round events. (See attachment "A", Information Sheet.)

**NOTE:** Lake House will be closed all of January and February 1995, for remodeling.

### **CONTRACTOR SERVICES**

Specific work tasks are outlined below.

A. Contractor's services shall consist of the following:

1. Set specific business hours for the Lake House and be consistently available by telephone to schedule and show the Lake House for events, including but not limited to weddings and rehearsals, receptions, parties, meetings, seminars and other income producing events. Business hours shall be approved by Metro.
2. Be available to show the Lake House by appointment to potential clients on weekday and weekends, depending on bookings, while consulting with and assisting clients in the use of the Lake House.
3. Supervise events, be on-site and secure the Lake House after events.
4. Maintain the Lake House's interior specifically including the kitchen, bathrooms, windows, floors, carpets and drapes in a very clean, sanitary, and attractive condition, and limited exterior maintenance including litter removal and window cleaning.

5. Contractor's services to set-up and/or take-down and cleanup, and/or catering, and event may be offered in the rental contract for an additional fee. Terms for said service will be covered under "Contract Term and Renumeration; C, 2." (Page 8)
6. Contract with clients and collect fees for use of the Lake House. (See fee schedule "Attachment A".)
7. Within sixty (60) days Contractor shall develop and implement a marketing plan for the Lake House. That plan shall be in compliance with Metro's existing methods, and include advertising, public relations, telemarketing, and collateral materials. The plan's objectives are to increase weekday and off-season usage while increasing gross receipts from target markets identified by Metro. The plan will be subject to the approval of Blue Lake Regional Park's Supervisor and Director of Metro Regional Parks and Greenspaces.
8. Deliver or mail copies of all executed Lake House rental agreements, complete with revenue received, to the Regional Parks and Greenspaces Office within forty-eight (48) hours of receipt.

**B. Contractor Staff:**

1. Personnel shall be sufficiently trained and knowledgeable so as to satisfactorily perform all required Lake House services. They shall maintain a clean and neat appearance, and be courteous towards the public as well as Metro staff.
2. Contractor shall maintain Worker's Compensation insurance coverage for all non-exempt workers, employees, and subcontractors either as a carrier-insured employer or a self-insured employer as provided in Chapter 656 of Oregon Revised Statutes. A certificate showing current Workers' Compensation insurance, or copy thereof, is attached to this Agreement as Exhibit "A", and must be completed and incorporated in your proposal.

**C. Security and Safekeeping:**

1. The safekeeping of Contractor property shall be at the Contractor's risk and expense. Contractor assumes full liability and fire risk for all Contractor property and waives any claims against Metro, Multnomah County, its Councilors, departments, employees and agents for loss or damage to Contractor property from any cause whatsoever.
2. Contractor shall not engage in any practice or behavior which compromises Blue Lake Park and the Lake House security or Metro's public image.
3. Contractor will provide a maximum of five (5) security coded cards for use by their employees.

4. Contractor acknowledges responsibility for liability arising out of the performance of this Agreement and shall hold Metro, Multnomah County, its Councilors, departments, employees and agents harmless from and indemnify same for any and all liability, settlements, losses, costs and expenses in connection with any action, suit or claim resulting or allegedly resulting from activities under or services provided pursuant to this Agreement.

**D. Licenses and Code Compliance:**

Contractor shall obtain and maintain all required licenses for operation of a meeting and recreation facility as described herein. Contractor shall comply and take full responsibility for all codes, laws and ordinances pertaining to the operation of the Lake House including but not limited to:

1. Contractor shall be knowledgeable of and enforce all aspects of Title 10 Ordinances (See Attachment "B").
2. Contractor shall adhere to all applicable laws governing its relationship with its employees, including but not limited to laws, rules, regulations and policies concerning worker's compensation and minimum wage requirements.
3. Contractor shall adhere to all applicable laws, regulations and policies relating to equal employment opportunity, non-discrimination in services and affirmative action, including all regulations implementing Executive Order No. 11246 of the President of the United States, Section 402 to the Vietnam Readjustment Assistance Act of 1974, and Section 503 of the Rehabilitation Act of 1973. Metro shall maintain copies of said laws and regulations on file with its duly appointed Affirmative Action Office.

**E. Insurance**

The Contractor shall purchase and maintain at their expense the following types of insurance covering the Contractor, their employees and agents;

1. Broad form comprehensive general liability insurance covering bodily injury, property damage, and personal injury with automatic coverage for premises operations and product liability.

Metro, Multnomah County, its Councilors, departments, employees, and agents shall be named as an additional insured. Notice of material change or cancellation shall be provided to Metro thirty (30) days prior to the change. In addition, a copy of the policy must be provided to the Parks Department.

Insurance coverage shall be a minimum of \$1,000,000 per occurrence.

2. Automobile bodily injury and property damage liability insurance in the minimum amount of \$500,000. Evidence of such insurance shall be provided to the Metro Regional Parks and Greenspaces Department.
3. Contractor shall comply with the Oregon Workers' Compensation law (ORS 656.017) for all subject employees. Evidence of such insurance shall be provided to the Metro Regional Parks and Greenspaces Department.
4. Contractor shall carry an "all risk" property insurance on Contractor's property and hereby waives all rights of subrogation against Metro and Multnomah County for any loss of Contractor's property, however caused. Metro hereby waives its subrogation rights against the Contractor except for claims under \$100,000 caused by the negligence of Contractor and/or users.
5. If Contractor serves alcohol, a liquor liability policy must be purchased in the minimum amount of \$1,000,000 and Metro/Multnomah County listed as an additional insured as stated above.

F. Records and Cash Management:

1. Contractor shall keep accurate and up-to-date records of engagements that are scheduled, and engagements that have occurred at the Lake House. Contractor shall present a report on facility activities to the Parks Director on the fifth day following the end of each month. (Metro shall provide a form for this purpose.)
2. All Lake House income shall be delivered to the Regional Parks and Greenspaces Main Office within forty-eight (48) hours of receipt complete with signed Rental Agreement Forms and receipts. (All fees paid by a client will in the form of a personal check or money order only - no cash payments. Said payments are to be made payable to Metro Regional Parks.)
3. Metro shall automatically return security deposits directly to clients unless Contractor instructs Administrative Office otherwise within two working days following the event.
4. Metro shall have access direct to all Contractor books, documents, papers and records as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.

**METRO RESPONSIBILITIES**

A. The Lake House Maintenance:

1. Metro shall provide landscaping and landscape maintenance for the Lake House grounds.



2. Metro shall budget for professional carpet cleaning twice a year and drapery cleaning once a year. (Obtaining cost estimates and scheduling shall be the responsibility of the Contractor.)
3. Metro shall provide usual and customary janitorial supplies.
4. Metro shall provide kitchen appliances, tables and chairs in a safe and operable condition (See Attachment "A").
5. Metro shall provide parking areas for clients and up to 70 guests vehicles.
6. Metro shall provide reasonable security services for the Lake House premises.
7. Metro shall keep the Lake House grounds in an attractive condition and the building safe and structurally sound.

**B. Utilities:**

1. Metro shall provide electric power, heat, and water and sewer services to the Lake House.
2. Metro shall provide garbage receptacles and garbage removal service.
3. Metro shall provide telephone service to the Lake House including reasonable dialing and transmission costs involving Lake House business, throughout the Portland-Vancouver metropolitan area. All other additional long-distance business calls shall be logged and paid for by the Contractor, via monthly billing from Metro.

**C. Administration:**

1. Metro shall provide adequate supply of rental agreements forms, information sheets, and receipts.

**D. Metro Usage:**

1. Metro departments (other than Parks and Greenspaces Department) may use the Lake House for weekday functions at a discounted rate. The discounted rate will apply to a maximum of two Metro functions per month. Metro's use of the Lake House shall be available at a flat fee of \$50.00 to the Departments for weekday events held Monday through Friday of any week, between the hours of 8:00 a.m. and 5:00 p.m.
2. Metro Regional Parks and Greenspaces Department may use the Lake House for weekday functions up to two times per month at no charge.

3. Metro Council will receive use of the Lake House at no cost.
4. The Contractor is responsible for coordinating the reservation of the Lake House for Metro Department functions through the use of interdepartmental rental agreement for (supplied by Metro). In the event of a double-booking the private party will prevail over a Metro function.
5. Metro Departments are responsible for their own set-up and clean-up. Metro Departments that want set-up and clean-up services, will be charged additional for such services. Contractor will be compensated for set-up and clean-up services when requested for any Metro function.
6. The Lake House fees may be waived or reduced only by prior approval of the Director of Metro Regional Parks and Greenspaces and with the concurrence of the Contractor.

E. Promotions:

Metro has set aside limited Lake House promotional funds for a yellow page listing and will provide 2,500 business cards and reproduction of Lake House brochures per year.

Metro will offer guidance on development of all final promotional and business plans. Metro shall also review and approve all promotional strategies prior to implementation. Such approval shall not be unreasonably withheld.

### CONTRACT TERM AND REMUNERATION

- A. Contract starting date is November 16, 1994, and shall extend through November 15, 1995. Contract may be renewed annually with a maximum of four (4) renewals upon mutual written consent of Metro and Contractor.
- B. Contract may be terminated either by Metro or Contractor upon thirty (30) days written notice by either party. However, contract may also be terminated at anytime upon 24 hours notice for material breach of any of Contractor's obligations under this Agreement. (This immediate termination may be limited to certain breaches, e.g., dishonesty, failure to protect Metro property, failure to account for absence over a stated time.)
- C. Remuneration for fulfilling contract by Contractor currently is at a cash value equal to forty-nine percent (49%) of Lake House gross income. (NOTE: Proposers may propose an alternate financial arrangement.)

Lake House receipts shall be used to calculate Contractor income which shall be paid to Contractor by Metro as follows:

1. Rental Fee Disbursement

- a. Upon completion of the following main job responsibilities the Contractor's share will be the percentages described below:

Booking an event (1/3 of responsibilities) = .33 x .49  
Supervision/Janitorial Services \* (2/3 of responsibilities) = .67 x .49

- The "1/3" portion will be paid within 3 weeks of receipt of rental fees; the remaining "2/3" portion will be paid within 3 weeks after the event has been supervised and routine janitorial services provided.

(\* Not to be confused with event "cleaning services" described below.)

- b. Rental fee may be subject to an "excise tax." If so, the consequences regarding this portion of the contract will be addressed at the time of implementation.

2. Additional Fee Services

- a. Set-up/take-down/event cleaning services.

Contractor will make available the option of providing their services for the set-up, take-down and clean-up of an event. Revenue from such fees will also be shared with Metro (NOTE: Proposers will propose the percentage shares, for this service, within Part 5 of the RFP Proposal.) (Page 10)

- b. Catering

If Contractor has the ability to provide catering themselves, then this service option will be made known to clients. If contractor is chosen by client to provide this service, then revenues will be shared with Metro (NOTE: Proposers will propose the percentage shares, for this service, within Part 5 of the RFP Proposal.) (Page 10)

3. Contractor will also obtain their same percentage regarding cleaning fees and cancellation.

- D. Metro certifies that sufficient funds are available and authorized for expenditure to finance costs of this contract through June 30, 1995.

As this contract crosses the Metro's fiscal year at July 1, 1995, funding after June 30, 1995 is dependent upon future funds being approved by Metro Council. If such approval is not forthcoming, Metro will provide 30 calendar days written notice to terminate this Agreement.

### **RELATIONSHIP OF CONTRACTOR TO METRO**

Contractor's relationship to Metro shall be that of an independent contractor for all purposes and shall be entitled to the compensation provided for in this Agreement. Under no circumstances shall Contractor be considered an employee of Metro. Contractor shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified. Contractor is solely responsible for its performance under this Agreement and the quality of its work; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified.

Metro is not, by virtue of this Agreement, a partner or joint venturer with Contractor in connection with the operations or activities of Contractor under this Contract, and Metro shall have no obligation with respect to Contractor's debts or other liabilities.

All premises and facilities and equipment to which the Contractor is granted exclusive, temporary, or rental use will at all times remain the property of Metro.

### **BANKRUPTCY/INSOLVENCY**

It is understood and agreed by the Contractor and Metro that, in the event that Contractor shall be adjudged as bankrupt, either voluntarily or involuntarily, this Agreement, at the option of Metro, shall at once cease and terminate. Furthermore, if Contractor shall become insolvent or fail in business, or make any assignment for the benefit of creditors, Metro may, at its option, terminate this Agreement. In no event is this Agreement to be treated as an asset in any insolvent or bankrupt estate.

### **PROPOSAL INSTRUCTIONS**

Proposals are due (postmarks not accepted) no later than 4:00 p.m. P.D.T., Monday, November 7th, at the office of Metro Regional Parks and Greenspaces, 600 N.E. Grand Avenue, Portland, Oregon 97232-2736, Attention: Todd Jones, Regional Park Supervisor. Materials postmarked but not received prior to the deadline or any faxed material will not be considered.

One original and five copies of the proposal must be submitted to Metro.

All proposals must be clearly marked "PROPOSAL: LAKE HOUSE CONTRACTOR," and contain all information outlined herein.

## PRE-BID CONFERENCE

An mandatory pre-bid conference is scheduled for Tuesday, October 25, 1994, at 10:00 a.m. at the Lake House facility, 21160 N.E. Blue Lake Road, Troutdale, Oregon. All bidders shall attend.

## CLARIFICATION

Any proposer requiring clarification of the information or protesting any provisions herein, must submit specific comments in writing to:

Todd Jones  
Regional Park Supervisor  
Blue Lake Park  
20500 N.E. Marine Drive  
Troutdale, OR 97060

The deadline for submitting such questions or comments is October 24, 1994. If, in his opinion, additional information or interpretation is necessary, such information will be supplied in the form of an Addendum which will be mailed to all individuals, firms and corporations having taken out specifications and such Addendum shall have the same binding effect as though contained in the main body of the specifications. Oral instructions or information concerning the specifications or the projects given out by Metro managers, employees, or agents to prospective proposer shall not bind Metro. All Addenda shall be issued by the Regional Park Supervisor not later than five (5) days prior to proposal deadline.

## CANCELLATION

Metro reserves the right to cancel award of the contract at any time before execution of the contract by both parties if cancellation is deemed to be in Metro's best interest. In no event shall Metro have any liability for the cancellation of award. The proposer assumes the sole risk and responsibility for all expenses connected with the preparation of its proposal.

## ASSIGNMENT

Neither the resultant contract nor any of the requirements, rights, or privileges demanded by it may be sold, assigned, contracted, or transferred by the Contractor without the express written consent of Metro.

## FORMAT

In submitting proposals, proposer are to be aware that Metro considers proposal content and completeness to be most important. Clean and effective presentations are preferred, with extraneous materials strongly discouraged. Proposals should be submitted in 8-1/2" x 11" format and covers must clearly contain the RFP title and bidder's name.

Proposals shall be prepared using the following format in order to facilitate evaluation:

- Part 1: Letter of Transmittal
- Part 2: Contractor Services and Administration
- Part 3: Personnel
- Part 4: Experience
- Part 5: Financial Bid and Marketing Plan
- Part 6: Appendices

Each part must be clearly labeled for easy reference.

Part 1: Letter of Transmittal

Shall state proposers name, address, phone number, contact person, date of proposal, and a general confirmational statement of submittal to Metro Regional Parks and Greenspaces.

Part 2: Contractor Services and Administration

This section must list the full range of services that Contractor will provide in managing the Lake House contract.

This section must specify the means of accomplishing the services to be provided and organizational approach to operating and overseeing the Lake House.

Other areas include the availability of Contractor to receive calls of interest from the public and to schedule showings. Also specify the nature of Contractor's business and employee supervision, accounting, record keeping and cash management techniques. Proposers should demonstrate a clear understanding of Metro's objectives in managing a successful and professional operation.

Part 3: Personnel

Key personnel must be identified in this section with a brief description of their qualifications. Include a list of references for each person with contact persons and telephone numbers. Specify any services to be subcontracted and the name of the subcontractor(s).

Part 4: Experience

Proposers must describe in detail, relevant past and present experiences in successfully administering a meeting and wedding facility or other business/sales-related experiences. The information provided must demonstrate that the bidder has the appropriate knowledge and background to adequately fulfill contract requirements.

## Part 5: Financial Bid and Marketing Plan

Proposers must specify and justify the minimum percentage of gross Lake House receipts necessary to profitably operate as the Lake House Contractor. Proposers will include a draft promotional plan which includes strategies on Lake House promotions and advertising for the first year of operations. (These expenses would be paid for and implemented by the Contractor).

## Part 6: Appendices

Information considered by proposers to be pertinent to this position which was not specifically solicited in Parts 1 through 5, may be placed in an appendix. (Please keep this material to a minimum.)

## GENERAL CONDITIONS

Limitation and Award. This RFP does not commit Metro to award a contract, nor to pay any costs incurred in the preparation and submission of proposals in anticipation of a contract. Metro reserves the right to accept or reject any or all proposals received as the result of this Request for Proposal or to cancel this entire Request for Proposal.

As described later under Contractor Selection, Metro will identify a limited number of bidders who will be requested to present an oral briefing of their proposal.

Validity Period and Authority. The proposal shall be considered valid for a period of at least 120 days, and contain a statement to that effect. The proposal shall contain the name, title, address and telephone number of the individual(s) with authority to bind the company who may be contacted during the period of evaluating the proposal.

Equal Employment Opportunity. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated equally during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

## CONTRACTOR SELECTION

Proposals received that conform to the proposal instructions described in this RFP will be evaluated by a Selection Committee appointed by the Regional Parks and Greenspaces Director. The Selection Committee will include representatives of Regional Parks and Greenspaces; a representative of the Metro agency.

An initial evaluation will take place after November, 7, 1994, and will result in a rank ordering of proposers for final interviews on Thursday, November 10th.

Evaluation Criteria: The outline below provides a list of criteria and scoring system which will be used in the evaluation of the proposals submitted to accomplish the work defined in this RFP.

General Compliance with RFP -10 Points

- Format
- Content

Part 1: Contractor Services and Administration - 30 Points

- Comprehensiveness of services to be provided.
- Business organization and management techniques.
- Supervisory skills and techniques.
- Accounting and cash management techniques.
- Understanding Metro objectives in seeking a Lake House Contractor.

Part 2: Personnel - 20 Points

- Level of qualified staffing.
- Reference check.

Part 3: Experience - 30 Points

- Relevant experience in profitably marketing and operating a meeting or wedding facility.
- Past experience in sales/business operations and working with clients.
- Knowledge acquired that would be useful in administering and promoting the Lake House.

Part 4: Financial Bid and Marketing Plan - 20 Points

- Percentage level of gross income specified.
- Potential Metro profitability based on a draft year-long promotional plan.

TOTAL - 100 Points

Interviews: In addition to the written proposal, the top ranked proposers will be evaluated on their performance in an oral interview conducted by the Evaluation Committee. Each interview will consist of a presentation (about 1/2 hour) by the candidate, followed by an extensive question and answer period.

Metro reserves the right to select a Contractor based upon evaluation of written proposals only.





METRO

## THE LAKE HOUSE INFORMATION SHEET AND RENTAL AGREEMENT

Thank you for considering The Lake House at Blue Lake Park. We are pleased to share this unique facility with you for your wedding, meeting, or special occasion.

The Lake House is popular because the serene setting is ideal for weddings and business meetings. This beautifully landscaped facility is just 20 minutes from downtown Portland and five minutes from downtown Gresham.

The Lake House is available for viewing by appointment only. Please call (503) 667-3483, or write to 21160 NE Blue Lake Road, Troutdale, Oregon 97060, to schedule an appointment.

Please read the following information sheets, and let us know if you have any questions. A staff member will be on site during your event to make sure everything runs smoothly. We want your visit to be an enjoyable and memorable one.

**THE LAKE HOUSE**  
**INFORMATION SHEET**

**Facility**

**Maximum Building Capacity:**

Indoors:

Exhibit Space - 2,080 Square Feet

Ceiling Height - 7 feet

Standing Reception - 165

Banquet - 125

Theatre - 130

Classroom - 100

Outdoor Garden: 250

**Maximum Parking Capacity:**

70 cars on paved area; free  
Overflow parking available

**Hours:**

Available weekdays, evenings, and weekends between 9 am and 12 midnight

**Amenities:**

Brick Courtyard

Brick Fireplace

Wall to Wall Carpeting

Picture Windows with Lakeside View

Covered Patio

Scenic Park Surroundings

Two Bathrooms

Changing Room

**Equipment:**

220 Chairs

Microwave

Two Coffee Urns

Stove/Oven

Garbage Containers

Ice Machine

11 Round Tables (5')

10 Rectangular Tables (6'&8')

Two Refrigerators

Vacuum

Three Picnic Tables

## Rental Fees

WEEKEND RATES (Friday evenings, Saturday, Sunday and Holidays):  
Additional time at \$65.00/per hour

April 1st to October 31st:

10:00 am to 4:00 pm - \$500.00  
6:00 pm to midnight - \$500.00  
10:00 am to midnight - \$800.00

November 1st to March 30th

10:00 am to 4:00 pm - \$400.00  
6:00 pm to midnight - \$400.00  
10:00 am to 10:00 pm - \$700.00

WEEKDAY RATES (Monday to Friday evenings):

\$35.00 per hour with a three (3) hour minimum charge.

## REFUNDABLE SECURITY DEPOSIT

The \$100/event deposit will only be returned by mail under the following conditions:  
The refund takes approximately three (3) weeks.

1. Your group leaves on time.
2. All equipment, fixtures, plants and building premises are left undamaged. Renter will be billed for all replacement or repair costs not covered by deposit.
3. You have received a clean bill of health from the staff person stating the following CLEAN-UP criteria have been completed within your rental time:
  - a. Tables and Chairs are cleaned and stacked in the garage. (Please carry the table or use the caddy. The tables damage easily when rolled.)
  - b. The carpet is vacuumed. Any carpet spills must be wiped up immediately and reported to a staff member.
  - c. The entire kitchen including equipment, counters and the floor is cleaned and mopped, and also the foyer, bathroom and dancefloor.
  - d. All trash, cigarette butts, bottle caps, and additional litter located either outside, in the facility, or parking lot, is deposited and tied in the bag provided by The Lake House. All bags must be placed just inside the garage door. Bottles and cans may be left for recycling in the bin provided.

- e. Champagne bottles must be defoiled and rinsed out or taken with you.
- f. Renter's possessions, decorations, equipment, and food are removed.
- g. Set-up take -down, and cleaning services available for your convenience. at no extra charge. Contact the concessionaire for details.

### RESERVATIONS

Reservations will be confirmed upon receipt of a rental agreement and one-half down of total payment including the security deposit. Check or money orders should be made payable to METRO, and mailed to the Lake House, 21160 NE Blue Lake Road, Troutdale, Oregon 97060. (For security concerns, cash payments will not be accepted.)

### CANCELLATION

All cancellations must be called in to (503) 667-3483 and followed up in writing to The Lake House office at the above address.

If notice received thirty (30) days or more prior to event:  
All of rental fee and deposit back, except \$50.00

15 To 30 Days prior to event:  
50% refund of payment to date.

If Notice given 15 days or less prior to event  
No refund

### RENTER'S RESPONSIBILITY

- Renters are responsible for set-up and clean-up of the facility as well as enforcing the following rules and regulation with your guests.
- Included within the six (6 hour rental period are: SET-Up (by you), unloading of food/beverages, decorations, musical equipment, furniture arrangement, and CLEAN-UP. Additional hours must be pre-arranged with The Lake House Staff.
- Renters will furnish their own SUPPLIES, including silverware, dishes, linens, utensils, containers, foil, plastic wrap, extension cords, cleaning items and miscellaneous items.
- CHILDREN are to be supervised at all times and NOT ALLOWED near Blue Lake without an adult.
- SMOKING IS PERMITTED outside the building. Receptacles for cigarettes and cigars are provided. (Multnomah County Ordinance #556.)

- In consideration of nearby residents, ANY AMPLIFIED NOISE OR MUSIC must be at a reasonable volume. Renters must comply with directions given by Lake House and Blue Lake staff. All amplified sound will end by 11:00 pm. (This is one (1) hour past City of Fairview ordinances.)
- If ALCOHOL is to be sold, renters are responsible for obtaining OLCC permits and following state regulations. No alcohol may be consumed or poured by minors. Any alcohol must be kept on Lake House grounds.
- Red wine and red punches are not allowed due to the potential carpet staining. Kegs are limited to one per 125 guests and must be kept on the patio or in the garage. Any illegal use of drugs will be prosecuted. Blue Lake staff employees are deputized and have the right to request removal of anyone abusing these rules.
- Only FLOWER PETALS OR BIRDSEED may be thrown outside or in the parking lot. Rice is not allowed because it can kill birds.
- Please use tape when hanging indoor DECORATIONS; tacks or nails are not allowed in the wall. Outdoor decorations, under one pound in weight, can be used with staff permission.
- Your group can not exceed the posted capacity. GUESTS are not to enter Blue Lake Park grounds after sunset.
- PARKING shall be in designated areas only. Check with staff for overflow areas if the paved area is full.
- PETS are not allowed on the premises.
- SWIMMING AND BOATING permitted only in the designated areas. Boats may dock only in the boat concession area.
- Metro Regional Parks and Greenspaces is not responsible for LOST OR STOLEN PROPERTY. Anything found will be turned into The Lake House office and be available for pick up by appointment. Items left over six months will be put up for public auction.
- Thank you for helping us maintain a clean and professional facility. We hope you have an enjoyable event!

## STAFF REPORT

### **CONSIDERATION OF RESOLUTION NO. 94-2046 AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS AND AUTHORIZING THE EXECUTIVE OFFICER TO ENTER INTO A MULTI-YEAR CONTRACT WITH THE MOST QUALIFIED PROPOSER TO MANAGE THE LAKE HOUSE AT BLUE LAKE REGIONAL PARK**

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#### BACKGROUND

Pursuant to Metro Code Section 2.04.033(a)(1), Council adoption of Resolution No. 94-2026 authorizing issuance of Request for Proposals # 94R-29-PK is necessary because the contract would be in effect beyond the current fiscal year.

The Lake House at Blue Lake Regional Park was among the facilities transferred to Metro management from Multnomah County by intergovernmental agreement in December 1993 (Resolution No. 93-1877). In 1989 Multnomah County entered into a contract with Pic-a-Deli Cafe and Grill to manage the Lake House. Responsibilities include marketing the Lake House to potential leasees for various events including wedding receptions, anniversary and retirement celebrations, seminars and the like, booking reservations and managing the events. These events have generated between \$40,000 and \$100,000 in revenue annually, 49% of which are disbursed as compensation to the vendor and 51% reinvested in Regional Parks and Greenspaces programs and operations.

The current contract expires on November 15, 1994. It is highly desirable to issue the RFP and have a new vendor under contract by the expiration date of the existing contract so as not to miss any events booking opportunities.

#### BUDGET IMPACT

The Lake House is a revenue generator for the Regional Parks and Greenspaces Department as indicated. The adopted FY 1994-95 budget anticipated negotiation of a new contract for Lake House Management and revenue was appropriated for the contract.

#### EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 94-2046.

AGENDA ITEM NO. 8.6  
Meeting Date: October 13, 1994

RESOLUTION NO. 94-2026A

## REGIONAL FACILITIES COMMITTEE REPORT

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RESOLUTION NO. 94-2026A, ESTABLISHING AN ADVISORY COMMITTEE TO ASSIST THE METRO COUNCIL IN COORDINATING THE REGIONAL PARKS AND GREENSPACES PROGRAM

Date: October 7, 1994

Presented by: Councilor Moore

**COMMITTEE RECOMMENDATION:** At its October 5, 1994 meeting the Regional Facilities Committee voted 5-0 to recommend Council adoption of Resolution No. 94-2026A. All committee members were present and voted in favor.

**COMMITTEE DISCUSSION/ISSUES:** Regional Parks & Greenspaces Director Charlie Ciecko presented the staff report. This resolution would create an 11-member advisory committee for the Regional Parks and Greenspaces Department, with a Metro Councilor as an ex-officio member. Mr. Ciecko noted that this resolution had been considered at the September 7 Regional Facilities Committee meeting, at which time the committee asked department staff to consult with the Metro Committee for Citizen Involvement (MCCI) at its September 22 meeting. The MCCI's recommendations are noted in the staff report and most of those recommendations had been incorporated into a revised Exhibit A to the resolution. The changes include having representatives of Multnomah, Clackamas, Washington, and Clark counties who live outside the Metro boundary included on the Regional Parks and Greenspaces Advisory Committee. These representatives will serve instead of representatives of environmental and business groups as proposed in the original resolution. The MCCI also recommended that the Chair be elected from the committee's membership instead of being appointed by the Executive Officer and confirmed by the Council. The revised version calls for the first Chair to be appointed for a one year period, after which the Chair will be elected. The department also committed to work with MCCI staff to ensure that neighborhood and community groups had adequate notice of the creation of the committee, in order to solicit qualified applicants.

Mr. Ciecko noted that he and Council staff had discussed concerns about the staggering of initial terms. Council Analyst Casey Short addressed this issue, pointing out that the proposal would have four members serve initial two-year terms, and seven members serve three-year terms. His concern was that this posed the potential for a majority of the committee to turn over at one time, creating a problem of continuity. He suggested that some of the positions have initial terms of one year, noting that Mr. Ciecko had expressed a preference that there not be any one-year terms in order to provide enough time for all members to become familiar with the department's operations.

Councilor Gates moved to amend the resolution to make the initial terms of the four members from outside the Metro area each be for



one year. He incorporated into his motion some minor changes to correct spelling errors and correct an inconsistency in the length of the initial term for the ex-officio member from the Metro Council. Pursuant to a suggestion from Mr. Ciecko, Councilor Gates added to his amendment to provide that the four positions with one-year initial terms would be eligible to serve up to two additional three-year terms. The committee then voted in favor of the resolution as amended.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ESTABLISHING	)	RESOLUTION NO. 94-2026A
AN ADVISORY COMMITTEE	)	
TO ASSIST THE METRO COUNCIL	)	INTRODUCED BY THE
IN COORDINATING THE REGIONAL	)	EXECUTIVE OFFICER
PARKS AND GREENSPACES PROGRAM	)	

WHEREAS, the 1992 Charter authorizes Metro to operate a system of parks, open spaces and recreational facilities of metropolitan concern; and

WHEREAS, the 1992 Charter authorizes Metro to adopt a Regional Framework Plan, which includes a parks, open spaces and recreational facilities component; and

WHEREAS, by Resolution No. 93-1849A, the Metro Council approved on October 14, 1993 a Memorandum of Understanding with Multnomah County regarding the transfer of regional parks, natural areas, golf courses, cemeteries and trade/spectator facilities to Metro; and

WHEREAS, by Resolution No. 93-1877, the Metro Council approved on December 9, 1993 an Intergovernmental Agreement (IGA) with Multnomah County regarding the transfer of regional parks, natural areas, golf courses, cemeteries and trade/spectator facilities to Metro; and

WHEREAS, the Metro Greenspaces Policy Advisory Committee, which was established by Resolution No. 90-1261, has completed its major tasks of developing a Greenspaces Master Plan and making recommendations to the Metro Council for a second Greenspaces bond measure; and

WHEREAS, the Multnomah County Parks Advisory Board ceased meeting following the transfer of County parks, golf courses and cemeteries to Metro in January 1994; and

WHEREAS, there is a need for a citizens based advisory committee to advise the Metro Executive and Council on matters related to the management and operations of Regional Parks and Greenspaces; and

WHEREAS, the Metro Regional Parks and Greenspaces Department wishes to establish a citizens based advisory committee to review and make recommendations to the Council and Executive Officer about its programs, activities and plans, including the annual budget.

BE IT RESOLVED,

1. That the Metro Council hereby sunsets the existing Greenspaces Policy Advisory Committee, established by Resolution No. 90-1261, effective the date Resolution 94-2026 is adopted.
2. That the Metro Council hereby establishes a Regional Parks and Greenspaces Advisory Committee for the Regional Parks and Greenspaces Department.
3. The purpose, composition, charge, and appointment/confirmation procedures for the committee are hereby adopted as shown in Exhibit A.

ADOPTED BY THE METRO COUNCIL, this \_\_\_\_\_ day of \_\_\_\_\_, 1994.

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Judy Wyers,  
Presiding Officer

## EXHIBIT A

1. The Regional Parks and Greenspaces Advisory Committee (hereinafter referred to as "advisory committee") shall review the Regional Parks and Greenspaces Department's policies, programs, plans and annual budget request. The advisory committee may take public comment at its meetings prior to making its recommendations to Metro. Recommendations from the advisory committee will be delivered to the Executive Officer and Council by the Director of the Regional Parks and Greenspaces Department and/or the chair of the advisory committee.
2. The advisory committee shall review and advise Metro on policies and strategies related to implementing the goals and objectives of the Greenspaces Master Plan.
3. The advisory committee shall review and advise Metro on policies and strategies related to land acquisition and capital improvement activities of a regional Greenspaces Bond Measure (if voters approve a measure).
4. The advisory committee shall review and advise the Metro Council on the annual budget request of the Regional Parks and Greenspaces Department.
5. The advisory committee shall make recommendations related to the management and operations of Regional Parks and Greenspaces.
6. The advisory committee will meet at least four times per fiscal year (July 1 - June 30), and more often if requested by the Director of Metro's Regional Parks and Greenspaces Department.
7. The advisory committee will coordinate its review of Regional Parks and Greenspaces policies, programs and plans with the existing Greenspaces Technical Advisory Committee (GTAC). GTAC consists of park planners and staff from local, state, and federal park providers, and nonprofit environmental organizations. GTAC will meet no less than four times per fiscal year, and more often if requested by the Director of Metro's Regional Parks and Greenspaces Department.
8. The advisory committee shall be composed of **11 voting members and 1 non-voting member (e.g. Metro Councilor who will serve in an ex-official officio capacity)**. Nominations, except for the ex-official officio Metro Council member, shall be made by the Executive Officer and require Council confirmation. The ex-official officio Metro Council member shall be appointed by the Presiding Officer for a two year term.
  - a) Seven voting members (one residing in each of the seven Metro Council districts) from within Metro's boundaries.
  - b) One voting member residing in Clackamas County, but outside of Metro's boundaries.
  - c) One voting member residing in Multnomah County, but outside of Metro's boundaries.

- d) One voting member residing in Washington County, but outside of Metro's boundaries.
  - e) One voting member residing in Clark County (to retain the bi-state nature of the Greenspaces planning effort).
9. The chair of the advisory committee will come from the voting membership of the committee. The first chair shall be designated by the Executive Officer and confirmed by the Council. The first chair shall serve a one year term. After this period, the committee shall elect its chair from its membership. Election will be by a majority vote. The chair will be elected on an annual basis.
10. Members of the advisory committee shall serve the following term durations:
- a) Metro Council Districts #1, #3, #5 and #7 shall serve 2 years for the initial appointments. Succeeding terms shall last 3 years.
  - b) Metro Council Districts #2, #4, and #6 shall serve 3 years.
  - c) Multnomah County, but outside of Metro boundaries, member shall serve ~~3 years~~ 1 year.
  - d) Clackamas County, but outside of Metro boundaries, member shall serve ~~3 years~~ 1 year.
  - e) Washington County, but outside of Metro boundaries, member shall serve ~~3 years~~ 1 year.
  - f) Clark County member shall serve ~~3 years~~ 1 year.
  - g) Metro Councilor (ex-official ~~officio~~ member) shall serve ~~3~~ 2 years.
11. Advisory committee members shall serve no more than two consecutive terms. To serve a second term: members must reapply; must be re-nominated by the Executive Officer; and re-confirmed by the Council to serve an additional term. ~~Initial terms of 1 year shall not be considered a "full-term."~~
12. If a vacancy occurs in any position, the Executive Officer shall appoint a new member who resides in the geographic area of that position. The member must be confirmed by the Council. The new member shall complete the uncompleted duration of the term for that position. The new member can only be reappointed to one additional full term.
13. A quorum of the advisory committee shall be a majority of the filled voting positions at the time of the meeting. (e.g. if nine positions are filled and two positions are vacant, 5 is a quorum).
14. Any advisory committee member who intends to resign shall write a letter to the Chair of the committee and Director of the Regional Parks and Greenspaces Department. The reason for the resignation and effective date shall be stated in the letter.

15. Any member missing three consecutive meetings (for any reason other than personal and/or family illness) in effect has resigned from the committee. A vacancy will automatically occur and a new member will be appointed by the Executive Officer and confirmed by the Council.
16. The advisory committee, if it chooses, may adopt rules of procedure.
17. The Regional Parks and Greenspaces Department will staff the advisory committee.

## STAFF REPORT

### CONSIDERATION OF RESOLUTION NO. 94-2026 FOR THE PURPOSE OF ESTABLISHING A CITIZENS BASED ADVISORY COMMITTEE FOR THE REGIONAL PARKS AND GREENSPACES DEPARTMENT

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Date: October 5, 1994

Presented By: Charles Ciecko and Mel Huie

#### FACTUAL BACKGROUND AND ANALYSIS

Resolution No. 94-2026 would establish a Regional Parks and Greenspaces Advisory Committee to review, comment and make recommendations to the Metro Executive Officer and Council on the policies, plans, programs, and proposed annual budget for the Regional Parks and Greenspaces Department. The new advisory committee would meet at least four times a year and replace the Greenspaces Policy Advisory Committee and the Multnomah County Parks Advisory Committee. The existing Greenspaces Technical Advisory Committee (GTAC) would continue to meet at least four times a year to ensure the continued participation and input of local jurisdictions, and other local, regional, state and federal park providers.

#### Highlights of the Advisory Committee:

- a. Replaces the Greenspaces Policy Advisory Committee and Multnomah County Parks Advisory Committee.
- b. **11 voting members:** Nominated by the Executive Officer and confirmed by the Council. **One ex-officio (non-voting) member** who will be from the Metro Council and be appointed by the Presiding Officer. (See Exhibit A for composition, duties and term durations of the advisory committee members).
- c. Meets at least four times per fiscal year. The advisory committee may meet more often upon the request of the Director of the Regional Parks and Greenspaces Department.
- d. Coordinates its meetings, agendas, work tasks with the Greenspaces Technical Advisory Committee.
- e. Reviews and makes recommendations to the Metro Executive Officer and Council on the department's policies, programs, plans, and proposed annual budget.
- f. Makes recommendations on implementation activities for the Greenspaces Master Plan, and Greenspaces Bond Measure (when one is passed by the voters) to the Metro Executive Officer and Council.
- g. Recommends actions related to Metro's management and operations of Regional Parks and Greenspaces.
- h. Advisory committee rules of procedure and by-laws may be adopted by the committee.

## COORDINATION WITH METRO COMMITTEE FOR CITIZEN INVOLVEMENT (MCCI)

At the September 7, 1994 Regional Facilities Committee meeting, Councilor Sandi Hansen, Committee Chair, requested that staff brief the MCCI about the committee proposal for the Parks and Greenspaces program. Input and recommendations from the MCCI should be heard prior to the Metro Council making a decision on whether to establish the citizens' based advisory committee.

On September 22, 1994, staff from Metro's Regional Parks and Greenspaces Department presented the proposal for establishing an advisory committee for the department to the MCCI. Charles Ciecko and Mel Huie answered specific questions and listened to recommendations from the MCCI as to how the advisory committee should be established and what its membership should be like.

The MCCI recommended that Regional Parks and Greenspaces staff consider the following in its proposal to the Metro Council:

1. Include voting members who reside in Clackamas County, Multnomah County and Washington County, but who live in the geographic area between Metro's boundaries and the county lines. This will include participation from citizens who use regional parks and greenspaces facilities from throughout the tri-county area. Indeed, many of the former County parks and land holdings are within Multnomah County, but outside of the Metro boundaries. The Greenspaces Master Plan and regional trails system also have designated projects in these areas. Also if the Greenspaces bond measure passes, new acquisitions will be in these areas as well.

### Regional Parks and Greenspaces Staff Recommendation

We concur with this recommendation.

2. Have the advisory committee chair elected by the committee members rather than being appointed by the Executive Officer and confirmed by the Council.

### Regional Parks and Greenspaces Staff Recommendation

We recommend that the first committee chair be designated by the Executive Officer with Council confirmation. The chair would serve a one year term. Future chairs would be elected by the members of the committee each January to serve a one year term. This allows the committee to begin its work without having to worry about a process on how to select a chair which may interfere with important work tasks of the committee.

3. Concur with staff recommendation that the new advisory committee be established and that members be appointed as soon as possible. Work with MCCI and its staff to ensure adequate notification to neighborhood associations, CPOs, and other local citizen involvement groups.

### Regional Parks and Greenspaces Staff Recommendation

We are in agreement.

Key dates:	Regional Facilities Committee	October 5, 1994
	Council	October 13
	Advertisement of Committee Positions	October 17



Thirty Day Period to Apply  
Executive Officer Makes Appointments  
Regional Facilities Committee Review  
Council Confirmation

November 17  
November 23  
1st Meeting in Dec  
December

Committee Convenes

January 1995

**EXECUTIVE OFFICER'S RECOMMENDATION**

The Executive Officer recommends adoption of Resolution No. 94-2026.

AGENDA ITEM NO. 8.7  
Meeting Date: October 13, 1994

RESOLUTION NO. 94-2043A

GOVERNMENTAL AFFAIRS COMMITTEE REPORT

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RESOLUTION NO. 94-2043A, ENDORSING A CHANGE IN STATE STATUTE REGARDING THE MEMBERSHIP OF THE PORTLAND METROPOLITAN AREA LOCAL GOVERNMENT BOUNDARY COMMISSION

Date: October 3, 1994

Presented by: Councilor Gates

**COMMITTEE RECOMMENDATION:** At its September 27, 1994 meeting the Governmental Affairs Committee voted 4-0 to recommend Council adoption of Resolution No. 94-2043A. Voting in favor were Councilors Gates, McFarland, Van Bergen, and Wyers. Councilor Buchanan was absent.

**COMMITTEE DISCUSSION/ISSUES:** Council Analyst Casey Short presented the staff report. He discussed the background to the resolution and the related issues, which are detailed in Councilor Gates' September 21 memo to Metro Councilors. He added that Ken Martin, the Boundary Commission's Executive Officer, suggested a minor change to Exhibit A, adding a clarifying clause to the first sentence on page 2, so the sentence would read, "Appointments by the Executive Officer require confirmation of the Council of the metropolitan service district."

Mr. Martin discussed a bill that was introduced in the 1993 legislative session on the makeup of the Boundary Commission. He said that bill was introduced rather late in the session, and would have provided for 14 Commission members, with two nominated by each Metro Councilor. The only change that bill would have made was a doubling of the size of the Commission from 7 to 14, with each Councilor having two nominations rather than one. The bill passed the Senate but was not voted on in the House. In response to a question from Councilor Gates about the likelihood of a bill passing the 1995 session, he reiterated the comments of Burton Weast, Metro's legislative representative, in an earlier meeting to the effect that any bill should be as simple and straightforward as possible.

Councilor Van Bergen moved the resolution, with the suggested amendment.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENDORSING A ) RESOLUTION NO. 94-2043A  
CHANGE IN STATE STATUTE REGARDING )  
THE MEMBERSHIP OF THE PORTLAND ) Introduced by Councilor  
METROPOLITAN AREA LOCAL GOVERNMENT ) Mike Gates  
BOUNDARY COMMISSION )

WHEREAS, State law (ORS 199.440) governs the membership of the Portland Metropolitan Area Local Government Boundary Commission (Boundary Commission), and provides that "the commission shall have a number of members that is equal to the number of councilors of the metropolitan service district;" and

WHEREAS, The Boundary Commission now has thirteen members, but will be reduced to seven members on January 2, 1995; and

WHEREAS, Representatives of the Boundary Commission have met with representatives of the Metro Council and Metro staff to request Metro's support in endorsing a bill to be considered at the 1995 session of the Oregon Legislature, which would increase the number of Boundary Commission members to eleven; and

WHEREAS, An eleven-member Boundary Commission is preferable to one with seven members because the larger commission will provide greater opportunities for representation throughout the Metro area and the broader tri-county community that is within the Boundary Commission's jurisdiction, and will improve the opportunities for the commission regularly to achieve a quorum; now, therefore

BE IT RESOLVED,

That the Metro Council endorses the draft Bill for an Act, attached as Exhibit A, to increase the Boundary Commission from seven to eleven members, and directs its representatives at the 1995 session of the Oregon Legislative Assembly to work in support of this bill.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 1994.

Judy Wyers, Presiding Officer

**A BILL FOR AN ACT**

Relating to local government boundary commissions; creating new provisions; amending ORS 199.440; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1. ORS 199.440 is amended to read:**

**199.440 Membership; appointment; qualifications; term; vacancy. (1) A**

boundary commission shall have seven members. However, if the population of the area subject to the jurisdiction of the commission exceeds 500,000 and if the area subject to its jurisdiction is wholly or partly situated within the boundaries of a metropolitan service district, the commission shall have eleven [a number of] members [that is equal to the number of councilors of the metropolitan service district].

(2) Except as provided in subsection (3) of this section, the Governor may appoint all members of a commission from a list of names obtained from cities, counties and districts within the area of jurisdiction of the boundary commission. The Governor shall prepare the list annually and keep it current so timely appointments will be made as vacancies occur. The Governor shall endeavor to appoint members from the various cities, counties and districts so as to provide geographical diversity of representation on the commission.

(3) When the area subject to the jurisdiction of a boundary commission is wholly or partly situated within the boundaries of a metropolitan service district organized under ORS chapter 268, the members of that boundary commission shall be appointed by the executive officer of the metropolitan service district. The executive officer shall appoint members of a boundary commission from a list of names obtained from cities, counties and districts within the area of jurisdiction of the boundary commission. The executive officer shall prepare the list annually and keep it current so timely appointments will be made as

**vacancies occur. Appointments by the executive officer require confirmation of the council of the metropolitan service district. [Individuals nominated by the councilors of the district. Each councilor shall nominate no fewer than three or more than five individuals for appointment to the boundary commission. When first appointing all the members of a boundary commission, the executive officer shall appoint one individual from among those nominated by each councilor. Thereafter, as the term of a member of a boundary commission expires or as a vacancy occurs, the executive officer shall appoint an individual nominated by the councilor or a successor who nominated the boundary commission member whose term has expired or who vacated the office.] The executive officer shall endeavor to appoint members from various cities, counties and districts so as to provide geographical diversity of representation on the boundary commission.**

**(4) To be qualified to serve as a member of a commission, a person must be a resident of the area subject to the jurisdiction of the commission. A person who is an elected or appointed officer or employee of a city, county or district may not serve as a member of a commission. No more than two members of a commission shall be engaged principally in the buying, selling or developing of real estate for profit as individuals, or receive more than half of their gross income as or be principally occupied as members of any partnership, or as officers or employees of any corporation, that is engaged principally in the buying, selling or developing of real estate for profit. No more than two members of a commission shall be engaged in the same kind of business, trade, occupation or profession.**

**(5) A member shall be appointed to serve for a term of four years. A person shall not be eligible to serve for more than two consecutive terms, exclusive of:**

(a) Any service for the unexpired term of a predecessor in office.

(b) Any term less than four years served on the commission first appointed.

(6) A commission may declare the office of a member vacant for any cause set out by ORS 236.010 or for failure, without good reason, to attend two consecutive meetings of the commission. A vacancy shall be filled by the Governor or by the executive officer of a metropolitan service district, by appointment for the unexpired term. If the Governor or the executive officer has not filled a vacancy within 45 days after the vacancy occurs, then, and until such time as the vacancy is filled, the remaining members of a commission shall comprise and act as the full membership of the commission for purposes of ORS 199.445.

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## PORTLAND METROPOLITAN AREA LOCAL GOVERNMENT BOUNDARY COMMISSION

800 NE OREGON STREET # 16 (SUITE 540)

PORTLAND, OREGON 97232

PHONE: 731-4093

February 10, 1994

Judy Wyers, Chair  
Metro Council  
600 NE Grand AVE  
Portland OR 97232

RE: *Changing Number of Boundary Commission Members*

Dear Chair Wyers:

The Boundary Commission statute ties the number of Boundary Commission members to the number of Metro Councilors. Unless the statute is changed this means the Boundary Commission membership, should, like Metro's, be reduced from 13 to 7 as of January 1, 1995.

For a number of reasons (See edited Boundary Commission April 15, 1993 memo attached) the Boundary Commission does not favor this automatic reduction in Commission membership. In the 1993 Legislative session the Commission therefore introduced and the Metro Council supported, a bill to "decouple" the Metro - Boundary Commission membership. The bill would have instead expanded Commission membership to fourteen so that two members would be recommended by each Metro Councilor instead of the present single recommendation. That bill (Senate Bill 1128) passed the Senate but was not heard in the House before adjournment.

### Current Situation

The Boundary Commission remains firm in its opposition to the reduction in its membership. The Commission therefore wishes to pursue the legislative solution noted above and desires the support of Metro to this end. Regardless of the outcome on this first issue, however, a second situation demands even more immediate action by the Council and the Commission. The Legislature will

#### STAFF

KENNETH S. MARTIN, Executive Officer  
DENIECE WON, Executive Assistant  
LANA RULIEN, Administrative Assistant

RAY BARTEL, Chair  
TOM WHITTAKER, Vice-Chair  
BOB BOUNEFF  
NATHALIE DARCY  
ELEANOR DAVIS

#### COMMISSIONERS:

MARILYNN HELZERMAN  
DONALD JOHNSON  
SY KORNBRODT  
SUE LAMB

MURLIN LITSON  
ROY SOARDS  
CAROL TROMMLER  
BOB WIGGIN



Judy Wyers, Chair

RE: Changing Number of Boundary Commission Members

February 10, 1994

Page 2

not begin meeting until late January of 1995 and is not likely to pass even an expeditiously processed bill for 1-2 months. The Metro-Boundary Commission switch from 13 to 7 members must occur on January 1, 1995. Some process must be established to accomplish this even if it is only to last for a short time period. The Metro Charter, of course, provides for elections to chose new Councilors prior to January and on January 1st the 7 simply replace the 13. Neither the Charter nor the boundary commission law (ORS 199) say anything about how the Boundary Commission transition from 13 to 7 is to be accomplished.

#### Boundary Commission Study

One additional factor should be mentioned here. Paragraph 5 of Section 7 of the Metro Charter says:

"The council shall undertake and complete a study of the Portland Metropolitan Area Local Government Boundary Commission, with advise of the MPAC, by September 1, 1995. The council shall implement the results of the study and shall seek any legislative action needed for implementation."

For two reasons the Boundary Commission does not view this requirement as providing much assistance in addressing the problem pointed out above. First, the deadline for completing the study is well after the time a solution to the problem is required. Second, the Commission believes the larger sized commission is appropriate regardless of whether Commission operations are altered or not. The Commission certainly has no objection if Metro chooses to conduct the study earlier than required and to include in it a discussion of the Commission's size. But they feel strongly that we must begin to move now to get a fast-tracked bill introduced and to devise a transition mechanism for this coming January 1st.

#### Proposed Action

The Commission proposes the following action in response to the problem outlined above.

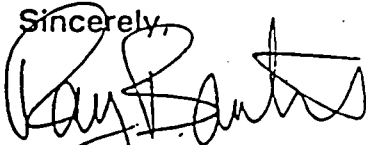
Judy Wyers, Chair  
RE: Changing Number of Boundary Commission Members  
February 10, 1994  
Page 3

1. Appointment of an ad hoc joint Metro-Boundary Commission committee. The committee's purpose would be to oversee introduction of a "de-coupling" bill and to devise a transition mechanism for the Boundary Commission which can be implemented as of January 1, 1995.
2. Introduction and to the extent possible fast-tracking of the decoupling bill. Hopefully this could be introduced through one of the interim committees.
3. Implementation of whatever transition plan the joint committee arrives at on January 1, 1995. It is assumed that such a plan would need to be approved by the full Council and Commission but devising the plan would be the work of the joint committee.
4. Whatever staff assistance is necessary would be provided jointly by the Boundary Commission staff and the Metro Council/Executive staff. Involvement of the District's lobbyist would also be likely.

The Commission believes this issue can be addressed expeditiously and that the amount of staff and Council/Commission time would be fairly minimal. It is, however important that the process begin soon.

I look forward to working with Council on this matter. If you have any questions on this please feel free to contact me directly at 659-3988 or call our Executive Officer, Ken Martin, at the Boundary Commission office at 731-4093

Sincerely,



Ray Bartel  
Chairman

RB/lmr

CC: Rena Cusma

Attachment

ORS chapter 268, the members of that boundary commission shall be appointed by the executive officer of the metropolitan service district. The executive officer shall appoint members of a boundary commission from a list of individuals nominated by the councilors of the district. Each councilor shall nominate no fewer than three nor more than five individuals for appointment to the boundary commission. When first appointing all the members of a boundary commission, the executive officer shall appoint one individual from among those nominated by each councilor. Thereafter, as the term of a member of a boundary commission expires or as a vacancy occurs, the executive officer shall appoint an individual nominated by the councilor or a successor who nominated the boundary commission member whose term has expired or who vacated the office. The executive officer shall endeavor to appoint members from various cities, counties and districts so as to provide geographical diversity of representation on the boundary commission.

(4) To be qualified to serve as a member of a commission, a person must be a resident of the area subject to the jurisdiction of the commission. A person who is an elected or appointed officer or employee of a city, county or district may not serve as a member of a commission. No more than two members of a commission shall be engaged principally in the buying, selling or developing of real estate for profit as individuals, or receive more than half of their gross income as or be principally occupied as members of any partnership, or as officers or employees of any corporation, that is engaged principally in the buying, selling or developing of real estate for profit. No more than two members of a commission shall be engaged in the same kind of business, trade, occupation or profession.

(5) A member shall be appointed to serve for a term of four years. A person shall not be eligible to serve for more than two consecutive terms, exclusive of:

(a) Any service for the unexpired term of a predecessor in office.

(b) Any term less than four years served on the commission first appointed.

(6) A commission may declare the office of a member vacant for any cause set out by ORS 236.010 or for failure, without good reason, to attend two consecutive meetings of the commission. A vacancy shall be filled by the Governor or by the executive officer of a metropolitan service district, by appointment for the unexpired term. If the Governor or the executive officer has not filled a vacancy within 45 days after the vacancy oc-

curs, then, and until such time as the vacancy is filled, the remaining members of a commission shall comprise and act as the full membership of the commission for purposes of ORS 199.445. [1969 c.494 §6; 1975 c.653 §1; 1979 c.374 §1; 1981 c.265 §5; 1989 c.92 §12b; 1989 c.321 §4; 1991 c.15 §1]

**199.445 Quorum; voting requirements for certain matters.** A majority of the members of a commission constitute a quorum for the transaction of business, and a majority of a quorum may act for the commission. However, the approval of a majority of the members of the commission is required to:

(1) Adopt a final order under ORS 199.461.

(2) Adopt rules under ORS 199.452. [1969 c.494 §9; 1971 c.462 §4]

**199.450 Advisory committee; membership; function; term.** (1) Each boundary commission shall appoint an advisory committee to advise and assist the commission in carrying out the purposes of ORS 199.410 to 199.534. An advisory committee shall consist of nine members who are residents within the jurisdiction of the commission. Except for the public members, to be qualified to serve on a committee a person shall be a member of the governing body of a city, county or district located within the jurisdiction of the commission. The members shall include two city officers, two county officers, two district officers and three public members, one of whom shall serve as chairperson of the advisory committee. A governing body shall not have more than one member on the advisory committee. When only one county is under the jurisdiction of a boundary commission, then the committee shall consist of three city officers, one county officer, three district officers and the two public members. Any member of the committee may designate a representative who is an officer or employee of the member's city, county or district to appear and act for that member at any meeting of the committee.

(2) The advisory committee shall meet as necessary. The advisory committee shall also meet on the call of the commission.

(3)(a) The committee may review each petition filed with the commission except a petition filed under ORS 199.495. If the committee reviews a petition, it may submit a recommendation on the petition to the boundary commission within 30 days after the petition is filed with the commission.

(b) The committee shall review each administrative rule of the commission prior to its adoption. The committee may propose any changes to the commission's rules, policies

ORS 199.425 (1) shall encourage and facilitate mergers and consolidations among water providers located within a single river basin or other region. [1993 c.424 §1]

Note: 199.427 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 199 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**199.430 Procedure for creating commissions by local resolution or petition.**

(1) Outside the areas described in ORS 199.425, a boundary commission may be created as provided by this section with territorial jurisdiction in one county or in two or more contiguous counties. A commission may be created by:

(a) Similar resolutions creating a commission adopted by the county board of each of the counties within the jurisdiction of the commission; or

(b) Similar petitions, signed by the electors of each county within the jurisdiction of the proposed commission, requesting the creation of a commission having jurisdiction within the counties, filed with and approved by order of the county boards of each county in the jurisdiction of the commission.

(2) Each petition filed with a county board requesting creation of a boundary commission shall be signed by not less than 10 percent of the registered electors of the county. The petition shall be approved by the county board if it finds that the needs of the local government units in the territory described in the petition and the public interest would be benefited by the establishment of a boundary commission to carry out the purposes described by ORS 199.410.

(3) A resolution creating or an order approving the creation of a boundary commission is effective on:

(a) The date the last county board in the jurisdiction of the commission adopts the resolution or order; or

(b) The date specified in the order, or resolution, but not more than 60 days after the adoption of the resolution or order.

(4) When a commission is created under this section, copies of the resolutions or orders of the county boards shall be filed with the Governor, the Secretary of State, and the county clerk and the assessor of each county within the jurisdiction of the commission.

(5) A commission created as provided by this section shall not have jurisdiction of any proceeding initiated prior to the effective date of the resolution or order creating such commission. [1969 c.494 §5; 1971 c.462 §3; 1979 c.645 §1; 1980 c.14 §4; 1981 c.265 §3]

**199.432 Status of commission as state agency; application of certain laws.** (1) A

boundary commission created under ORS 199.425 or 199.430 may sue and be sued, enter into contracts and perform such other actions as may be necessary to carry out the provisions of ORS 199.410 to 199.534.

(2) A boundary commission is a state agency as defined in ORS 291.002 (7) and is not subject to the provisions of ORS 291.202 to 291.226, 291.232 to 291.260 and 291.371 to 291.385.

(3) A boundary commission employing personnel under ORS 199.455 shall provide employee benefits provided to state management service employees. [1979 c.545 §3; 1981 c.265 §4; 1983 c.336 §2; 1989 c.92 §11]

**199.435 Organization of commission created under ORS 199.430.** (1) The members of the first board of a commission formed under ORS 199.430 shall be appointed within 90 days after the commission is created.

(2) Notwithstanding ORS 199.440, of the first appointees to a commission formed under ORS 199.430, one shall serve for one year, two for two years, two for three years and two for four years. The respective terms of the first appointees shall be determined by lot at the first meeting of the commission.

(3) The Governor shall fix the time and place of the first meeting and notify the members of the commission thereof. The first meeting shall be an organizational meeting. [1969 c.494 §8]

**199.440 Membership; appointment; qualifications; term; vacancy.** (1) A boundary commission shall have seven members. However, if the population of the area subject to the jurisdiction of the commission exceeds 500,000 and if the area subject to its jurisdiction is wholly or partly situated within the boundaries of a metropolitan service district, the commission shall have a number of members that is equal to the number of councilors of the metropolitan service district.

(2) Except as provided in subsection (3) of this section, the Governor may appoint all members of a commission from a list of names obtained from cities, counties and districts within the area of jurisdiction of the boundary commission. The Governor shall prepare the list annually and keep it current so timely appointments will be made as vacancies occur. The Governor shall endeavor to appoint members from the various cities, counties and districts so as to provide geographical diversity of representation on the commission.

(3) When the area subject to the jurisdiction of a boundary commission is wholly or partly situated within the boundaries of a metropolitan service district organized under

2.01.190 Appointment Process, Qualifications and Terms of Office for Boundary Commission Members:

(1) As provided by Oregon Law;

(a) The Portland Metropolitan Area Local Government Boundary Commission shall have a number of members that is equal to the number of Councilors of the Metropolitan Service District.

(b) The members of that Boundary Commission shall be appointed by the Executive Officer of the Metropolitan Service District. The Executive Officer shall appoint members of a Boundary Commission from a list of individuals nominated by the Councilors of the District. Each Councilor shall nominate no fewer than three nor more than five individuals for appointment to the Boundary Commission. When first appointing all the members of Boundary Commission, the Executive Officer shall appoint one individual from among those nominated by each Councilor. Thereafter, as the term of a member of a Boundary Commission expires or as a vacancy occurs, the Executive Officer shall appoint an individual nominated by the Councilor or a successor who nominated the Boundary Commission member whose term has expired or who vacated the office. The Executive Officer shall endeavor to appoint members from various cities, counties and districts so as to provide geographical diversity of representation on the Boundary Commission.

(c) To be qualified to serve as a member of a commission, a person must be a resident of the area subject to the jurisdiction of the commission. A person who is an elected or appointed officer or employee of a city, county or district may not serve as a member of a commission. No more than two members of a commission shall be engaged principally in the buying, selling or developing of real estate for profit as individuals, or receive more than one-half of their gross income as or be principally occupied as members of any partnership, or as officers or employees of any corporation, that is engaged principally in the buying, selling or developing of real estate for profit. No more than two members of a commission shall be engaged in the same kind of business, trade, occupation or profession.

(d) A member shall be appointed to serve for a term of four years. A person shall not be eligible to serve for more than two consecutive terms, exclusive of:

(i) Any service for the unexpired term of a predecessor in office.

(ii) Any term less than four years served on the commission first appointed.

(2) The terms of office of members of the Boundary Commission appointed prior to 1991 shall be as follows:

(a) Members appointed from nominations made by Councilors representing Council Districts 2, 6 and 8 shall serve from July 1, 1988 to January 1, 1992;

(b) Members appointed from nominations made by Councilors representing Council Districts 1, 5 and 7 shall serve from July 1, 1988 to January 1, 1993;

(c) Members appointed from nominations made by Councilors representing Council Districts 3, 10 and 11 shall serve from January 1, 1990 to January 1, 1994; and

(d) Members appointed from nominations made by Councilors representing Council Districts 4, 9 and 12 shall serve from January 1, 1990 to January 1, 1995.

(Ordinance No. 91-409, Sec. 1)

**METRO**

DATE: September 21, 1994  
TO: Metro Councilors  
FROM: Councilor Mike Gates *MG/cj*  
RE: Resolution No. 94-2043 - Boundary Commission Membership

I have introduced Resolution No. 94-2043 for consideration at the September 27 meeting of the Governmental Affairs Committee, and want to advise you of the background to this resolution as well as discuss options that have been discussed for increasing the size of the Boundary Commission.

In its 1991 session the Oregon Legislature adopted SB 299, which changed the size, appointing authority, and appointment process for members of the Portland Metropolitan Area Local Government Boundary Commission. One provision of this bill (which is now incorporated in statute as ORS 199.440 and in the Metro Code as Section 2.01.190) ties the size of the Boundary Commission to the size of the Metro Council. With the reduction of the Council to seven members effective January 2, 1995, the Boundary Commission will also be reduced from 13 to 7 members.

Boundary Commission members and staff have expressed concern about the reduction in the Commission's size since shortly after voter approval of the 1992 Metro Charter. They are concerned that the smaller commission will make it more difficult to reach a quorum and will limit the opportunity for broad geographic representation on the commission, including the opportunity for members to come from outside the Metro area but within the entire tri-county area that is the Boundary Commission's jurisdiction. A bill to increase the commission's size to fourteen members was introduced in the 1993 session and passed the Senate, but did not get out of committee in the House.

Councilor Van Bergen and I met with two members of the commission and Metro and commission staff on August 30, and I met with staff and one commission member on September 20 to discuss issues of the size of the Boundary Commission. There was broad agreement that the commission should be larger than seven members, and that a bill should be drafted as soon as possible to make it available for introduction at the 1995 legislative session. If a bill is to be considered on this matter, we hope it can be passed early in the session in order to provide for the minimum amount of time the commission must function with only seven members.

Staff identified three options for consideration. All provided for an 11-member commission, based on the commission's history and pursuant to recommendations of commission members and staff. All also provided for Executive Officer appointment and Council confirmation. Those options were:

A. The Executive is to make the appointments from a list of names obtained from local governments within the Boundary Commission's jurisdiction. This is the system used for the Lane County Boundary Commission (with the Governor making the appointments), and was in effect for the Portland Commission until Metro became the appointing authority.

B. Representation on the Commission would be specified, with one member from each Council district, two members from outside the Metro area, and two members appointed at large. This proposal would include a limitation on the number of representatives from a given area, probably to be no more than two from any Council district and no more than two from any county outside the Metro area.

C. Representation would not be specified, with the language to stipulate only that the Metro Council is to adopt an ordinance establishing the procedure for commission appointments.

The resolution I am introducing puts forward option A. I believe this is the simplest of the three, is consistent with past practice for this commission and current practice in Lane County, and restores the commission to its historic size. This option (as is the case with the other two) would remove Councilors from the process of nominating potential commission members, but would establish a procedure for Council confirmation of Executive appointment which does not now exist. It calls for the Executive to solicit and maintain a list of names from local jurisdictions, which is reasonable in light of the fact that these jurisdictions are the principal users of the commission's services.

I will be discussing this issue at next week's MPAC meeting, as well as at Governmental Affairs. If you have any questions in the meantime, please do not hesitate to contact me.

cc: Rena Cusma  
Dick Engstrom  
MPAC members  
Merrie Waylett  
Burton Weast

Ken Martin  
Boundary Commissioners  
Don Carlson  
Casey Short  
Dan Cooper



**AGENDA ITEM NO. 8.8**  
**Meeting Date: October 13, 1994**

**RESOLUTION NO. 94-2045**

**METRO**

Date: October 4, 1994

To: Metro Council

From: Rod Monroe, Finance Committee Chair 

Re: Introduction of Resolution No. 94-2045

Please find attached a copy of Resolution No. 94-2045 which I have introduced for Council consideration and action. **The resolution submits the entire Construction Excise Tax Ordinance (94-556C) to the voters at the May 16, 1995 election or at the next available election in 1995.**

This resolution has been introduced to present the entire financial package to the voters rather than merely the imposition of the Construction Tax. This will avert a potential financial short fall of approximately \$1,000,000 during the current fiscal year. It will also enable the voters to make a choice of adopting a more balanced approach to funding Metro's planning program or continue to rely mostly on taxing the users of the solid waste system. Since I last talked to most of you I have changed the proposed election date to the May 16, 1994 election to avoid placing the measure on the same ballot as the Greenspaces measure. This date does not take into account the potential problem of Ballot Measure 5 which could force those two measures to be on the same ballot.

This resolution will be on the October 12, 1994 Finance Committee agenda. I have asked the Presiding Officer to schedule the resolution on the October 13, 1994 Council agenda should the resolution be favorable acted upon by the Finance Committee. Please review the resolution and call me or Don Carlson if you have any questions or need additional information.

cc: Rena Cusma  
Jennifer Sims  
Don Carlson

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF SUBMITTING TO ) RESOLUTION NO. 94-2045  
THE VOTERS FOR THEIR APPROVAL )  
ORDINANCE 94-556C "AN ORDINANCE ) Introduced by  
RELATING TO TAXATION, ESTABLISHING ) Councilor Rod Monroe  
A CONSTRUCTION EXCISE TAX )  
REDUCING SOLID WASTE RATES AND )  
REFUNDING PLANNING SERVICE FEES )  
TO LOCAL GOVERNMENTS"

WHEREAS, The Metro Council has approved Ordinance No. 94-556C which contains a balanced package to finance Metro's Charter-mandated regional growth management planning function by establishing a new Construction Excise Tax, lowering the Metro excise tax and solid waste rates, and rebating voluntary payments from local governments; and

WHEREAS, Pursuant to Oregon law a prospective petition has been filed to seek the referral to the voters of only a portion of this package thereby potentially depriving the voters of an opportunity to approve or disapprove of the entire financial package as adopted by the Metro Council; and

WHEREAS, The Council finds that it is the best interests of the Metro region that the entire package of tax-related decisions made by the Council be placed before the voters of Metro for their approval or disapproval as soon as possible; now, therefore,

**BE IT RESOLVED:**

1. That the Metro Council hereby submits to the qualified voters of the District the question of approval of Ordinance No. 94-556C, a true copy of which is attached as described in Exhibit "A".

2. That the measure shall be placed on the ballot for a Special election held on the 16th day of May 1995 or the next earliest legally available election date thereafter.

3. That the District shall cause this Resolution and the Ballot Title attached as Exhibit "B" to be submitted to the Elections Officer and the Secretary of State in a timely manner as required by law.

4. That the Executive Officer pursuant to Oregon Law and Metro Code Chapter 9.02 shall transmit this measure, ballot title, an explanatory statement and arguments for or against, if any, to the County Elections Officers for inclusion in any county voters' pamphlets published for the election at which this measure is placed before the voters.

5. If it is approved by a majority of the voters Ordinance No. 94-556C shall become effective on the date specified in Section 39 of the 1992 Metro Charter. If Ordinance No. 94-556C is not approved by a majority of the voters Ordinance No. 94-556C shall not take effect.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 1994.

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

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I HEREBY CERTIFY THAT THE FOREGOING IS A COMPLETE AND EXACT COPY OF THE ORIGINAL THEREOF.

Cheri Arthur  
Clerk of the Metro Council

BEFORE THE METRO COUNCIL

AN ORDINANCE RELATING TO TAXATION,	)	ORDINANCE NO. 94-556C
ESTABLISHING A CONSTRUCTION EXCISE	)	
TAX REDUCING THE METRO EXCISE TAX,	)	Introduced by
REDUCING SOLID WASTE RATES AND	)	Councilor Rod Monroe
REFUNDING PLANNING SERVICE FEES	)	
TO LOCAL GOVERNMENTS	)	

THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:

Section 1. Effective November 1, 1994 or the effective date of this Ordinance, whichever is the latest, the following Chapter 7.02 Construction Excise Tax is added to the Metro Code.

CHAPTER 7.02

CONSTRUCTION EXCISE TAX

SECTIONS:

- 7.02.010 Short title.
- 7.02.020 Construction.
- 7.02.030 Definitions.
- 7.02.040 Exemptions.
- 7.02.050 Rules and regulations promulgation.
- 7.02.060 Administration and enforcement authority.
- 7.02.070 Imposition of tax.
- 7.02.080 Rate of tax.
- 7.02.090 Failure to pay.
- 7.02.100 Statement of entire floor area required.
- 7.02.110 Intergovernmental agreements.
- 7.02.120 Rebates.
- 7.02.130 Hearings Officer.
- 7.02.140 Appeals.
- 7.02.150 Refunds.
- 7.02.160 Occupation of improvement without payment unlawful.
- 7.02.170 Enforcement by civil action.
- 7.02.180 Review.
- 7.02.190 Failure to pay -- Penalty.
- 7.02.200 Violation -- Penalty.
- 7.02.210 Rate stabilization.
- 7.02.220 Needs assessment.
- 7.02.230 Dedication of revenues.

**7.02.010 Short title:** This chapter shall be known as the "Construction Excise Tax Ordinance" and may be so pleaded.

**7.02.020 Construction:** The construction excise tax ordinance and all amendments hereinafter made thereto shall be referred to herein as "this chapter." This chapter and any terms not defined herein or elsewhere in this Code shall be construed to be consistent with definitions and terminology used in the Oregon State Building Code, 1993 Edition (the Uniform Building Code).

**7.02.030 Definitions:** As used in this chapter unless the context requires otherwise:

- (a) "Building Official" means any person charged by a municipality with responsibility for the administration and enforcement of a building code.
- (b) "Commercial Construction" means the construction of any building or structure, or portion thereof, that is classified as any occupancy other than a residential occupancy.
- (c) "Construction" means erecting, constructing, enlarging, altering, repairing, moving, improving, removing, converting, or demolishing any building or structure for which the issuance of a building permit is required pursuant to the provisions of Oregon law. Construction also includes the installation of a manufactured dwelling.
- (d) "Contractor" means any person who performs Construction for compensation.
- (e) "Executive Officer" means the Metro Executive Officer.
- (f) "Improvement" means any newly constructed structure or a modification of any existing structure.
- (g) "Major Renovation" means any renovation, alteration or remodeling of an existing building or structure, or portion thereof, that will result in a change in occupancy classification of the building or structure, or portion thereof, from a residential occupancy classification to a non-residential occupancy classification, or from one non-residential occupancy classification to another.
- (h) "Manufactured Dwelling" means any building or structure designed to be used as a residence that is subject to regulation pursuant to ORS ch 446, as further defined in ORS 446.003(26).
- (i) "Occupancy Classification" means any occupancy group or division of any occupancy group as defined by the Oregon State Building Code.

(j) "Person" means and includes individuals, domestic and foreign corporations, societies, joint ventures, associations, firms, partnerships, joint stock companies, clubs or any legal entity whatsoever.

(k) "Residential Construction" means the Construction or installation of any building or structure, or portion thereof, that is classified as a residential occupancy and includes all accessory buildings and structures. The installation of a Manufactured Dwelling is included within the meaning of the term Residential Construction.

(l) "Total Combined Floor Area" means the sum of the floor areas of each floor created by the Construction. Total Combined Floor Area shall be also construed to mean the newly created floor area added to an existing building or structure by any renovation, alternation or remodeling.

(m) "Total Renovated Floor Area" means the Total Combined Floor Area of an existing building or structure, or portion thereof, that is the subject of a Major Renovation.

#### 7.02.040 Exemptions:

(a) No obligation to pay the tax imposed by Section 7.02.070 shall arise from the Construction of any Improvement that is owned by any government entity whether federal, state or local.

(b) The Executive Officer shall pursuant to Sections 7.02.050, 7.02.060 and 7.02.110 exempt from the duty to pay the tax imposed by Section 7.02.070 any Person who would be entitled to a rebate pursuant to Section 7.02.120(a)(2) or Section 7.02.120(a)(3).

7.02.050 Rules and regulations promulgation: The Executive Officer may promulgate rules and regulations necessary for the administration and enforcement of this chapter.

#### 7.02.060 Administration and enforcement authority:

(a) The Executive Officer shall be responsible for the administration and enforcement of this chapter. In exercising the responsibilities of this section of the Executive Officer may act through a designated representative.

(b) In order to carry out the duties imposed by this chapter, the Executive Officer shall have the authority to do the following acts, which enumeration shall not be deemed to be exhaustive, namely: administer oaths; certify to all official acts; to subpoena and require attendance of witnesses at hearings to determine compliance with this chapter, rules and regulations; to require production of relevant documents at public hearings; to swear witnesses; and take testimony of any Person by deposition.

**7.02.070 Imposition of tax:** An excise tax is imposed on every Person who engages in the act of engaging in Construction within the District. The tax shall be measured by the Total Combined Floor Area constructed or the Total Renovated Floor Area constructed as set forth in Section 7.02.080. If no additional floor area is created or added by the Construction and if the Construction does not constitute a Major Renovation then there shall be no tax due. The tax shall be due and payable at the time of the issuance of any building permit, or installation permit in the case of a manufactured dwelling, by any building authority. Liability for this tax shall attach upon every owner or occupant of property on which the Construction is located and every Contractor who engages in Construction; provided, however, that only one tax must be paid.

**7.02.080: Rate of tax:** The rate of tax to be paid is set forth in this section for each specific category of Construction:

(a) The rate of tax to be paid for Residential Construction or Commercial Construction shall be 12 cents for each square foot of Total Combined Floor Area constructed.

(b) The rate of tax to be paid for any Major Renovation shall be one-half the rate for Commercial Construction per square foot of Total Renovated Floor Area.

(c) If any Major Renovation results in the addition of additional floor area to an existing building or structure, then the tax to be paid shall be the total tax due pursuant to subsections (a) and (b).

**7.02.090 Failure to pay:** It shall be unlawful for any Person to fail to pay all or any portion of the tax imposed by this chapter.

**7.02.100 Statement of entire floor area required:** It shall be unlawful for any Person to fail to state or to misstate the full floor area of any Improvement or Manufactured Dwelling. When any Person pays the tax, within the time provided for payment of the tax, there shall be a conclusive presumption, for purposes of computation of the tax, that the floor area of the Improvement or Manufactured Dwelling is the floor area as determined by the Building Official at the time of issuance of the building permit or installation permit. When any Person fails to pay the tax within the time provided for payment of the tax, the floor area constructed shall be as established by the Executive Officer who may consider the floor area established by the Building Official but may consider other evidence of actual floor area as well.

**7.02.110 Intergovernmental agreements:** The Executive Officer may enter into intergovernmental agreements with other governments to provide for the enforcement of this chapter and the collection of the Construction Excise Tax. The agreements may provide for the governments to retain no more than 5 percent of the taxes actually collected as



reimbursement of administrative expense and be reimbursed for the government's reasonable, one time, start up costs as set forth in the agreements.

**7.02.120 Rebates:**

(a) The Executive Officer shall rebate to any Person who has paid a tax the amount of tax actually paid, upon the Person establishing that:

- (1) The tax was paid for the Construction of a single family residence that was sold to its original occupant for a price less than \$100,000; provided that the maximum amount that may be refunded for any one residence is \$125; or
- (2) The Person who paid the tax is a corporation exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3), or a limited partnership the sole general partner of which is a corporation exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3), the Construction is used for residential purposes and the property is restricted to being occupied by Persons with incomes less than 50 percent of the median income for a period of 30 years or longer; or
- (3) The Person who paid the tax is exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3) and the Construction is dedicated for use for the purpose of providing charitable services to Persons with incomes less than 50 percent of the median income.

(b) In the event the tax was paid for Construction that is eligible for a rebate for only a portion of the Construction, the Executive Officer shall rebate only the tax paid for the eligible portion.

(c) The Executive Officer may require any Person seeking a refund to demonstrate that the Person is eligible for a refund and that all necessary facts to support the refund are established.

(d) The Executive Officer shall either rebate all amounts due under this section within 30 days of receipt of a complete application for the rebate or give written notice of the reasons why the application has been denied. Any denial of any application may be appealed as provided for in Section 7.02.140.

**7.02.130 Hearings Officer:** The Executive Officer shall appoint a hearings officer to conduct hearings related to enforcement or appeals of this Chapter. All hearings shall be conducted in accordance with rules and regulations adopted by the Executive Officer.

**7.02.140 Appeals:** Any Person who is aggrieved by any determination of the Executive Officer regarding liability for payment of the tax, the amount of tax owed, or the amount of tax that is subject to refund or rebate may appeal the determination in accordance with Section 7.02.140. All appeals must be in writing and must be filed within 10 days of the determination by the Executive Officer. No appeal may be made unless the Person has first paid the tax due as determined by the Executive Officer.

**7.02.150 Refunds:**

(a) Upon written request, the Executive Officer shall refund any tax paid upon the Person who paid the tax establishing that Construction was not commenced and that any building permit issued has been cancelled as provided by law.

(b) The Executive Officer shall either refund all amounts due under this section within 30 days of a complete application for the refund or give written notice of the reasons why the application has been denied. Any denial of any application may be appealed as provided for in Section 7.02.140.

**7.02.160 Occupation of improvement without payment unlawful:** It shall be unlawful for any Person to occupy any Improvement unless the tax imposed by this chapter has been paid.

**7.02.170 Enforcement by civil action:** The tax and any penalty imposed by this chapter constitutes a debt of the Person liable for the tax as set forth in Section 7.02.070 of this chapter and may be collected by the Executive Officer in an action at law. If litigation is necessary to collect the tax and any penalty, the prevailing party shall be entitled to reasonable attorney fees at trial or on appeal. The Office of General Counsel is authorized to prosecute any action needed to enforce this chapter as requested by the Executive Officer.

**7.02.180 Review:** Review of any action of the Executive Officer taken pursuant to this chapter, or the rules and regulations adopted pursuant thereto, shall be taken solely and exclusively by writ of review in the manner set forth in ORS 34.010 through 34.100, provided, however, that any aggrieved Person may demand such relief by writ of review.

**7.02.190 Failure to pay -- Penalty:** In addition to any other fine or penalty provided by this chapter, failure to pay the tax within fifteen days of the date of issuance of any building permit for any Improvement or installation permit for any Manufactured Dwelling shall result in a penalty equal to the amount of tax owed or \$50.00, whichever is greater.

**7.02.200 Violation -- Penalty:**

(a) In addition to any other civil enforcement provided herein, violation of this chapter shall be a misdemeanor and shall be punishable, upon conviction, by a fine of not more than five hundred dollars.

(b) Violation of this chapter by any officer, director, partner or other Person having direction or control over any Person violating this chapter shall subject each such Person to such fine.

**7.02.210 Rate stabilization:** In order to protect against the cyclical nature of the construction industry and development patterns, the Council shall annually as part of the budget process create reserves from the revenues generated by the construction excise tax that are designed to protect against future fluctuations so as to promote stability in the rate of tax needed to support required programs.

**7.02.220 Needs assessment:** Prior to July 1, 1998, the Council shall conduct a needs assessment review of the Construction Excise Tax to determine whether it is necessary to continue the tax beyond the period of adoption and implementation of the Regional Framework Plan. In conducting the assessment, the Council shall hold at least two public hearings.

**7.02.230 Dedication of revenues:** Revenue derived from the imposition of this tax after deduction of necessary costs of collection shall be dedicated solely to carrying out the Regional Planning Functions of Metro mandated by Section 5 of the 1992 Metro Charter.

**Section 2.** Section 7.01.020 of the Metro Code is amended to read as follows:

**7.01.020 Tax Imposed:**

(a) For the privilege of use of the facilities, equipment, systems, functions, services, or Improvements owned, operated, franchised, or provided by the District, each user shall pay a tax in the amount established in subsection 7.01.020(b) but not to exceed six (6) percent of the payment charged by the operator or the District for such use. The tax constitutes a debt owed by the user to the District which is extinguished only by payment of the tax directly to the District or by the operator to the District. The user shall pay the tax to the District or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.

(b) The Council may for any annual period commencing July 1 of any year and ending on June 30 of the following year establish a tax rate lower than the rate of tax provided for in subsection 7.01.020(a) by so providing in the annual budget ordinance adopted by the District. If the Council so establishes a lower rate of tax, the Executive Officer shall immediately notify all operators of the new tax rate. Upon the end of the fiscal year the rate of tax shall revert to the maximum rate established in subsection 7.01.020(a) unchanged for the next year unless further action to establish a lower rate is adopted by the Council as provided for herein.

Section 3. Metro Code Section 5.02.025 and 5.02.045 is amended to read as follows:

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

(a) Total fees for disposal by credit account customers shall be \$73.00 per ton of solid waste delivered for disposal at Metro South Station or Metro Central Station.

(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.

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

- (1) A disposal fee of \$37.70 per ton;
- (2) A regional transfer charge of \$7.10 per ton;
- (3) The user fees specified in Section 5.02.045;
- (4) An enhancement fee of \$.50 per ton; and
- (5) DEQ fees totaling \$1.05 per ton.

(d) Notwithstanding subsection (b) of this section, cash account customers using Metro South Station or Metro Central Station, 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.

(e) The minimum charge shall be \$19.00 for all credit account vehicles and shall be \$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**

Fee Component	\$/Ton	Tonnage Rate
Disposal Fee		\$37.70
Regional User Fee		17.25
Metro User Fee		9.40
Regional Transfer Charge		7.10
<b>Total Rate</b>		<b>\$71.45</b>
<b>Additional Fees</b>		
Enhancement Fee		\$ .50
DEQ Fees		1.05
<b>Total Disposal Fee</b>		<b>\$73.00</b>
<b>Minimum Charge</b>		
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

5.02.045 User Fees:

The following user fees shall be collected and paid to Metro by the operators of solid waste disposal facilities, whether within or 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:

For compacted or noncompact solid waste, \$17.25 per ton delivered.

(b) Metro User Fee:

\$9.40 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.

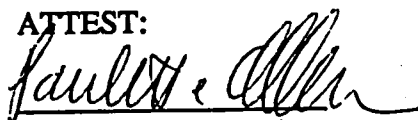
Section 4. The Executive Officer shall rebate to each local government that has made a voluntary payment to Metro in lieu of the per capita payments required by the provisions of former ORS 268.513 for fiscal year 1994-95 an amount equal to amount of the payment made to Metro multiplied by a fraction equal to the number of days remaining in fiscal year 1994-95 on the effective date of this Ordinance divided by 365.

Section 5. The Metro Construction Excise Tax established pursuant to Metro Code Chapter 7.02 shall not be imposed on and no person shall be liable to pay any tax for any construction activity that is commenced pursuant to a building permit issued on or after July 1, 2000.

ADOPTED by the Metro Council this 25th day of August, 1994.

  
Ed Washington, Deputy Presiding Officer

ATTEST:

  
Clerk of the Council

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**EXHIBIT "B"**

- "Caption:** New Metro Construction tax, will lower excise tax, garbage fees."
- "Question:** Shall Metro charge new tax on construction dedicated to voter required growth planning; reduce excise tax and solid waste rates?"
- "Explanation:** Sets tax on new construction. Tax is twelve cents per square foot. Tax rate for remodeling is six cents per square foot. Exempts low cost homes and low income housing. Exempts most home remodels. Tax proceeds are dedicated to voter required growth management planning. Tax ends July 1, 2000. Lowers Metro excise tax on solid waste, zoo and convention center from 7.5 percent to 6 percent. Lowers solid waste tip fees from 75 dollars per ton to 73. Gives rebates of fees to local governments."

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**AGENDA ITEM NO. 8.9**  
**Meeting Date: October 13, 1994**

**RESOLUTION NO. 94-2033**



## FINANCE COMMITTEE REPORT

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### RESOLUTION NO. 94-2033 EXPRESSING THE INTENT TO ACQUIRE AN AUTOMATED MANAGEMENT INFORMATION SYSTEM IN FISCAL YEAR 1995-96 AND DEDICATING THE SUPPORT SERVICES FUND UNAPPROPRIATED BALANCE

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Date: October 6, 1994

Presented By: Councilor Kvistad

**COMMITTEE RECOMMENDATION:** At its September 28, 1994 meeting the Committee voted 3 to 1 to recommend Council approval of Resolution No. 94-2033. Committee members voting in favor were Councilors Kvistad, Monroe and Washington. Councilor Van Bergen voted against and Councilors Buchanan, Devlin, Gardner and McLain were absent.

**COMMITTEE DISCUSSION/ISSUES:** Ann Clem, Information Services Manager, gave the Staff Report. Ms. Clem stated the purpose of the resolution is for the Council to express its intent to acquire a new automated financial system during FY 1995-96 and apply at least \$393,954 of the FY 1994-95 Support Services Fund Unappropriated Balance to the purchase of the management information system. She pointed out that Metro needs a new financial management system because the existing system is very inflexible thus is unable to be modified to meet changing business requirements; and the system vendor is withdrawing maintenance support for the system because of its age and type. Ms. Clem also indicated the resolution will be of help send a message to the industry that Metro is seriously considering such a purchase. In the fall of 1993 Metro sent out an RFP for a new fiscal management system and received limited response. Councilor Van Bergen expressed concern about this statement and indicated that such a resolution should not be necessary since Metro is a sufficiently large organization that should elicit adequate response from any proposal released.

Councilor Kvistad stated he has some concerns about this potential purchase. He stated he knows the limitations of Metro's existing system. It is technologically old and out dated. He further stated that if Metro acquires a new system it needs to have an operating system which is open and which will enable all the PC users to be connected and have access to the fiscal information in the system. Councilor Washington stated he was encouraged that Metro is interconnecting its information systems so that information is centrally available to all users.

In response to a question from Councilor Kvistad, Ms. Clem stated the Department hoped to issue the RFP in mid-December for the system software with responses back by late January. She said projected acquisition cost of the new system is approximately \$300,000 per year for five years. The operating costs will be approximately \$175,000.

In response to a question from Councilor Van Bergen, Ms. Clem stated the acquisition of the current financial management system cost approximately \$685,000 six years ago.

Councilor Van Bergen expressed concern that the current system vendor could unilaterally stop providing any support for the system. He asked General Counsel Cooper to investigate whether or not Metro has any cause of action against the vendor in this situation. Mr. Coopers response dated October 6, 1994 is attached as Attachment 1 to the Committee Report.

NOTE: Since the action of the Finance Committee on this resolution Councilor Van Bergen has requested additional information on the need for the new financial management system (See Attachment 2 to this Committee Report). The response is requested in writing prior to consideration of the matter at the October 13, 1994 Council Meeting.



**METRO**

ATTACHMENT 1  
(Fin. Comm. Rpt/94-2033)

*Daniel B. Cooper*  
*Tele: (503) 797-1528*  
*FAX (503) 797-1792*

October 6, 1994

The Honorable George Van Bergen  
12366 S.E. Guilford Drive  
Milwaukie, OR 97222

Re: Status of Contractual Arrangement for Support of  
Financial System Software

Dear Councilor Van Bergen:

At the September 28, 1994 meeting of the Metro Council's Finance Committee you asked me to investigate and respond to your concerns regarding the legal obligation of the successor in interest to the company that sold Metro a government accounting software package to continue to provide support (maintenance) of this software system. Your concern was raised by a statement made by Ann Clem that SCT Public Sector, Inc., the current provider of this service had informed her that beginning in two years from 1993 that SCT would no longer provide maintenance services for the software Metro currently owns and utilizes.

I have reviewed the contract documents and related files in this matter. The current contract between Metro and SCT for maintenance of the financial management system software provides that "the support will commence on \* \* \* (January 1, 1993) and that the support termination date will be 12 months from the support commencement date (unless otherwise specified herein), then be automatically extended for annual periods to be known as support terms at the then current fees \* \* \* \*". The other terms and conditions of the contract do not give SCT the unilateral right to terminate support service. However, the contract clearly provides that SCT has the right on an annual basis to set the current support fee as defined therein and to bill Metro for it. Metro's option is to either pay the support fee for the annual period or terminate the agreement at the end of any support period by not making the payment and notifying SCT thereof.

On November 19, 1993, SCT sent a letter to Metro that states in pertinent part "our annual maintenance plan (including action line support and the annual regulatory releases) for Metro's versions of MONITOR will be provided only through release of 1.1 of MONITOR 2. MONITOR 2 is the new 'baseline' system to be released by summer 1994. At that time service will be provided for MONITOR customers only on a time and materials basis. This will probably happen within two years." Correspondence received by Metro since that time indicates that SCT has maintained that position that once the new version of the software is released, support for the original MONITOR product will be offered on a time and materials basis at the then current hourly rate.


Councilor Van Bergen  
October 6, 1994  
Page 2

The contractual provisions clearly indicate that Metro has the right to have continuing support made available to it, and that the vendor has the right to establish the price for providing that support. I believe that there may be questions as to whether the vendor's attempt to shift the pricing mechanism from a flat annual fee to a time and materials basis is contrary to the contractual terms originally entered into in January of 1993. However, the question of what measure of damages Metro could obtain if SCT stuck to its position that it was willing and able to provide the service at a time and materials rate, and Metro sought to challenge the billing mechanism given SCT's ability to set a flat rate under the contractual terms high enough to guarantee itself a profit might make it difficult for Metro to establish that it has been damaged in any substantial degree by the shift in pricing mechanism.

My search of Metro files does not reveal any documented commitment by the original vendor to provide ongoing support. The original contract is a contract to supply the product and does not mention any commitment to provide ongoing support service. The original contract which expired in May 1993 contains a one year time limit on filing any suit or action alleging a breach of contract. The contract contains an integration clause that expressly disclaims any oral or written commitments not included in the contract documents. This means that Metro would face an expensive uphill battle if it brought a claim to seek damages based on the original contract.

Since the question you have asked me is solely the question of whether Metro has a cause of action against SCT at this time, my response is limited to that question. In summary, at this time, I believe Metro has no cause of action against SCT because SCT has not yet taken any final action to terminate its support services agreement and has not indicated its intention to actually terminate providing support. Instead SCT has given notice of its intent to change the pricing mechanism for providing service. This change may be within the rights of SCT under its current contract with Metro.

Yours very truly,



Daniel B. Cooper,  
General Counsel

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cc: Council Finance Committee  
Donald Carlson ✓  
Jennifer Sims  
Ann Clem

**METRO**

ATTACHMENT 2  
(Fin. Comm. Rpt/94-2033)

Date: October 5, 1994

To: Jennifer Sims, Finance and Management Information Director

From: *DEL* Donald E. Carlson, Council Administrator

Re: Additional Information on Resolution No. 94-2033 Expression of Intent to Acquire a New Financial Management System

Councilor Van Bergen has contacted me to express concern that the Finance and Management Information Department has not made its case for the need to spend \$1,500,000 over the next five years in capital costs and \$175,000 in operating costs for a new financial management system. Could you please provide in writing prior to the October 13, 1994 Council meeting financial information which justifies such expenditures. Please include information on the cost to the organization if we do not acquire a new system and continue to use the existing software and hardware. Please be as specific as possible as to the actual cost in financial terms.

I will be out of the office all of next week so please give your response to Casey Short or contact him, if you have any questions. Thanks for your assistance.

cc: Councilor Van Bergen  
Metro Council  
Dick Engstrom  
Ann Clem  
Casey Short

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF EXPRESSING	)	RESOLUTION NO. 94-2033
THE INTENT OF METRO TO ACQUIRE AN	)	
AUTOMATED MANAGEMENT	)	
INFORMATION SYSTEM IN FISCAL YEAR	)	Introduced By Rena Cusma,
1995-96 USING, IN PART, THE FISCAL	)	Executive Officer.
YEAR 1994-95 SUPPORT SERVICES	)	
UNAPPROPRIATED FUND BALANCE.	)	

WHEREAS, Metro relies upon in-house, automated support for the timely processing, reporting and access to financial, management and human resource information; and

WHEREAS, The existing management information system no longer meets Metro's requirements particularly in processing accounts receivable for solid waste and cemeteries, presentation of timely and flexible reports and access from desk top computers to management information; and

WHEREAS, The Finance and Management Information Department is reviewing its business processes to take advantage of new technology but the capability to make significant efficiencies and daily operations cost containment actions is dependent upon a new management information system; and

WHEREAS, The vendor of the existing management information system has stated that the system is no longer being marketed and has stated conditions under which the system will be supported only on a time and materials basis, subject to vendor availability; and

WHEREAS, The existing management information system is not supported by periodic releases that allows Metro to maintain a technology progression; and

WHEREAS, The process to acquire a new management information system takes approximately 11 months and two years to fully implement, and if postponed until

Fiscal Year 1995-96 would delay installation and implementation until 1996 with completion in 1998; and

WHEREAS, The quality and quantity of vendor response to Requests for Proposals is directly influenced by whether the acquisition is budgeted and that some vendors have stated that they did not respond to Metro's 1993 Request for Proposals because the project was not formally budgeted; now, therefore,

BE IT RESOLVED:

1. The Metro Council hereby declares its intent to include in its budget for Fiscal Year 1995-96 monies for the purchase, installation and implementation of an automated management information system.

2. That at least \$393,954 in the Fiscal Year 1994-95 Support Services unappropriated fund balance will be applied to the purchase of the management information system in Fiscal Year 1995-96.

3. Additional resources required for the purchase and implementation of the management information system will be allocated through the cost allocation plan in subsequent fiscal years.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 1994.

---

Judy Wyers, Presiding Officer

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION 94-2033 FOR THE PURPOSE OF EXPRESSING THE INTENT TO ACQUIRE AN AUTOMATED MANAGEMENT INFORMATION SYSTEM IN FISCAL YEAR 1995-96 AND DEDICATING THE SUPPORT SERVICES FUND UNAPPROPRIATED FUND BALANCE.

Date: September 28, 1994

Presented By: Jennifer Sims.

## PROPOSED ACTION

Adoption of Resolution 92-2033 would express the Council's intent to budget the acquisition of a management information system in Fiscal Year 1995-96 and dedicate the Support Services fund Unappropriated Fund Balance to the acquisition.

## FACTUAL BACKGROUND AND ANALYSIS

Since its creation Metro has relied on automated support for the timely processing and reporting of financial and human resource information. The search for the current management information system began in 1987. Installation of the system proceeded through 1988-89. Although the system has performed satisfactorily, its continued use is problematic due to:

- Its inability to meet changing business requirements due to inflexibility.
- Its inability to incorporate new technologies that would enable significant efficiencies and daily operations cost containment.
- Withdrawal by the system vendor of troubleshooting and maintenance support.

In the fall of 1993, Council approved release of a request for proposals (RFP) for a new management information system with the assumption of its inclusion in the Fiscal Year 1994-95 budget. Four responses were received in January to 1994. Shortly after their receipt, support for the project was withdrawn from the Fiscal Year 1994-95 budget and the project was postponed. A subsequent survey of system vendors discovered that:

- The number and quality of responses was limited by the lack of committed project funding.
- Metro's credibility in the marketplace would be compromised by future solicitations for proposals in advance of committed funding.



The statement of intent to budget the management information system in Fiscal Year 1995-96 and earmark the Support Services fund Unappropriated Fund Balance to cover project costs will provide vendors assurance that their response to any request for proposals will be given serious consideration. This creates the possibility of releasing an RFP for the management information system in advance of formal adoption of the FY1995-96 budget. An advanced start of the selection process will allow installation to begin eight to nine months earlier than would be possible if staff waits for Council budget action.

#### BUDGET IMPACT

A special cost savings effort was conducted from January through June 1994 in the Support Service fund functions. A target savings of \$200,000 was budgeted as unappropriated balance in the FY 1994-95 Support Services fund. The effort was more successful than anticipated, resulting in a carryover of \$393,954. This resolution dedicates those monies to the MIS acquisition project. Based on current estimates, this would cover over 25% of the total project costs.

#### EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 94-2033.

Council  
10/13/94  
5.1

MINUTES OF THE METRO COUNCIL

September 8, 1994

Council Chamber

Councilors Present: Deputy Presiding Officer Washington, Roger Buchanan, Richard Devlin, Jim Gardner, Mike Gates, Sandi Hansen, Jon Kvistad, Ruth McFarland, Susan McLain, Terry Moore and George Van Bergen

Councilors Absent: Presiding Officer Judy Wyers and Rod Monroe

Also Present: Executive Officer Rena Cusma

Deputy Presiding Officer Washington called the regular meeting to order at 4:04 p.m.

Deputy Presiding Officer Washington announced Agenda Item No. 10 had been added to the agenda and would be heard at 5:30 p.m., time certain.

Deputy Presiding Officer Washington announced the Council would hear Agenda Item No. 4.1 at 4:30 p.m., time certain, and Agenda Item No. 3.1 at 5:00 p.m., time certain.

1. INTRODUCTIONS

None.

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

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

Deputy Presiding Officer Washington asked if there were any other Executive Officer communications besides those already listed on the agenda. There were no other Executive Officer communications.

5. CONSENT AGENDA

5.1 Minutes of August 11, 1994

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

Vote: Councilors Buchanan, Gates, Hansen, Kvistad, McFarland, McLain, Moore, Van Bergen and Washington voted aye. Councilors Devlin, Gardner, Monroe and Wyers were absent. The vote was 9/0 in favor and the Consent Agenda was adopted.

6. ORDINANCES, FIRST READINGS

6.1 Ordinance No. 94-567, For the Purpose of Granting a Franchise to Willamette Resources Inc. For the Purpose of Operating a Solid Waste Processing Facility

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

Deputy Presiding Officer Washington referred Ordinance No. 94-567 to the Solid Waste Committee for consideration.

6.2 Ordinance No. 94-568, For the Purpose of Approving the Revision of Metro Code Section 4.01.050 Revising Admission Fees and Policies at Metro Washington Park Zoo

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

Deputy Presiding Officer Washington referred Ordinance No. 94-568 to the Regional Facilities Committee for consideration.

6.3 Ordinance No. 94-569, An Ordinance Amending the FY 1994-95 Budget and Appropriations Schedule by Transferring \$5,000 from the General Fund Contingency to the Office of the Auditor Materials & Services Misc. Professional Services For the Purpose of Transition Services for the New Office of the Auditor; and Declaring an Emergency

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

Deputy Presiding Officer Washington referred Ordinance No. 94-569 to the Finance Committee for consideration.

6.4 Ordinance No. 94-570, An Ordinance Amending the FY 1994-95 Budget and Appropriations Schedule to Implement the Construction Excise Tax, Adding 1.0 FTE in the Financial Planning Division and Funding Local Government One-Time Start Up Costs; and Declaring an Emergency

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

Deputy Presiding Officer Washington referred Ordinance No. 94-570 to the Finance Committee for consideration.

7. ORDINANCES, SECOND READINGS

7.1 Ordinance No. 94-559, An Ordinance Relating to Public Meetings Allowing Council Members to be Present at Meetings Through the Use of Electronic Means and Declaring an Emergency

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

Deputy Presiding Officer Washington announced that Ordinance No. 94-559 was first read on June 29 at a special Council meeting and a vote to suspend the rules and consider the ordinance at that meeting failed to receive the necessary nine aye votes and Presiding Officer Wyers referred the ordinance to the Governmental Affairs Committee for consideration. The Governmental Affairs Committee considered the ordinance on July 13. The Committee was going to consider the ordinance at an additional meeting, but the next regularly-scheduled committee meeting was canceled. The Council, at its August 25 meeting, voted to remove the ordinance from the Governmental Affairs Committee and place it on this Council agenda to facilitate full Council consideration of the item.

Motion: Councilor McLain moved, seconded by Councilor Moore, for adoption of Ordinance No. 94-559A.

Councilor McLain explained what Ordinance No. 94-559A would do. She referred the Council to the ordinance printed in the Council agenda packet for amendments added to the ordinance per Governmental Affairs Committee discussion on July 13. She said the Committee was supportive of the ordinance as a whole, but felt that language should be additionally clarified to demonstrate when, how and for what purpose electronic voting would be used. She said Legal Counsel and Council staff reviewed the ordinance and made the suggested changes.

Councilor McLain said on very rare occasions, a Councilor or Councilors had to be physically absent, either due to surgery or deaths in the family and/or other reasons. She said the ordinance would require the Councilor(s) to make the request in writing to the Presiding Officer stating the reason(s) why they could not be physically present at the meeting. She said the Presiding Officer would then file a written report with the Clerk of the Council explaining the circumstances and her determination of those circumstances. She said a majority of the Council still had to be physically present at the meeting. She said an emergency meeting could be held via electronic means consistent with the State of Oregon's public meetings laws.

Deputy Presiding Officer Washington opened the public hearing.

Councilor Gates asked if a fax communication to the Presiding Officer would suffice as a written communication. General Counsel Dan Cooper said a fax would be considered sufficient as a written communication/notice.

Councilor Kvistad asked if electronic voting would cover votes on taxes or fee increases. Councilor McLain said the ordinance was meant to cover all votes. Councilor Moore asked Councilor Kvistad what distinction there was between votes on taxes/fee increases and other items of business. Councilor Kvistad said there were votes that were general in nature on policies, programs and procedures and day-to-day management of Metro. He said, however, he did not agree with Councilor(s) being able to vote electronically on taxes and/or fee increases and said they should be present to hear testimony given. Councilor Moore asked if the communication involved would enable the absent Councilor to hear all testimony. Councilor McLain said the electronic communication would facilitate both sides to hear each other.

No persons present appeared to testify and the public hearing was closed.

Councilor Moore asked what criteria and methods other jurisdictions used for electronic voting. Councilor McLain again referred to Oregon's public meetings law and guidelines for same. Mr. Cooper said numerous governments in the state had approved electronic voting procedures. Deputy Presiding Officer Washington said the Metropolitan Exposition-Recreation Commission (MERC) and the Portland School Board used electronic voting when necessary.

Councilor Kvistad said Councilors were paid to be present to make decisions. He said he had difficulty with Councilors voting via electronic methods for tax/fee increases.

Councilor Van Bergen reiterated his objections to the ordinance and concurred with Councilor Kvistad's comments. He said Councilors should be physically present to vote.

Councilor Gates said he did not believe electronic voting would be used inappropriately or abused and said the Council should adopt the ordinance.

Councilor Gardner said it was time for Metro to utilize current technology and/or new electronic methods or devices.

Councilor Buchanan said Councilors should be physically present to vote and said the 1995 Council should make the decision on whether they wanted electronic voting in any case.

Motion to Amend: Councilor Gates moved, seconded by Councilor Moore, to amend Ordinance No. 94-559A by deleting Section No. 2: [~~This Ordinance being necessary for the health, safety or welfare of the Metro area, for the reason that is necessary to allow for the conduct of Council meetings by voice or other electronic communications in order to avoid unnecessary public expense in the conduct of meetings, an emergency is declared to exist and the Ordinance takes effect upon passage.~~]

Vote on Motion to Amend: Councilors Buchanan, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Moore, Van Bergen and Washington voted aye. Councilors Devlin, Monroe and Wyers were absent. The vote was 10/0 in favor and Ordinance No. 94-559A was amended.

The Council discussed the ordinance as amended further.

Vote on Main Motion: Councilors Gardner, Gates, Hansen, McFarland, McLain, Moore and Washington voted aye. Councilors Buchanan, Kvistad and Van Bergen voted nay. Councilors Devlin, Monroe and Wyers were absent. The vote was 7/3 in favor and Ordinance No. 94-559A was adopted as amended.

#### 4. OTHER BUSINESS

##### 4.1 Metro Committee for Citizen Involvement (MCCI) Update Presentation to Metro Council

Gail Cerveny, chair, Metro Committee for Citizen Involvement (MCCI) gave an overview of the MCCI presentation.

J.B. Langston discussed the citizen involvement process; Alice Blatt discussed the citizen involvement committees information network; Geoff Hyde discussed the advisory groups; Ric Buhler discussed the Metro electronic bulletin board project; Angel Olsen discussed the Regional Institute for citizen participation; and Bob Bothman discussed the MCCI bylaws.

Deputy Presiding Officer Washington thanked the MCCI for their presentation.

#### 3. EXECUTIVE OFFICER COMMUNICATIONS (Continued)

##### 3.1 Update on Oregon Territory Project at the Metro Washington Park Zoo

Sherry Sheng, Director of the Metro Washington Park Zoo, explained the proposed Oregon Territory Project at the Metro Washington Park Zoo. She said Executive Officer Cusma would forward a specific proposal for the project in the near future and distributed a proposed time line for the project.

Ms. Sheng introduced Tom Moisan, Ankrom Moisan Associated Architects, and Chuck Mays, Portico Group. Mr. Moisan and Mr. Mays gave a slide show presentation on the project.

The Council and Ms. Sheng discussed projected costs.

Councilor Devlin said costs were projected at approximately \$37 million, and asked how much of that amount would come from a general obligation bond and when staff proposed to put such a bond on the ballot. He also asked for the anticipated date of completion on the various phases as given by staff.

Ms. Sheng said she and Executive Officer Cusma were planning to put a general obligation bond on the ballot in May 1994. She said if the project was going to cost approximately \$35 million, the bond amount asked for would range from \$20-25 million. She said dependent upon financing mechanisms, the project would be completed two years after bond sales.

Councilor Van Bergen asked what staff estimated the operational budget would be. Ms. Sheng said staff planned to make the new entrance as cost-neutral as possible and that the Zoo had worked on cutting costs overall for several years.

Deputy Presiding Officer Washington recessed the Council at 5:40 p.m.

The Council reconvened at 5:49 p.m.

10. EXECUTIVE SESSION - Held pursuant to ORS 192.660(1)(h) to consult with outside Legal Counsel regarding litigation related to Council authority under 1992 Metro Charter

Deputy Presiding Officer Washington announced the Council would hold an Executive Session pursuant to ORS 192.660(1)(h) to consult with outside Legal Counsel regarding litigation related to the Council's authority under the 1992 Metro Charter.

The Executive Session began at 5:49 p.m.

Councilors present: Van Bergen, Buchanan, Hansen, Gardner, Devlin, Washington, McFarland, McLain, Kvistad, Gates and Moore.

Metro staff present: Casey Short and Lisa Creel

Others present: Bill Gary, Legal Counsel.

The Executive Session ended at 6:26 p.m.

NEW/ADDITIONAL ITEM

NON-REFERRED RESOLUTIONS

Resolution No. 94-2032, For the Purpose of Authorizing Special Counsel to File an Appeal

Motion to Suspend the Rules: Councilor Gates moved, seconded by Councilor Hansen, to suspend the Council's rules requiring that legislation be referred by committee so that the Council as a whole could consider Resolution No. 94-2032.

Vote on Motion to Suspend: Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Moore, Van Bergen and Washington voted aye. Councilors Monroe and Wyers were absent. The vote was 11/0 in favor and the motion passed.

Main Motion: Councilor Van Bergen moved, seconded by Councilor Buchanan, for adoption of Resolution No. 94-2032.

The Council discussed the resolution.

Vote on Main Motion: Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Moore, Van Bergen and Washington voted aye. Councilors Monroe and Wyers were absent. The vote was 11/0 in favor and Resolution No. 94-2032 was adopted.

## 8. RESOLUTIONS

### 8.2 Resolution No. 94-2016, Waiving the Filing Deadline for a Proposed Urban Growth Boundary Locational Adjustment

Motion: Councilor Devlin moved, seconded by Councilor Moore, for adoption of Resolution No. 94-2016.

Councilor Devlin gave the Planning Committee's report and recommendations. He explained the resolution itself would not amend the Urban Growth Boundary (UGB), but authorized a filing deadline waiver only.

Vote: Councilors Buchanan, Devlin, Hansen, Kvistad, McFarland McLain, Moore, Van Bergen and Washington voted aye. Councilors Gardner, Gates, Monroe and Wyers were absent. The vote was 9/0 in favor and Resolution No. 94-2016 was adopted..

Deputy Presiding Officer Washington recessed the Council at 6:50 p.m.

The Council reconvened at 7:01 p.m.

### 8.3 Resolution No. 94-2028, Authorizing a Temporary Lease of Property for a Cellular Telephone Antenna Site

Motion: Councilor Moore moved, seconded by Councilor Hansen, for adoption of Resolution No. 94-2028.

Councilor Moore gave the Regional Facilities Committee's report and recommendations.

Councilor Van Bergen asked if the site would have adequate lightning rods, if scenic views would be obstructed for nearby residents, and if the tower would have structural problems because of wind or other causes.

Pat Evans, GTE Mobilnet, said the site would have adequate lightning rods, scenic views would not be obstructed and there would be no structural problems related to wind.

Vote: Councilors Buchanan, Devlin, Hansen, Kvistad, McFarland, McLain, Moore, Van Bergen and Washington voted aye. Councilors Gardner, Gates, Monroe and Wyers were absent. The vote was 9/0 in favor and Resolution No. 94-2028 was adopted.

7. ORDINANCES, SECOND READINGS (Continued)

7.3 Ordinance No. 94-564, An Ordinance Amending the FY 1994-95 Budget by Transferring \$10,500 from the Support Services Fund Contingency to Materials & Services, Temporary Help Services, in the General Services Department for the Purpose of Providing Clerical Relief for the General Metro Switchboard Receptionist; and Declaring an Emergency

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

Deputy Presiding Officer Washington announced that Ordinance No. 94-564 was first read on August 11 and referred to the Finance Committee for consideration. The Finance Committee considered the ordinance on August 24 and recommended it to the full Council for adoption.

Motion: Councilor Kvistad moved, seconded by Councilor Devlin, for adoption of Ordinance No. 94-564.

Councilor Kvistad gave the Finance Committee's report and recommendations.

Mr. Cooper notified the Council that only eight Councilors were present and that Ordinance No. 94-564 had an emergency clause which required nine aye votes for adoption.

Councilors Kvistad and Devlin withdrew their motion to adopt.

Deputy Presiding Officer Washington asked Pam Juett, Office Services Manager, Finance and Management Information, if delaying action on the ordinance for two weeks would cause the department any hardship. Ms. Juett said delaying action on the ordinance for two weeks would not create undue hardship for the department. Deputy Presiding Officer Washington said Ordinance No. 94-564 would be scheduled on the September 22 Council agenda.

7.2 Ordinance No. 94-562A, For the Purpose of Amending the Metro Code Section 2.04.045 Relating to Approval of Contract Amendments

Deputy Presiding Officer Washington said Ordinance No. 94-562A would be considered at the September 22 Council meeting also.

7.4 Ordinance No. 94-565A, An Ordinance Amending the FY 1994-95 Budget and Appropriations Schedule by Transferring \$68,262 from the Solid Waste Revenue Fund Contingency to the Administration Division Materials & Services, Legal Fees Line Item For the Purpose of Providing Legal Services Regarding Metro Executive Officer Contracting Authority; and Declaring an Emergency

Deputy Presiding Officer Washington said Ordinance No. 94-565A would be considered at the September 22 Council meeting also.



8. RESOLUTIONS

8.1 Resolution No. 94-2014, For the Purpose of Amending a Contract with Jacob Tanzer for Legal Services Regarding Metro Executive Officer Authority

Deputy Presiding Officer Washington said Resolution No. 94-2014 would also be considered at the September 22 Council because it was companion legislation to Ordinance No. 94-565A.

9. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS

None.

Deputy Presiding Officer Washington adjourned the regular meeting at 7:29 p.m.

Respectfully submitted,

Paulette Allen  
Clerk of the Council  
MCMIN94.251



METRO

Council  
10/13/94  
4.1

October 12, 1994

TO: Metro Council

FROM: Rena Cusma, Executive Officer

SUBJECT: Consideration of MERC Resolution No. 94-48

It is my recommendation that the Council approve MERC Resolution No. 94-48 to the end that "all necessary processes and contracts to complete the Oregon Convention Center Concession Stand Retrofit within the approved budget...." may go forward.

The Metropolitan Exposition-Recreation Commission is charged with managing the Oregon Convention Center--and indeed all of the facilities under its management--as a profit making business, or at least in a manner which minimizes the degree of public subsidy required and is consistent with the public interest. In the present instance I believe the Commission action meets that test.

In the main, the convention center's success in securing bookings has substantially increased the number of visitors and area residents that attend conventions and shows and whose presence contributes to the economic vitality of the immediate area and the region as a whole. The net effect is one of enlarging the customer base available to local food vendors and merchants of all kinds. A minimal expansion of food service at the OCC will not change that situation.

Upon completion of the upgrade, patrons of the OCC will be no more or less "captive" than they are now. The measurable decline in business predicted by the petitioning food vendors would seem most unlikely. For persons who staff vendor booths during shows, a greater variety of food service to draw from during their sometimes extended hours on site will surely be welcome and appreciated. Neither should we nor taxpayers be upset if their patronage adds to the OCC's bottom line.

If food vendors located near the OCC who demonstrably receive a direct potential benefit by virtue of their proximity to an enlarged customer base can claim they will be harmed by virtue of a modest increase in food service within that facility, do then food vendors located elsewhere in the city and throughout the region have an equally valid reason to assert that they have been unfairly penalized because they did not receive a similar direct benefit from the tax supported construction and operation of the OCC? I believe a reasonable person would reject both arguments.



THE **Holland**, INC.  
THE HOLLAND  
AND BURGERSVILLE U.S.A.  
RESTAURANTS

CORPORATE OFFICES  
109 WEST SEVENTH STREET  
VANCOUVER, WASHINGTON 98660

(206) 694-1521

*Council*  
*10/13/94*  
*4.1*

September 13, 1994

Mr. Jeffrey A. Blosser  
Oregon Convention Center  
777 NE Martin Luther King Jr. Blvd.  
PO BOX 12210  
Portland, Oregon 97212

Dear Jeff,

This letter is in response to your letter to Chuck Vernard, Burgerville General Manager, dated 09/01/94.

It is difficult for those of us who have supported efforts at the O.C.C. to understand how a two year old operation can be "antiquated", and it further escapes understanding how, the O.C.C. believes we can continue to be supportive of a public entity which would turn the tables on the business community which put it in operation in the first place.

In our view this proposal negates all the valid reasons for developing the O.C.C. This proposed project needs to be carefully re-evaluated and subjected to public scrutiny prior to any further development of these plans.

We will be represented at the MERC Commission meeting on September 14th at 12:30 PM in the O.C.C.

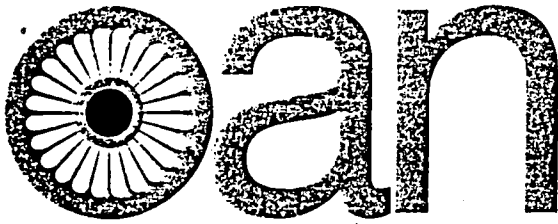
Sincerely,

*Jack C. Graves*

Jack C. Graves  
Property Development Manager  
Burgerville U.S.A.

cc: Steve Pfeifer

FAX-TO:	TO: <b>Jeff Blosser</b>	FROM: <b>JACK GRAVES</b> <b>The Holland Inc.</b>	DATE: <b>9/13/94</b>
	<b>O.C.C.</b>		PAGES INCLUDING THIS PAGE
FAX #:	<b>731-7805</b>	FAX #:	<b>283-0176</b>
		PHONE #:	<b>283-6052</b>

**Oregon Association of Nurserymen, Inc.**

September 12, 1994

Jeffrey A. Blosser  
Oregon Convention Center  
P.O. Box 12210  
Portland, Oregon 97212

Dear Jeff:

Having just concluded a very successful Farwest Show at your facility and reviewing plans for an expanded food service program at the Convention Center, let me offer some thoughts and comments which you may wish to include in your report to Metro later this week.

First of all, from a show management position, let me encourage you and Metro to give serious consideration to up-grading the food service available at the Convention Center. This is in no way intended to be a negative comment in regards to Fine Host's operation, but a general observation of concession food service currently available to users of the facility.

If the Oregon Convention Center is going to continue to be considered a first-class event facility, then it needs to move beyond the hot dog, pretzel and pizza menu now offered. I can tell you from first hand experience that if visitors to a facility are given the option of an expanded food menu they will take advantage of it.

A case in point was the final year we used Memorial Coliseum for the Yard, Garden and Patio Show. As you may recall we developed a special "garden restaurant" in the G-P Room with Fine Host offering a varied menu of hot meals. Not knowing what that weekend's revenues totaled, I can tell you it had to be a financial benefit to the facility compared to our earlier events or other similar events which used only the standard concession stands and customary "sports event" menu.

From a show management point of view, an expanded menu of higher quality food items would be a benefit to us as well as the facility. Exhibitors who must remain on site and work their booth space anywhere from six to 10 hours a day are in need of, and would welcome, a choice of meals. Additionally, show visitors, whether they be attending a closed trade show or a consumer show would also respond favorably to a more complete food service menu.

Let me also comment on an item I learned about from the local media within the past few weeks. Evidently there are some restaurant operators in the vicinity of the Convention Center who are objecting to the facility expanding

Jeffrey A. Blosser/OCC Food Service  
September 12, 1994  
Page 2

its food service. I would offer that this objection is not well based, and to some degree very surprising. If it was not for the Convention Center, and the business it generates for the immediate area, these same restaurant operators would be doing far less business in the long run.

I find it hard to believe that an expanded food service for the benefit of the facility's visitors would adversely impact the established area restaurant trade. Conversely, I feel confident shows such as the two which I manage annually would find the additional food service to be an advantage to participants as well as visitors, at the same time providing the Convention Center with a new look, and obviously increased revenue.

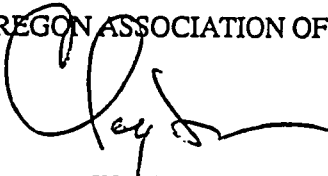
The one objection I have with the present plans, at least the preliminary draft I have seen, is the possibility of losing saleable exhibit space. Based on the two floor plans I am currently using for my shows the addition may not negatively impact us, unless the Fire Marshal determines he will require additional space in and around the proposed concession areas. If it should be determined that wider aisles or open space near the concessions is required, then I would lose something in the vicinity of 10 to 20 exhibit booth spaces, significant dollars.

As a major tenant of your facility let me encourage you to do whatever is necessary to maintain the Convention Center in the same high quality, first class manner which you have so successfully operated it since it opened. Having personally watched the Coliseum fall from a premier facility to a less than desirable venue to stage non-sports events, I know how easy it is to cut corners and fail to maintain a building in the manner necessary to continue operations at a quality level.

Please do not let this happen to the Oregon Convention Center. From all indications, based on my understanding, your plan to expand and improve the food service operation is a step in the right direction.

Sincerely,

OREGON ASSOCIATION OF NURSERYMEN, INC.,



Clayton W. Hannon  
Executive Director



September 9, 1994

Jeffrey A. Blosser  
777 NE Martin Luther King Jr. Blvd.  
Portland, OR 97212

Dear Jeffrey,

I am responding to your letter dated September 1, 1994 relating to food concessions.

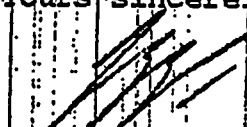
I do not envision any specific impact upon my operation except for breakfast time and would not wish to object to your improvement as long as you contain the hours of operation to the hours a convention is using the convention center.

As an aside to this issue I believe if you increase your food concessions then an element of the increased turnover should be used to reduce the subsidy charged to hotels for certain conventions. This subsidy ranges from .50 to \$5.00 or more per room night and is used to pay some of the convention costs.

Clearly there is both a service and profit motive behind your proposed changes and thus a subsidy based on volume would appear most reasonable. In the hotels case our subsidy ranges from 1% to 8% thus you may wish to consider a mid way point for conventions requiring a subsidy.

I would be interested to hear your thoughts.

Yours sincerely,

  
Gordon Slatford  
General Manager



PORTLAND

1441 Northeast Second Avenue, Portland, OR 97232 (503) 233-2401 Fax (503) 238-7016



RECEIVED SEP 8 1994

September 5, 1994

Trade Shows • Special Events

Mr. Jeff Blosser  
Director  
Oregon Convention Center  
777 NE MLK Jr. Blvd.  
Portland, Oregon 97212

Dear Jeff,

I was extremely pleased to hear your plans for increasing the food options at your facility. As a consumer show producer, it is very important to keep attendees at the show as long as possible. Once they leave, they generally don't return. The longer an attendee stays, the more exhibitors he/she will talk to and therefore, exhibitors have a greater opportunity to do business.

Your current options for food are less than adequate. Not only do attendees complain about the poor selection and lack of variety, exhibitors complain also. As you know, exhibitors are captive customers for days at a time and appreciate having good food choices close, since time does not always allow them to leave their exhibit for long periods.

Another issue for myself is seating for attendees. In an effort to get attendees to stay, I have to devote saleable floor space to sitting areas so attendees can rest, eat, etc. It is my understanding, your new food areas will provide some seating. While it may not be enough, it is a step in the right direction.

Connected to the inadequate service areas you have at this time is the placement of food carts. While I appreciate your investment in these alternative temporary eating stations and am greatfull for their existance, they do not come without problems. We get requests and inquiries constantly from exhibitors who are concerned about the placement of a food cart near their booth.

I have attended Convention Centers in other markets and believe me, the food areas and choices are much more sophisticated than what is offered at OCC. I commend you for pushing forward with this much needed addition to an otherwise great facility. My only disappointment is they won't be completed for my October show.

Enclosed, please find a copy of our latest exhibitor survey with their comments on food at OCC.

Sincerely,

Karen E. Fisher

- Opening at noon on a weekday seems to be a waste of time.
- Wednesday and Thursday nights are usually older or just lookers that want to beat the crowds.
- I think the times you had were the right amount.
- Keep it the same!!
- No. Time and expense to set-up (5-day good). 9-10 dead time. Customers will come early if show ends at 9 pm.
- Wednesday was a good day, but 4 days would be much easier for us to handle as a small company and I'm sure other people have the same problem.
- Best hours I feel for show, forget Thurs., waste of time! Fri: 12-9, Sat: 11-9, Sun: 12-6
- The Portland Home Show (spring) used to be billed as Portland's "biggest" show. They have reduced the number of show days from 9 to 5. You are the big show now. Hold it in the spring and do 9 days. The convention Center is a major reason why. Do not book dates the same as Seattle Home Show.
- Good idea! Staffing would be much easier and exhibitor costs should be reduced.
- Actually, I would like to see the show open on either Wed. or else run it a full week.
- Five days A.O.K.
- I think more days like Friday would be more profitable!
- Four days is enough floor time. Weds. night seems more for "gawkers" to me! Thur-Fri-Sat & Sun. the more interested sincere folks show up.
- We like the five day show. It enables us to earn our expense money back with the additional day. We would definitely vote to keep the hours the same as they have been.
- Prefer just the way it is now.
- It would be easier to man.
- Yes, but this is not a crucial issue for us.
- No. However, if you so decide we'll be happy to be there, but evening sales are usually always better for us than weekday sales.
- Perfect 5-day show.

**14. Due to complaints about food selection at the show, what items would you like to see offered?**

18% Pasta	22% Soup	17% Baked Potatoes
23% Salads	20% Sandwiches	

**Other:**

- Less expensive!
- Food prices were rather high.
- Not such exorbitant prices!
- Higher nutrition, less cost for juice!!
- Food OK!
- Fresher foods. Thanks for asking!
- Any/all of the above.
- Tacos, chicken.
- Hotdogs and Hamburgers works for me.
- Food is robbery in price.
- Selection is not a problem— low quality, too expensive.
- The espresso shop would not do "double" or extra shots of espresso. No flexibility!
- Chicken at a sit-down cafe?
- Any of the above would be better than hotdogs— we either bring food or leave the show to eat.



- Food selection and quality are poor. Employees are rude and disinterested. Metro needs to find new food service surveyors. These folks are terrible. I believe having these rude, non-helpful people in the arena distracts from the show's goal and objectives. They are a negative.
- Starbucks Coffee.
- All of the above.
- At somewhat reasonable pricing!
- We liked the food in the back room restaurant.
- Prices are too high! Deli foods need more attention. Keep things light and cost down.
- Food was too expensive!! Everybody was complaining and then would leave early to eat rather than pay the high prices!!
- The frozen yogurt stand was our favorite.
- Fresh fruit.
- All of the above, please!!!

#### **15. Additional comments/suggestions about this year's show or for next year's show:**

- It is always a pleasure to work with the staff. They are courteous, calm and ready to help with a smile. My only real disappointment is the exhibitor's lounge. Separating smoking from "non" with a curtain hardly works. Eating at the concession area does not really provide a break, but it's the only smoke free area. Are all the conference rooms used all the time?
- Your salespeople should sell the advertising in the show publication much harder.
- Thank you! You guys did a great job!
- We were very impressed with the show. It was extremely well organized, laid out, and the security was great! Cary Lee was great. She was always willing to go above and beyond to make sure the vendors were well taken care of, and she was always very accommodating!
- Make parking options improved for us. And we feel for next year's show a better location.
- The area by the overhead doors along the back of the building should be limited to unloading booth items— NO PARKING. Provide a listing of participants by their category to allow people looking for windows to see all booths, etc.
- More exhibitor passes for those of us who are fortunate to staff in shifts. Or at least make one exhibitor pass good for all day rather than punching and hand stamping. This would enable trading the pass around.
- Thank you for your prompt attention on the "Fitness" sign above the regulated 8' height. Your efforts help keep this show the "class" show of the Northwest.
- Open show on Sunday at Noon and run to 8pm. 10-noon was very light and there were people trying to see the show at 6pm as it was closing.
- Make the master passes just a general masters pass without having to have each day punched. As an exhibitor I think it's embarrassing to have stamp on your hand!
- More passes per 10'x10'. Better parking.

# INTERNATIONAL SPORTSMEN'S EXPOSITIONS



September 8, 1994

Jeff Blosser, Director  
Oregon Convention Center  
PO Box 12210  
Portland, OR 97212

Fax: 503-235-7417

This letter serves as a follow-up to your letter of August 26th and our telephone conversations regarding the changes in the OCC Concession operation. The changes outlined will be a welcome upgrade to our exhibitors as well as the ISE staff.

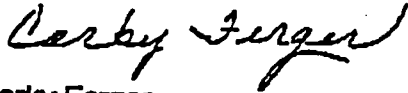
Relating to these changes, our comments are as follows:

- The changes will not affect revenue floor space, it is our understanding the changes will be made to existing "concession" area and not affect the floor space.
- The revenue perimeters will be secure with no access to the concession area from the lobby.
- Temporary concessions would be set during our show in January 1995.
- Construction would still be underway in January and work would be done during "non-show" hours.
- OCC would provide additional security when construction workers were on the premises and construction workers will wear credentials at all times.
- Our 1995 show will have a "cafe" on the floor as we have the past couple years

Jeff Blosser, Director  
September 8, 1994  
Page -2-

Do not hesitate to call if you have questions or we can be of further assistance. Please let us know the progress of this project.

Sincerely,



Corky Ferger  
Director of Operations



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TRI-COUNTY LODGING ASSOCIATION - 12724 S.E. Stark - Portland, OR 97233 - (503) 255-5135

September 20, 1994

COPY

Mr. Patrick LaCrosse  
Metropolitan Exposition and Recreation Commission  
P.O. Box 2746  
Portland, Oregon 97208

Dear Pat:

At the Tri-County Lodging Association Board of Director's meeting last week, Larry Harvey reported the two of you had met to discuss issues of mutual interest to our organizations. We are pleased to think the relationship between our Association and MERC has matured to the extent representatives of the organizations regularly communicate now. This is of great benefit to the entire tourism industry in the Portland metropolitan area.

As you know, our organization recently voiced great concern regarding two issues involving MERC; the expansion of the food service facilities at the Oregon Convention Center and the development of recreational vehicle parks at Blue Lake and Hayden Island. In both instances, the concerns were focused upon the appearances of the public sector competing with the private sector for market sales. According to our report from Larry, at least one of these issues may be resolved.

The opportunity to review the contracts for food service and catering at the Oregon Convention Center, as I understand it, may include an option for a non-exclusive agreement in the future. Should that become a reality, we would certainly encourage you to offer other local food service operators a chance to bid on space for catering or niche product sales. We believe this solution would satisfy a majority of the concerns and complaints raised by some of the other local operators, and would certainly satisfy ours.

Regarding the development of recreational vehicle parks, we understand Larry has been participating in the process to select a contractor to perform the feasibility study. Given his participation in that, we trust our organization will be regularly supplied with information as it becomes available, and thus avoid the situation which developed over the food court project.

Pat LaCrosse  
September 20, 1994  
Page 2

We appreciate being considered a partner with MERC on these very important community issues, Pat. In fact, we are committed to maintaining a strong relationship with the commission and anticipate our partnership will be full-time and long-term. While we may not always see "eye to eye" on every issue, we're convinced it is in everyone's best interest that we strive to resolve any problems which may arise collectively in a proactive manner and spirit. We appreciate and are committed to being a part of the solution.

We look forward to working with you on the expansion of the Convention Center, as well as resolving the need for a headquarters hotel. Thanks again for your hard work on the PCPA funding transfer.

Sincerely,

Ron Anderson  
President

cc: Jeff Blosser  
Chris Bailey  
TCLA Board Members

VOTING      AYES              Commissioners Carlsen, Conkling, Middleton, Narris, Scott  
MOTION PASSED

**FACILITY & LIAISON COMMISSIONER REPORTS**

**OCC**

**Renaming of OCC** - Chairman Brooks asked that this issue be reviewed in detail in Committee. All aspects of the impact of such a change needs to be explored fully at the subcommittee level. The Chair asked Commissioner Conkling to chair that subcommittee, adding also Bill Nato and a Metro Councilor. This issue will be brought to the October Commission meeting by the subcommittee..

*Commissioner Foster arrived at this time.*

**Concession Improvements at OCC** - Blosser summarized this issue providing the background that this was included in last years budget covering a retrofit or renovation of the concession operation at OCC. This needed amendment in the OCC food service includes labor intensive portable concessions for use in the Exhibit Hall and Lobby, as well as an event tent. More and more of the exhibit hall and lobby has been used for "sellable space", hence the ability to provide needed food service through points of sale and outlets for concessions is negated. This review process has also looked at the quality and variety of the food service. Also in attendance was consultant, Bill Caruso, who has assisted in this extensive review process. Mr. Caruso provided a brief overview of the suggested changes being proposed for the Convention Center. Mr. Caruso also stressed the level of increased income that can be realized from improved food and beverage service. Blosser reviewed these changes using a diagram of proposed changes.

Blosser requested the Commission to give the General Manager the authority to bid, let and contract for this project for an amount not to exceed \$500,000. This project was budgeted in the budget process at \$425,000. A portion of the \$150,000 capital limit for Fine Host for equipment purchase and equipment refurbishment would be used, as well.

Hospitality industry representatives were consulted on this project, as well as neighboring merchants.

It was moved by Commissioner Conkling seconded by Commissioner Carlsen approving Resolution #94-48.

Easton Cross, Portland Conference Center. He commented that the food and beverage success formula alluded to by the consultant, Mr. Caruso, was not necessarily a foregone conclusion and is certainly viewed differently by the surrounding business community. He felt strongly that the merchants should be given more time to adequately review the proposed plan and provide MERC with their findings relating to the return on the dollar proposed to be spent.

Mike Fisher, Update Management, manages associations that use the Convention Center. His comments support the necessity for food and beverage service variety and choices resulting in keeping the attendees in the facility thus promoting business and interaction with the exhibitors. The quality of the service and product is of importance to Mr. Fisher, as well.

Larry Harvey, Tri-County Lodging Association. Expressed support for the proposed project as it relates to promoting Portland and its convention services.

David Sloma, Fine Host. Feels the improvements being proposed are badly needed to provide the quality, availability, and diversity requested by the users.

Mike Smith, POVA. Competing for national conventions requires top quality, customer-oriented, food service variety. Expressed support for this project.

Karen Flsher, M & M Productions, produces the Home Improvement Show. This includes 750 booths and exhibitors. The exhibitors are very desirous of having the attendees stay on the show floor and have the opportunity of food quality and variety available to them. Expressed support for this project.

Virgil Ovall, Lloyd District Community Association. Very supportive of the Convention Center's success. Want to keep the partnership between the community and the Convention Center a positive, ongoing one.

VOTING      AYES              Commissioners Carlsen, Conkling, Middleton, Norris, Scott  
                 NOS              Commissioner Foster  
MOTION PASSED

#### PORTLAND CENTER FOR THE PERFORMING ARTS

Civic Auditorium Restroom Additions - Harriet Sherburne recognized Mark Hunter's efforts in working with the City to obtain a workable solution to accomplish the goals of additional restrooms that also meet the ADA requirements. Hunter reviewed the proposed additions. In response to Commissioner Carlsen, Hunter stated the costs for this solution versus the mandated ADA compliance originally proposed by the City came out about the same.

Sherburne requested approval for an amount not to exceed \$110,000, following the appropriate bidding procedure.

It was moved by Commissioner Carlsen, seconded by Commissioner Foster approving Resolution #94-49.

VOTING      AYES              Commissioners Carlsen, Conkling, Foster, Middleton, Norris, Scott  
MOTION PASSED

Land Lease for PCPA - Staff is requesting approval of the land lease rent adjustment for the next five years on the land that underlies the new theater building. Two particular adjustments have to be made each five years; the value of the land and the return on investment. Following the calculation, then there is a netting out to determine the space that is leased back to the church. Sherburne expressed appreciation to Charis Hinkle who represented the church on this matter. Consideration was given to comparable land values in the vicinity and a fair agreement has been negotiated resulting in a modest impact to the PCPA budget.

It was moved by Commissioner Norris, seconded by Commissioner Conkling approving Resolution #94-50.

VOTING      AYES              Commissioners Carlsen, Conkling, Foster, Middleton, Norris, Scott  
MOTION PASSED



Metro Council  
October 13, 1994  
Agenda Item 8.1

**METRO**

October 12, 1994

The Honorable Judy Wyers  
Presiding Officer  
Metro Council  
600 N.E. Grand Avenue  
Portland, OR 97232

Dear Councilor Wyers:

A year ago, the Metro Policy Advisory Committee (MPAC) and the Metro Council welcomed Clark County and Vancouver, Washington representatives to MPAC as non-voting liaison members.

As Metro and MPAC have moved forward with the Region 2040 planning process it has become more clear that much of what goes on at Metro impacts our neighbors to the north. Expanded membership on MPAC was discussed and MPAC unanimously agreed to allow Clark County and Vancouver, Washington representatives to vote except on issues regarding Metro's providing of or regulating a local service which does not have to have approval of the region's voters.

MPAC and Metro have benefitted from the participation of the Vancouver and Clark County representatives. This change in membership status will move us a step closer to a more formal relationship between Metro, Clark County and Vancouver in the years ahead which could benefit us all.

I hope the Metro Council will concur with MPAC's approval.

Sincerely,



Gussie McRobert  
Chair, Metro Policy Advisory Committee  
Mayor of the City of Gresham

GM/BD/erb  
t:\clerical\eherric\mpac.ltr



Metro Council  
October 13, 1994  
Agenda Item No. 8.5

REQUEST FOR PROPOSAL  
LAKE HOUSE MANAGEMENT CONTRACTOR

By:

Metro Regional Parks and Greenspaces

~~September 26~~ ~~October 7~~, 1994

Metro Regional Parks and Greenspaces is soliciting responses from qualified candidates for the position of Lake House Management Contractor.

The Lake House has been in operation since 1983 as a meeting and wedding facility. Prior to 1983 the facility had been used as a single family residence. No major improvements were made to the Lake House until 1987 when a separate entry, 70 car parking lot, courtyard, landscaping and arbor were constructed.

Metro is seeking proposals from motivated firms and/or individuals who can demonstrate a high level of experience, creativity and professionalism in marketing, managing and maintaining a meeting and wedding facility.

The primary function of the Lake House Manager will be to provide marketing, scheduling, contracting, and supervising private events held at the Lake House, and to maintain the Lake House interior in a clean and attractive condition.

Metro will specifically evaluate the potential for each candidate to aggressively market and promote the use of the facility and thereby increase annual bookings. Traditionally, bookings have been primarily spring and summer, centered on evenings and weekends. However, Metro wants to further promote mid-week, mid-day and year-round events. (See attachment "A", Information Sheet.)

**NOTE:** Lake House will be closed all of January and February 1995, for remodeling.

### **CONTRACTOR SERVICES**

Specific work tasks are outlined below.

A. Contractor's services shall consist of the following:

1. Set specific business hours for the Lake House and be consistently available by telephone to schedule and show the Lake House for events, including but not limited to weddings and rehearsals, receptions, parties, meetings, seminars and other income producing events. Business hours shall be approved by Metro.
2. Be available to show the Lake House by appointment to potential clients on weekday and weekends, depending on bookings, while consulting with and assisting clients in the use of the Lake House.
3. Supervise events, be on-site and secure the Lake House after events.
4. Maintain the Lake House's interior specifically including the kitchen, bathrooms, windows, floors, carpets and drapes in a very clean, sanitary, and attractive condition, and limited exterior maintenance including litter removal and window cleaning.

5. Contractor's services to set-up and/or take-down and cleanup, and/or catering, and event may be offered in the rental contract for an additional fee. Terms for said service will be covered under "Contract Term and Renumeration; C, 2." (Page 8)
6. Contract with clients and collect fees for use of the Lake House. (See fee schedule "Attachment A".)
7. Within sixty (60) days Contractor shall develop and implement a marketing plan for the Lake House. That plan shall be in compliance with Metro's existing methods, and include advertising, public relations, telemarketing, and collateral materials. The plan's objectives are to increase weekday and off-season usage while increasing gross receipts from target markets identified by Metro. The plan will be subject to the approval of Blue Lake Regional Park's Supervisor and Director of Metro Regional Parks and Greenspaces.
8. Deliver or mail copies of all executed Lake House rental agreements, complete with revenue received, to the Regional Parks and Greenspaces Office within forty-eight (48) hours of receipt.

**B. Contractor Staff:**

1. Personnel shall be sufficiently trained and knowledgeable so as to satisfactorily perform all required Lake House services. They shall maintain a clean and neat appearance, and be courteous towards the public as well as Metro staff.
2. Contractor shall maintain Worker's Compensation insurance coverage for all non-exempt workers, employees, and subcontractors either as a carrier-insured employer or a self-insured employer as provided in Chapter 656 of Oregon Revised Statutes. A certificate showing current Workers' Compensation insurance, or copy thereof, is attached to this Agreement as Exhibit "A", and must be completed and incorporated in your proposal.

**C. Security and Safekeeping:**

1. The safekeeping of Contractor property shall be at the Contractor's risk and expense. Contractor assumes full liability and fire risk for all Contractor property and waives any claims against Metro, Multnomah County, its Councilors, departments, employees and agents for loss or damage to Contractor property from any cause whatsoever.
2. Contractor shall not engage in any practice or behavior which compromises Blue Lake Park and the Lake House security or Metro's public image.
3. Contractor will provide a maximum of five (5) security coded cards for use by their employees.

4. Contractor acknowledges responsibility for liability arising out of the performance of this Agreement and shall hold Metro, Multnomah County, its Councilors, departments, employees and agents harmless from and indemnify same for any and all liability, settlements, losses, costs and expenses in connection with any action, suit or claim resulting or allegedly resulting from activities under or services provided pursuant to this Agreement.

**D. Licenses and Code Compliance:**

Contractor shall obtain and maintain all required licenses for operation of a meeting and recreation facility as described herein. Contractor shall comply and take full responsibility for all codes, laws and ordinances pertaining to the operation of the Lake House including but not limited to:

1. Contractor shall be knowledgeable of and enforce all aspects of Title 10: Ordinances (See Attachment "B").
2. Contractor shall adhere to all applicable laws governing its relationship with its employees, including but not limited to laws, rules, regulations and policies concerning worker's compensation and minimum wage requirements.
3. Contractor shall adhere to all applicable laws, regulations and policies relating to equal employment opportunity, non-discrimination in services and affirmative action, including all regulations implementing Executive Order No. 11246 of the President of the United States, Section 402 to the Vietnam Readjustment Assistance Act of 1974, and Section 503 of the Rehabilitation Act of 1973. Metro shall maintain copies of said laws and regulations on file with its duly appointed Affirmative Action Office.

**E. Insurance**

The Contractor shall purchase and maintain at their expense the following types of insurance covering the Contractor, their employees and agents;

1. Broad form comprehensive general liability insurance covering bodily injury, property damage, and personal injury with automatic coverage for premises operations and product liability.

Metro, Multnomah County, its Councilors, departments, employees, and agents shall be named as an additional insured. Notice of material change or cancellation shall be provided to Metro thirty (30) days prior to the change. In addition, a copy of the policy must be provided to the Parks Department.

Insurance coverage shall be a minimum of \$1,000,000 per occurrence.

2. Automobile bodily injury and property damage liability insurance in the minimum amount of \$500,000. Evidence of such insurance shall be provided to the Metro Regional Parks and Greenspaces Department.
3. Contractor shall comply with the Oregon Workers' Compensation law (ORS 656.017) for all subject employees. Evidence of such insurance shall be provided to the Metro Regional Parks and Greenspaces Department.
4. Contractor shall carry an "all risk" property insurance on Contractor's property and hereby waives all rights of subrogation against Metro and Multnomah County for any loss of Contractor's property, however caused. Metro hereby waives its subrogation rights against the Contractor except for claims under \$100,000 caused by the negligence of Contractor and/or users.
5. If Contractor serves alcohol, a liquor liability policy must be purchased in the minimum amount of \$1,000,000 and Metro/Multnomah County listed as an additional insured as stated above.

F. **Records and Cash Management:**

1. Contractor shall keep accurate and up-to-date records of engagements that are scheduled, and engagements that have occurred at the Lake House. Contractor shall present a report on facility activities to the Parks Director on the fifth day following the end of each month. (Metro shall provide a form for this purpose.)
2. All Lake House income shall be delivered to the Regional Parks and Greenspaces Main Office within forty-eight (48) hours of receipt complete with signed Rental Agreement Forms and receipts. (All fees paid by a client will in the form of a personal check or money order only - no cash payments. Said payments are to be made payable to Metro Regional Parks.)
3. Metro shall automatically return security deposits directly to clients unless Contractor instructs Administrative Office otherwise within two working days following the event.
4. Metro shall have access direct to all Contractor books, documents, papers and records as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.

**METRO RESPONSIBILITIES**

A. **The Lake House Maintenance:**

1. Metro shall provide landscaping and landscape maintenance for the Lake House grounds.

2. Metro shall budget for professional carpet cleaning twice a year and drapery cleaning once a year. (Obtaining cost estimates and scheduling shall be the responsibility of the Contractor.)
3. Metro shall provide usual and customary janitorial supplies.
4. Metro shall provide kitchen appliances, tables and chairs in a safe and operable condition (See Attachment "A").
5. Metro shall provide parking areas for clients and up to 70 guests vehicles.
6. Metro shall provide reasonable security services for the Lake House premises.
7. Metro shall keep the Lake House grounds in an attractive condition and the building safe and structurally sound.

**B. Utilities:**

1. Metro shall provide electric power, heat, and water and sewer services to the Lake House.
2. Metro shall provide garbage receptacles and garbage removal service.
3. Metro shall provide telephone service to the Lake House including reasonable dialing and transmission costs involving Lake House business, throughout the Portland-Vancouver metropolitan area. All other additional long-distance business calls shall be logged and paid for by the Contractor, via monthly billing from Metro.

**C. Administration:**

1. Metro shall provide adequate supply of rental agreements forms, information sheets, and receipts.

**D. Metro Usage:**

1. Metro departments (other than Parks and Greenspaces Department) may use the Lake House for weekday functions at a discounted rate. The discounted rate will apply to a maximum of two Metro functions per month. Metro's use of the Lake House shall be available at a flat fee of \$50.00 to the Departments for weekday events held Monday through Friday of any week, between the hours of 8:00 a.m. and 5:00 p.m.
2. Metro Regional Parks and Greenspaces Department may use the Lake House for weekday functions up to two times per month at no charge.

3. Metro Council will receive use of the Lake House at no cost.
4. The Contractor is responsible for coordinating the reservation of the Lake House for Metro Department functions through the use of interdepartmental rental agreement for (supplied by Metro). In the event of a double-booking the private party will prevail over a Metro function.
5. Metro Departments are responsible for their own set-up and clean-up. Metro Departments that want set-up and clean-up services, will be charged additional for such services. Contractor will be compensated for set-up and clean-up services when requested for any Metro function.
6. The Lake House fees may be waived or reduced only by prior approval of the Director of Metro Regional Parks and Greenspaces and with the concurrence of the Contractor.

E. Promotions:

Metro has set aside limited Lake House promotional funds for a yellow page listing and will provide 2,500 business cards and reproduction of Lake House brochures per year.

Metro will offer guidance on development of all final promotional and business plans. Metro shall also review and approve all promotional strategies prior to implementation. Such approval shall not be unreasonably withheld.

**CONTRACT TERM AND REMUNERATION REMUNERATION**

- A. Contract starting date is November 16, 1994, and shall extend through November 16 15, 1999 1995. Contract may be renewed annually for one (1) year with a maximum of four (4) renewals upon mutual written consent of Metro and Contractor.
- B. Contract may be terminated either by Metro or Contractor upon thirty (30) days written notice by either party. However, contract may also be terminated at anytime upon 24 hours notice for material breach of any of Contractor's obligations under this Agreement. (This immediate termination may be limited to certain breaches, e.g., dishonesty, failure to protect Metro property, failure to account for absence over a stated time.)
- C. **Remuneration Remuneration** for fulfilling contract by Contractor currently is at a cash value equal to forty-nine percent (49%) of Lake House gross income. **(NOTE: Proposers may propose an alternate financial arrangement).**

Lake House receipts shall be used to calculate Contractor income which shall be paid to Contractor by Metro as follows:

1. Rental Fee Disbursement

- a. Upon completion of the following main job responsibilities the Contractor's share will be the percentages described below:

Booking an event (1/3 of responsibilities) = .33 x .49  
Supervision/Janitorial Services \* (2/3 of responsibilities) = .67 x .49

The "1/3" portion will be paid within 3 weeks of receipt of rental fees; the remaining "2/3" portion will be paid within 3 weeks after the event has been supervised and routine janitorial services provided.

(\* Not to be confused with event "cleaning services" described below.)

- b. Rental fee may be subject to an "excise tax." If so, the consequences regarding this portion of the contract will be addressed at the time of implementation.

2. Additional Fee Services

- a. Set-up/take-down/event cleaning services.

Contractor will make available the option of providing their services for the set-up, take-down and clean-up of an event. Revenue from such fees will also be shared with Metro (NOTE: Proposers will propose the percentage shares, for this service, within Part 5 of the RFP Proposal). (Page 10)

- b. Catering

If Contractor has the ability to provide catering themselves, then this service option will be made known to clients. If contractor is chosen by client to provide this service, then revenues will be shared with Metro (NOTE: Proposers will propose the percentage shares, for this service, within Part 5 of the RFP Proposal). (Page 10)

3. Contractor will also obtain their same percentage regarding cleaning fees and cancellation.

- D. Metro certifies that sufficient funds are available and authorized for expenditure to finance costs of this contract through June 30, 1995.



As this contract crosses the Metro's fiscal year at July 1, 1995, funding after June 30, 1995 is dependent upon future funds being approved by Metro Council. If such approval is not forthcoming, Metro will provide 30 calendar days written notice to terminate this Agreement.

### **RELATIONSHIP OF CONTRACTOR TO METRO**

Contractor's relationship to Metro shall be that of an independent contractor for all purposes and shall be entitled to the compensation provided for in this Agreement. Under no circumstances shall Contractor be considered an employee of Metro. Contractor shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified. Contractor is solely responsible for its performance under this Agreement and the quality of its work; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified.

Metro is not, by virtue of this Agreement, a partner or joint venturer with Contractor in connection with the operations or activities of Contractor under this Contract, and Metro shall have no obligation with respect to Contractor's debts or other liabilities.

All premises and facilities and equipment to which the Contractor is granted exclusive, temporary, or rental use will at all times remain the property of Metro.

### **BANKRUPTCY/INSOLVENCY**

It is understood and agreed by the Contractor and Metro that, in the event that Contractor shall be adjudged as bankrupt, either voluntarily or involuntarily, this Agreement, at the option of Metro, shall at once cease and terminate. Furthermore, if Contractor shall become insolvent or fail in business, or make any assignment for the benefit of creditors, Metro may, at its option, terminate this Agreement. In no event is this Agreement to be treated as an asset in any insolvent or bankrupt estate.

### **PROPOSAL INSTRUCTIONS**

Proposals are due (postmarks not accepted) no later than 4:00 p.m. P.D.T., ~~Wednesday, October 26th~~, ~~Monday, November 7th~~, at the office of Metro Regional Parks and Greenspaces, 600 N.E. Grand Avenue, Portland, Oregon 97232-2736, Attention: Todd Jones, Regional Park Supervisor. Materials postmarked but not received prior to the deadline or any faxed material will not be considered.

One original and five copies of the proposal must be submitted to Metro.

All proposals must be clearly marked "PROPOSAL: LAKE HOUSE CONTRACTOR," and contain all information outlined herein.

## PRE-BID CONFERENCE

An optional ~~mandatory~~ pre-bid conference is scheduled for ~~Thursday, October 6, 1994~~ ~~Tuesday, October 25, 1994~~, at 10:00 a.m. at the Lake House facility, 21160 N.E. Blue Lake Road, Troutdale, Oregon. All bidders are ~~encouraged to~~ ~~shall attend~~.

## CLARIFICATION

Any proposer requiring clarification of the information or protesting any provisions herein, must submit specific comments in writing to:

Todd Jones  
Regional Park Supervisor  
Blue Lake Park  
20500 N.E. Marine Drive  
Troutdale, OR 97060

The deadline for submitting such questions or comments is October 14, ~~24~~, 1994. If, in his opinion, additional information or interpretation is necessary, such information will be supplied in the form of an Addendum which will be mailed to all individuals, firms and corporations having taken out specifications and such Addendum shall have the same binding effect as though contained in the main body of the specifications. Oral instructions or information concerning the specifications or the projects given out by Metro managers, employees, or agents to prospective proposer shall not bind Metro. All Addenda shall be issued by the Regional Park Supervisor not later than five (5) days prior to proposal deadline.

## CANCELLATION

Metro reserves the right to cancel award of the contract at any time before execution of the contract by both parties if cancellation is deemed to be in Metro's best interest. In no event shall Metro have any liability for the cancellation of award. The proposer assumes the sole risk and responsibility for all expenses connected with the preparation of its proposal.

## ASSIGNMENT

Neither the resultant contract nor any of the requirements, rights, or privileges demanded by it may be sold, assigned, contracted, or transferred by the Contractor without the express written consent of Metro.

## FORMAT

In submitting proposals, proposer are to be aware that Metro considers proposal content and completeness to be most important. Clean and effective presentations are preferred, with extraneous materials strongly discouraged. Proposals should be submitted in 8-1/2" x 11" format and covers must clearly contain the RFP title and bidder's name.

Proposals shall be prepared using the following format in order to facilitate evaluation:

- Part 1: Letter of Transmittal
- Part 2: Contractor Services and Administration
- Part 3: Personnel
- Part 4: Experience
- Part 5: Financial Bid and Marketing Plan
- Part 6: Appendices

Each part must be clearly labeled for easy reference.

**Part 1: Letter of Transmittal**

Shall state proposers name, address, phone number, contact person, date of proposal, and a general confirmational statement of submittal to Metro Regional Parks and Greenspaces.

**Part 2: Contractor Services and Administration**

This section must list the full range of services that Contractor will provide in managing the Lake House contract.

This section must specify the means of accomplishing the services to be provided and organizational approach to operating and overseeing the Lake House.

Other areas include the availability of Contractor to receive calls of interest from the public and to schedule showings. Also specify the nature of Contractor's business and employee supervision, accounting, record keeping and cash management techniques. Proposers should demonstrate a clear understanding of Metro's objectives in managing a successful and professional operation.

**Part 3: Personnel**

Key personnel must be identified in this section with a brief description of their qualifications. Include a list of references for each person with contact persons and telephone numbers. Specify any services to be subcontracted and the name of the subcontractor(s).

**Part 4: Experience**

Proposers must describe in detail, relevant past and present experiences in successfully administering a meeting and wedding facility or other business/sales-related experiences. The information provided must demonstrate that the bidder has the appropriate knowledge and background to adequately fulfill contract requirements.

**Part 5: Financial Bid and Marketing Plan**

Proposers must specify and justify the minimum percentage of gross Lake House receipts necessary to profitably operate as the Lake House Contractor. Proposers will include a draft promotional plan which includes strategies on Lake House promotions and advertising for the first year of operations. (These expenses would be paid for and implemented by the Contractor).

**Part 6: Appendices**

Information considered by proposers to be pertinent to this position which was not specifically solicited in Parts 1 through 5, may be placed in an appendix. (Please keep this material to a minimum.)

**GENERAL CONDITIONS**

**Limitation and Award.** This RFP does not commit Metro to award a contract, nor to pay any costs incurred in the preparation and submission of proposals in anticipation of a contract. Metro reserves the right to accept or reject any or all proposals received as the result of this Request for Proposal or to cancel this entire Request for Proposal.

As described later under Contractor Selection, Metro will identify a limited number of bidders who will be requested to present an oral briefing of their proposal.

**Validity Period and Authority.** The proposal shall be considered valid for a period of at least 120 days, and contain a statement to that effect. The proposal shall contain the name, title, address and telephone number of the individual(s) with authority to bind the company who may be contacted during the period of evaluating the proposal.

**Equal Employment Opportunity.** The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated equally during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

**CONTRACTOR SELECTION**

Proposals received that conform to the proposal instructions described in this RFP will be evaluated by a Selection Committee appointed by the Regional Parks and Greenspaces Director. The Selection Committee will include representatives of Regional Parks and Greenspaces; a representative of the Metro agency.

An initial evaluation will take place after ~~October 26, 1994~~ ~~November 7, 1994~~, and will result in a rank ordering of bidders ~~proposers~~ for final interviews on ~~Tuesday, November 1st~~ and/or ~~Wednesday, November 2nd~~ ~~Thursday, November 10th~~.

Evaluation Criteria: The outline below provides a list of criteria and scoring system which will be used in the evaluation of the proposals submitted to accomplish the work defined in this RFP.

General Compliance with RFP -10 Points

- Format.
- Content

Part 1: Contractor Services and Administration - 30 Points

- Comprehensiveness of services to be provided.
- Business organization and management techniques.
- Supervisory skills and techniques.
- Accounting and cash management techniques.
- Understanding Metro objectives in seeking a Lake House Contractor.

Part 2: Personnel - 20 Points

- Level of qualified staffing.
- Reference check.

Part 3: Experience - 30 Points

- Relevant experience in profitably marketing and operating a meeting or wedding facility.
- Past experience in sales/business operations and working with clients.
- Knowledge acquired that would be useful in administering and promoting the Lake House.

Part 4: Financial Bid and Marketing Plan - 20 Points

- Percentage level of gross income specified.
- Potential Metro profitability based on a draft year-long promotional plan.

TOTAL - 100 Points

Interviews: In addition to the written proposal, the top ranked proposers will be evaluated on their performance in an oral interview conducted by the Evaluation Committee. Each interview will consist of a presentation (about 1/2 hour) by the candidate, followed by an extensive question and answer period.

Metro reserves the right to select a Contractor based upon evaluation of written proposals only.

Council  
10/13/94  
8.8

FINANCE COMMITTEE REPORT

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RESOLUTION NO. 94-2045, SUBMITTING TO THE VOTERS FOR THEIR APPROVAL ORDINANCE 94-556C "AN ORDINANCE RELATING TO TAXATION, ESTABLISHING A CONSTRUCTION EXCISE TAX REDUCING SOLID WASTE RATES AND REFUNDING PLANNING SERVICE FEES TO LOCAL GOVERNMENTS"

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Date: October 13, 1994

Presented by: Councilor Monroe

**COMMITTEE RECOMMENDATION:** At its October 12, 1994 meeting the Finance Committee voted 4-2 to recommend Council adoption of Resolution No. 94-2045. Councilors Monroe, Kvistad, Van Bergen, and Washington voted aye. Councilors Devlin and Gardner voted no. Councilors Buchanan and McLain were absent.

**COMMITTEE DISCUSSION/ISSUES:** General Counsel Dan Cooper explained the resolution. He said it would refer to the voters the question of approval or disapproval of Ordinance 94-556C, which would establish a construction excise tax, reduce solid waste rates and Metro's excise tax, and refund planning service fees to local governments. This matter would go to the ballot in May, 1995, or the first available election date thereafter in the event Ballot Measure 5 passes and election dates are changed.

Councilor Gardner asked Mr. Cooper what would happen if signatures were gathered and submitted to refer only the construction excise tax portion of the ordinance before the Council passed a resolution to refer the entire ordinance. Mr. Cooper said he has researched this issue and has developed an opinion, but noted that this situation has never been litigated in Oregon so there is no precedent. He said he believes that if the Council put the ordinance on the ballot prior to May 1996 and the ordinance were approved by the voters, there is a risk that the courts could rule that the partial referral should still be placed on the ballot in May 1996. He could not say with any certainty what that risk is. Councilor Monroe asked if the risk changed if the Council filed its referral prior to an outside referral. Mr. Cooper said yes, that no subsequent referral of an ordinance that has already been referred would be possible. Councilor Monroe added that reports are that the group seeking partial referral would stop working on that if the Council refers the ordinance. In response to a question from Councilor Gardner, Mr. Cooper reiterated his response to Councilor Monroe's question, saying that the courts would have an easier time ruling against a second election if the Council referred the full ordinance prior to submittal of a petition with sufficient signatures to refer only part of the ordinance.

Councilor Kvistad asked if the current tax structure, with the 7.5% excise tax, will remain in place if the ordinance is referred. Mr. Cooper said yes, that an action to refer suspends the ordinance. Councilor Kvistad asked if there is any loophole in the ordinance 94-556C or in the resolution under discussion that would enable the construction excise tax ordinance to be voided, requiring a second vote of the Council for approval. Mr. Cooper said he is not aware of any procedural or structural defect in the ordinance or its adoption. He discussed a lawsuit that has been filed, challenging the authority of the Council to implement the tax without a

vote of the people, saying he did not think the injunction requested in that suit would be granted.

Councilor Kvistad asked if repeal of the excise tax had to be adopted by ordinance. Mr. Cooper said yes. Councilor Kvistad asked if the resolution under discussion could be amended to become an ordinance to be voted on at the October 13 meeting. Mr. Cooper said no, and explained the procedures under the Charter and Code for consideration of ordinances.

[NOTE: The committee then considered a motion by Councilor Kvistad that the committee introduce an ordinance repealing Ordinance 94-556C. Following discussion, the committee voted to approve Councilor Kvistad's motion, and Mr. Cooper said he would draft the ordinance.]

Councilor Gardner moved the resolution. Councilor Van Bergen noted a communication from the Tri-County Council, and wanted to make sure it was included in the record. He moved to amend the resolution to refer only the construction excise tax portion of the ordinance. In response to a question from Councilor Devlin, Mr. Cooper said that approval of the resolution with Councilor Van Bergen's amendment would reduce the excise tax and solid waste fee effective November 23. Councilor Monroe noted that would result in a \$1 million hole in the 1994-95 budget. The motion failed.

Councilor Devlin said he would vote against the resolution, saying he did not think this decision had to be made before the November 8 election, and that he was not sure referral was the best option in any case.

Councilor Van Bergen said he would support the resolution, but reserved the right to change his vote at Council depending on Mr. Cooper's opinion regarding the question he had asked about the relative weight and the timing of an ordinance to repeal and the referral resolution.

Councilor Gardner asked if this resolution is on the October 13 Council agenda, and he was told it is.

# Tri-County Council

Reply to: 2202 SE. Lake Rd., Milwaukie, OR 97222 654-9533 (FAX 654-8414)

October 13, 1994

TO: METRO COUNCIL - FAX 797-1793  
RE: Resolution No. 94-2045

The Tri-County Council does not support referring the Construction Excise Tax package to the voters.

If an issue is going to get referred, it should be a longterm solution, not this "3-Humped Camel" that has portions in it relating to a reduction of the disposal fee that could be outdated in five months.

We would support the referral of a tax base or of an income tax surcharge that would replace the excise tax and bring about true equity in the revenue system. The Construction Excise Tax that would have reduced the excise tax on disposal to 6% still left a large inequity on the disposal rate payers. The cost to the system for disposal is covered in the tip fee, and none (or perhaps a very small portion) of the 6% excise tax is needed to pay disposal system costs. In that 6%, tip fees would still be paying for a large portion of planning that was not related to disposal.

From the very beginning, we have supported an un-bundling of this package. The only reason we reluctantly agreed to go along with the package was because that seemed like the most expeditious way to get the reduction in disposal fees. That reduction could have been granted months ago since Metro has enjoyed a cost savings to the disposal system that would have allowed for the reduction, without tying it to the Construction Excise Tax.

Please refer a longterm solution to the voters, not this poorly wrapped package.

Sincerely,  
TRI-COUNTY COUNCIL

*Estle Harlan*  
by Estle Harlan

C: TRI-COUNTY COUNCIL

Metro Council  
October 13, 1994  
Agenda Item No. 8.8

**Representing:**

Clackamas County Refuse Disposal Association  
Multnomah County Refuse Disposal Association  
Oregon Sanitary Service Institute

Portland Association of Sanitary Service Operators  
Teamsters Local 281 305  
Washington County Solid Waste Collectors Association