

A G E N D A

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



METRO

MEETING: METRO COUNCIL REGULAR MEETING
DATE: April 20, 1995
DAY: Thursday
TIME: 2:00 p.m.
PLACE: Council Chamber

*******REVISED AGENDA*******

Resolution No. 95-2127 has been withdrawn and will not be heard.

<u>Approx. Time *</u>		<u>Presenter</u>	<u>Lead Councilor</u>
2:00 PM	CALL TO ORDER AND ROLL CALL		
(5 min.)	1. INTRODUCTIONS		
(5 min.)	2. CITIZEN COMMUNICATIONS		
(5 min)	3. EXECUTIVE OFFICER COMMUNICATIONS		
2:15 PM (30 min.)	4. EXECUTIVE SESSION Held Pursuant to ORS 192.660 (1) (e) To Conduct Deliberations With Persons Designated By The Governing Body to Negotiate Real Property Transactions.	Chase	
	5. CONSENT AGENDA		
2:45 PM (5 min.)	5.1 Consideration of Minutes for the April 11, 1995 Council Work Session and the April 13, 1995 Council Meeting.		
	6. ORDINANCES FIRST READINGS		
2:50 PM (10 min.)	6.1 Ordinance No. 95-595, Amending The FY 1994-95 Budget and Appropriations Schedule For the Purpose of Reflecting Funding Increases Due to Costs Associated With Household Hazardous Waste Events, Delivered Solid Waste Tonnage in Excess of Budget Expectations, and Transferring Appropriations Within the Solid Waste Revenue Fund and the Rehabilitation and Enhancement Fund; and Declaring an Emergency.	Burton Carter	Kvistad

For assistance/Services per the Americans with Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office)

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<u>Approx. Time *</u>			<u>Presenter</u>	
3:00 PM (15 min.)	6.2	Ordinance No. 95-599 , Amending the FY 1994-95 Budget and Appropriations Schedule to Reflect Operational Needs at the Metro Washington Park Zoo; and Declaring an Emergency.	Kiaunis	Washington
3:15 PM (15 min.)	6.3	Ordinance No. 95-598 , Amending the FY 1994-95 Budget and Appropriations Schedule to Reflect Actual Election Costs of the November, 1994 Election Appropriated for the Support Services Fund; and to Reflect Expected Election Costs of the May, 1995 Election Appropriated in the General Fund; and Declaring an Emergency.	Sims	McCaig
3:30 PM (5 min.)	6.4	Ordinance No. 95-600 , Amending the FY 1994-95 Budget and Appropriations Schedule by Transferring \$12,000 From Personal Services to Capital Outlay in the General Fund Executive Office; and Declaring an Emergency.	Burton	
3:35 PM (10 min.)	6.5	Ordinance No. 95-596 , Amending the FY 1994-95 Budget and Appropriations Schedule for the Purpose of Adopting the FY 1994-95 Supplemental Budget; and Declaring an Emergency.	LaCrosse Teed	Washington
	7.	RESOLUTIONS		
3:45 PM (5 min.)	7.1	Resolution No. 95-2124 , For the Purpose of Approving the FY 1994-95 Supplemental Budget and Transmitting the Approved Budget to the Tax Supervising and Conservation Commission.	LaCrosse Teed	Washington
3:50 PM (15 min.)	7.2	Resolution No. 95-2123 , For the Purpose of Endorsing the Citizens Advisory Committee For the Update of the 1996 Regional Transportation Plan.	Cotugno	Monroe
4:05 PM (20 min.)	7.3	Resolution No. 95-2126 , For the Purpose of Expressing Council Intent to Amend Metro's Urban Growth Boundary for Contested Case No. 94-1:Richards.	Todd Epstein	McLain
	8.	CONTRACT REVIEW BOARD		
4:25 PM (15 min.)	8.1	Resolution No. 95-2131 , For the Purpose of Authorizing the Executive Officer to Enter Into an Agreement With Norseman Plastics to Manufacture and Distribute Home Compost Bins.	Burton Zimmerman	Kvistad
4:40 PM (10 min.)	9.	COUNCILOR COMMUNICATIONS		
4:50 PM (10 min.)	9.	LEGISLATIVE ITEMS		
5:00 PM		ADJOURN		

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3:50 PM (15 min.)	7.2 Resolution No. 95-2127 , For the Purpose of Authorizing Contract Amendment No. 1 to Contract No. 903228 With City Center Parking for Management Services of the Metro Parking Structure.	Butler	Washington
4:05 PM (15 min.)	7.3 Resolution No. 95-2123 , For the Purpose of Endorsing the Citizens Advisory Committee For the Update of the 1996 Regional Transportation Plan.	Cotugno	Monroe
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5:10PM (10 min.)	9. LEGISLATIVE ITEMS		
5:20 PM	ADJOURN		

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AGENDA ITEM 4.
Meeting Date: April 20, 1995

Resolution No. 95-2131

EXECUTIVE SESSION

**Held Pursuant to ORS 192.660(1)(e) To conduct Deliberations With Persons Designated by The
Governing body to Negotiate Real Property Transactions.**

**This Executive Session will be regarding Resolution No. 94-1987; 95-2128; 95-2129; 95-2130; and 95-
2132 . Copies of each will be distributed to Council members at the time of the meeting.**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING) RESOLUTION NO. 95 - 1987
THE EXECUTIVE OFFICER TO ENTER)
INTO AGREEMENT TO OPTION PROPERTY) Introduced by Mike Burton,
IN THE TUALATIN RIVER GREENWAY) Executive Officer

WHEREAS, In July 1992, Metro completed the Metropolitan Greenspaces Master Plan which identified a desired system of natural areas interconnected with greenways and trails; and

WHEREAS, Acquisition of natural areas from willing sellers is a primary strategy for preservation of natural areas; and

WHEREAS, The Option To Purchase Real Property Agreement is part of Metro's Options Demonstration Project approved by Council Resolution No. 93-1832; and

WHEREAS, Funds to obtain options from willing seller to purchase land are allocated via Council Ordinance No. 93 - 511; and

WHEREAS, A Process for Considering and Executing Options to Purchase Lands was adopted by Council Resolution No. 94-1919; and

WHEREAS, The property, as indicated in Exhibit A, is in a target area as set out in Resolution No. 94 - 2011A which referred a 135.6 million dollar bond measure for public consideration on May 16, 1995; now, therefore,

BE IT RESOLVED,

That the Metro Council authorizes the Executive Officer to enter into an agreement as attached in Exhibit A.

ADOPTED by Metro Council this _____ day of _____, 1995.

J. Ruth Mc Farland , Presiding Officer

Staff Report

CONSIDERATION OF RESOLUTION NO.94 - 1987 , FOR THE PURPOSE OF ENTERING INTO AN AGREEMENT FOR AN OPTION FOR PROPERTY IN THE TUALATIN RIVER GREENWAY

Date: 26 March 1995

Presented by: Nancy Chase

PROPOSED ACTION

Resolution No. 94-1987 requests the approval of a resolution to authorize the Executive Officer to execute an agreement with the Morand Trust for the option to purchase property on the Tualatin River.

BACKGROUND AND ANALYSIS

The Options Demonstration Project approved by Council Resolution 93 -1832 provided funds to obtain options from willing sellers. The properties selected by this project are to be located in either local or regional Greenspace target areas.

This option is for property within the Tualatin River Greenway which is a regional target area. The property is 153.3 acres in size with one-half mile of frontage on the Tualatin River and has significant water rights. It is located south west of Tigard with the site's east property line abutting the Urban Growth Boundary. There is significant natural area along the river frontage; however, a portion of the site is in farm use. The site also contains a 1920 farm house that might have some historical significance.

This Resolution came to Council in executive session in December, 1994. At that time staff was directed to continue negotiations to resolve potential environmental hazard problems on the site. The attached agreement allows for the review of a level 2 environmental assessment prior to Metro exercising the option.

More detailed information on the option is available upon request.

BUDGET IMPACT

The Morand Trust has agreed to a sale price with **no** option money required until Metro decides to exercise the option. At that point in time \$10,000 will be paid to the Morand Trust. Funds to exercise the option and acquisition cost funding are dependent upon passage of the Open Space bond measure scheduled for May 16, 1995. The Tualatin River Greenway is budgeted to receive \$4 million dollars for land acquisition.

When recorded, mail to:
Metro
600 N.E. Grand Avenue
Portland, OR 97232-2736
Attn: Office of General Counsel

Exhibit B

MEMORANDUM OF OPTION

This is a memorandum of a certain Option Agreement dated April 6, 1995, between The Madge F. Morand Grantor Revocable Trust ("Seller"), and Metro, an Oregon municipal corporation ("Buyer"). By said Option Agreement, Seller has granted to Buyer an exclusive option to purchase that certain real property in Multnomah County, Oregon, described in Exhibit A attached herein and incorporated herein by this reference.

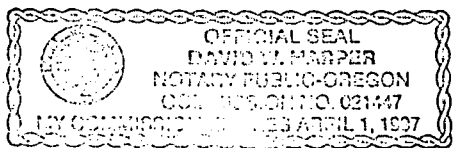
Said option extends from the date of the Option Agreement through and including June 15, 1995, at which time it shall automatically expire.

SELLER:

John W. Richmond, Trustee

State of Oregon)
County of Multnomah) ss.

On this 6 day of April, 1995, before me David W. Harper, the undersigned Notary Public, personally appeared John Richmond, Trustee and of the Morand Trust personally known to me (or proved to be on the basis of satisfactory evidence) to be the person(s) whose name(s) is (are) subscribed to this instrument, and acknowledged that he (she or they) executed it.



David W. Harper
My commission expires: 4-1-97

OPTION TO PURCHASE REAL PROPERTY

THIS OPTION AGREEMENT (the "Agreement") is made and entered into by and between The Madge F. Morand Grantor Revocable Trust (the "Seller") and Metro, a municipal corporation of the state of Oregon organized under Oregon Revised Statutes, chapter 268, and the 1992 Metro Charter (the "Buyer"), this 6 day of April, 1995.

1. Grant of Option. Seller, in consideration of the sum of \$10,000, does hereby grant to Buyer the sole and exclusive option to purchase the real property described in Exhibit "A" attached and incorporated by this reference into this Agreement (the "Property") in the manner and for the price stated in this Agreement. Purchase of this option is expressly subject to the approval of the Metro Council, and without such approval is null and void.
2. Option Terms.
 - 2.1 Term. The term of this option shall commence on the effective date and shall continue until June 15, 1995.
 - 2.2 Exercise of Option. Buyer may exercise this option by written notice to Seller at any time during the term stating that Buyer has elected to exercise the option. Upon exercise of this option, Buyer shall be obligated to purchase the Property from Seller and Seller shall be obligated to sell the Property to Buyer for the price and in the manner herein set forth. Exercise of this option is subject to the approval of the Metro Council, and without such approval is null and void.
 - 2.3 Failure to Exercise Option. If Buyer fails for any reason to exercise this option in the manner set forth herein, Buyer shall have no further claim against or interest in the Property. In the event of the failure to exercise the option, Buyer shall provide Seller with any instruments that Seller reasonably may deem necessary for the purpose of removing from the public record any cloud on title to the Property which is attributable to the grant or existence of this option.
3. Option Money. In payment for Seller's grant of this option, Buyer shall pay the option payment into escrow, at the time of exercise of this option. Seller shall be entitled to the option payment only if Buyer exercises this option and Seller is not in default under this Agreement prior to closing. However, if after exercising the Option Buyer refuses to close for any of the reasons specified in Section 12.7, Seller shall be entitled to retain the \$10,000 option payment, unless Seller is otherwise in default under this Agreement. On payment, the option payment becomes the "earnest money" for purposes of Seller's agreement with its listing agent.
4. Purchase Price and Terms. If Buyer exercises the option, the purchase price for the Property shall be the sum of \$1,400,000 less the \$10,000 option payment made to

Seller pursuant to Section 3. The entire balance of the purchase price and option payment shall be paid at Closing.

5. Recording. On the effective date, Seller shall execute, acknowledge, and deliver to Buyer a memorandum in the form attached as Exhibit B. In the event Buyer fails to exercise the option before the term expires, the memorandum will automatically terminate on that date and the Seller will not have to seek a release or quitclaim deed. Buyer shall record the memorandum.
6. Possession. Possession of the Property shall remain with Seller, subject to the Covenants in this Agreement, until Buyer exercises the option and the sale of the Property closes in escrow. Buyer shall be entitled to exclusive possession of the Property on and after the Closing Date. Buyer agrees, however, to allow the farmer now farming the property until October 31, 1995 to remove his crops.
7. Access to Property. Seller grants to Buyer and its agents the right to enter on the Property at any reasonable times before the Closing Date for the purpose of conducting tests, studies, or appraisals that Buyer may deem necessary or appropriate in connection with its acquisition of the Property. Seller shall cooperate with Buyer in making such tests, studies, and appraisals. No soil tests or drilling shall be undertaken without first obtaining Seller's approval with respect to the agents retained to perform such work and the location and purpose of the tests or drilling. Buyer shall not interfere with or disturb the rights of any tenants of Seller in possession of any portion of the Property. Buyer shall protect, defend, and hold Seller harmless from any loss, liability, or damage to persons or property arising out of or related to Buyer's activities on the Property. If Buyer fails to exercise the option and purchase the Property, Buyer shall fully compensate Seller for any physical damage to the Property or charge on it attributable to Buyer's activities pursuant to this paragraph. In the event Buyer fails to exercise the option, Buyer shall deliver to Seller a legible copy of any reports, studies, and drawings owned by Buyer that relate to the Property.
8. Covenants of Seller. Seller acknowledges that the Covenants of Seller contained in this Agreement, including the Covenants contained in this Section 8 (the "Covenants"), are material inducements to Buyer to enter into this Agreement. The Covenants specifically delineated in this section are the following:
 - 8.1 Information. Seller agrees to deliver to Buyer, within 20 days after the effective date, photocopies of all documents related to the use or ownership of the Property that Seller possesses, including (without limitation) all studies, reports, aerial photographs, and other documents of a like nature.
 - 8.2 Maintenance. Before the Closing Date, Seller shall maintain the Property in the same condition as it now exists, ordinary wear and tear excepted, and shall not cause or permit any waste.

- 8.3 **Seller's Promise to Remove Personal Property.** Before the Closing Date, Seller promises to remove or cause to be removed from the subject Property at Seller's expense any trash, rubbish, or any other unsightly or offensive materials, unless otherwise agreed to in writing by Buyer. Buyer agrees that personal property belonging to the tenant or used by the farmer to farm the subject property may remain on the property.
- 8.4 **Covenant to Maintain Property in Natural State.** Seller, its successors and assigns hereby covenants, promises, agrees that the property shall continue to be farmed, but the area of cultivation shall not be expanded into any areas now wooded.
- 8.5 **Ownership.** During the term, Seller shall not sell, contract to sell, assign, lease, or otherwise transfer the Property or any part of it, unless it is transferred subject to this option, nor grant an option to any third party to acquire all or any portion of it.

9. **Seller's Representations.**

- 9.1 Seller has full power and authority to enter into this Agreement (and the persons signing this Agreement for Seller, if Seller is not an individual, have full power and authority to sign for Seller and to bind it to this Agreement) and to sell, transfer and convey all right, title, and interest in and to the subject Property in accordance with this Agreement.
- 9.2 The subject Property has legal vehicular access to a public road.
- 9.3 If the existing tenant, or the farmer currently farming the property shall quit the dwelling or farm operation, Seller shall consult with Buyer prior to obtaining new tenants or allowing another person or entity to farm the property.
- 9.4 There is no suit, action, arbitration, legal, administrative, or other proceeding or inquiry pending or threatened against the subject Property, or any portion thereof, or pending or threatened against Seller which could affect Seller's title to the subject Property, or any portion thereof, affect the value of the subject Property or any portion thereof, or subject an owner of the subject Property, or any portion thereof, to liability, except as specified herein.
- 9.5 There are no:
 - (a) Intended public improvements or private rights which will result in the creation of any liens upon the subject Property or any portion thereof;

- (b) Uncured notices which have been served upon Seller from any governmental agency notifying Seller of any violations of law, ordinance, rule or regulation which would affect the subject Property or any portion thereof;
 - (c) Actual or impending mechanic's liens against the subject Property or any portion thereof; and
 - (d) Notices or other information giving Seller reason to believe that any conditions existing on the subject Property or in the vicinity of the subject Property or in ground or surface waters associated with the subject Property may have a material effect on the value of the subject Property or subject the owner of the subject Property to potential liabilities under environmental laws, except as specified herein.
- 9.6 There is no lease, license, permit, option, right of first refusal, or other agreement, written or oral, which affects the subject Property or any portion thereof, except as specified herein.
- 9.7 Neither the grant nor the exercise of the option will constitute a breach or default under any agreement to which Seller is bound and/or to which the subject Property is subject.
- 9.8 Hazardous Substances. For purposes of this subsection, the phrase "Hazardous Substances" has the same meaning as is designated in ORS 465.200(9). The level 1 Environmental Assessment has revealed significant contamination of soils and ground water from a leak of the Santa Fe Pacific Pipeline Partners, L.P. pipeline which passes through the property, and other concerns. Seller warrants, represents, and covenants as follows:
- (a) The Level II assessment shall be carried out expeditiously, and be completed no later than May 15, 1995. Buyer and Seller will be the beneficiaries of the Level II assessment. The scope of work for the assessment has previously been agreed to by Buyer and Seller. Seller shall secure the assessment and report at its sole expense and a copy shall be provided to Buyer. Within 30 days after completion of the Level II assessment report, Buyer and Seller will reach agreement on the disposition of all environmental matters covered by the report.
 - (b) Seller warrants that it has no knowledge of any other hazards or risks associated with the property other than as disclosed in the Level I and Level II assessments.

- (c) By Closing, Metro agrees that it shall seek no remedy against Seller for hazardous substances on the property except to the extent that Seller knew or should have known of other environmental risks, hazardous substances or conditions on the property not disclosed in the Level I or Level II assessments.
- (d) Seller shall not be required to take any action regarding Environmental conditions on the property identified in the Level I assessment, other than to carry out the Level II assessment as specified in 9.8(a).

9.9 Status of Seller. Seller warrants that Seller is not a foreign person, foreign partnership, foreign corporation, or foreign trust, as those terms are defined in IRC § 1445.

Each of the above representations is material and is relied upon by Buyer. Each of the above representations shall be deemed to have been made as of the close of escrow and shall survive the close of escrow. Seller shall indemnify, defend with counsel of Buyer's choice and hold Buyer harmless from all expense, loss, liability, damages and claims, including Buyer's attorney fees, if necessary, arising out of the breach of any of Seller's warranties, representations, and covenants. Upon close of escrow, if Buyer so requests, Seller shall deliver to Buyer a certificate in a form satisfactory to Buyer's counsel stating that each of the above representations is true and current as of the close of escrow.

If, before the close of escrow, Seller discovers any information or facts that would materially change the foregoing warranties and representations, Seller shall immediately give notice to Buyer of those facts and information. If any of the foregoing warranties and representations cease to be true before the close of escrow, Seller shall be obligated to use its best efforts to remedy the problem before the close of escrow. If the problem is not remedied before close of escrow, Buyer may elect to either (a) terminate this Agreement in which case Buyer shall have no obligation to purchase the subject Property and all option payments shall be refunded to Buyer, or (b) defer the Closing Date until such problem has been remedied. Buyer's election in this regard shall not constitute a waiver of Buyer's rights in regard to any loss or liability suffered as a result of a representation or warranty not being true, nor shall it constitute a waiver of any other remedies provided in this Agreement or by law or equity.

10. Remedies Upon Default. In the event Seller defaults in the performance of any of Seller's obligations under this Agreement, Buyer shall, in addition to any and all other remedies provided in this Agreement or by law or equity, have a right to specific performance against Seller. After the option is exercised, if the Buyer fails to close without just cause hereunder, Seller shall have a right to retain the earnest money of

\$10,000 and, in addition, shall receive from Buyer \$40,000 as liquidated damages, as Seller's exclusive remedy for Buyer's nonperformance.

11. Property Taxes and Expenses. During the term of this option, Seller shall pay all taxes, assessments, and expenses related to the Property. Property taxes shall be prorated as of the Closing Date.

12. Closing.

12.1 Time and Place. Closing of the sale and purchase of the Property (the "Closing") shall occur on a date (the "Closing Date") selected by Buyer, but in all events the Closing shall occur no later than September 30, 1995. The escrow for the Closing shall be established at the office of Chicago Title Insurance Company (the "Title Company"), at Portland, Oregon.

12.2 Closing Obligations. On the Closing Date, Seller and Buyer shall deposit the following documents and funds in escrow, and the Title Company shall close escrow in accordance with the instructions of Seller and Buyer.

12.2.1 Seller shall deposit the following:

- (a) The conveyance documents described in Section 13, duly executed and acknowledged;
- (b) A duly executed affidavit certifying that Seller is not a foreign person, trust, partnership, or corporation in compliance with the requirements of IRC § 1445;
- (c) Original counterparts of legible photocopies of all documents, feasibility studies, surveys, engineering reports, and other items of a similar nature in the possession of Seller that relate to the Property;
- (d) Such documents as Buyer or the Title Company may require to evidence the authority of Seller to consummate this transaction; and
- (e) Such other documents and funds, including (without limitation) escrow instructions, as are required of Seller to close the sale in accordance with this Agreement.

12.2.2 Buyer shall deposit the following:

- (a) The cash payment specified in Section 4, minus any credits available to Buyer under the terms of this Agreement;
- (b) Such documents as Seller or the Title Company may require to evidence the authority of Buyer to consummate the transaction contemplated; and
- (c) Such other documents and funds, including (without limitation) escrow instructions, as are required of Buyer to close the sale and purchase of the Property in accordance with this Agreement.

12.3 Costs. Buyer and Seller each shall pay one-half of the escrow fee of the Title Company with respect to the Closing. Seller shall pay the premium for the title insurance policy that Seller is obligated to provide to Buyer, and for all conveyance or excise taxes payable by reason of the purchase and sale of the Property. Buyer shall pay the fee (exclusive of any conveyance or excise tax) for recording the conveyance documents referred to herein.

12.4 Prorations. All items of expense incurred by Seller with respect to the Property shall be paid by Seller at Closing, without proration. All real property taxes and assessments payable with respect to the tax year in which Closing occurs shall be prorated between Seller and Buyer as of the Closing Date.

12.5 Farm Tax Deferral. Seller has advised Buyer that the Property has been classified as farm use property and therefore has been given an ad valorem tax deferral. At Closing, Seller shall pay all Deferred Taxes and other charges due by reason of the loss of the real property tax deferral (the "Deferred Taxes") or, at the option of Buyer, the amount of the Deferred Taxes shall be credited against the purchase price at Closing. Save and except, if there will be no tax due County currently under ORS 308.370 through 308.399, seller need not pay any deferred tax.

12.6 Title Insurance Policies. As soon as practicable after Closing, and in any event no later than 10 days after the Closing Date, Seller shall cause the Title Company to issue at Seller's expense its standard form Owner's ALTA Title Insurance Policy, with extended coverage, in the amount of the purchase price, insuring fee simple title to the Property vested in Buyer, subject only to the permitted exceptions. Buyer will be supplied with a supplemental title report before May 1, 1995. Buyer shall have 10 business days to object to any lien set out in the report. All those title exceptions not objected to will be deemed accepted after the option is exercised and the \$10,000 option payment

deposited. Any new exceptions after the report date will be deemed objected to by the Buyer.

12.7 Seller recognizes that buyer shall have no obligation to Close the sale unless:

- (a) Santa Fe Pacific Pipeline Partners, L.P., Santa Fe Pacific Pipelines, Inc., and Santa Fe Pacific Corporation have all signed an agreement holding Buyer harmless and indemnifying Buyer from all claims, damages, costs, etc. related to the existing and any future spills on the property relating to the pipeline on the property, in a form acceptable to Buyer.
- (b) As an alternative to (a) of this section, Santa Fe Pacific Pipeline Partners, L.P. has provided the indemnification specified in (a), along with a letter of credit, bond or other financial assurance to cover all costs associated with the cleanup of the existing petroleum spill on the property, in a form acceptable to Buyer.
- (c) Santa Fe Pacific Pipeline Partners, L.P. enters into a Voluntary Agreement or Stipulated Order for cleanup of the petroleum spill on the property in a form acceptable to the Oregon Department of Environmental Quality (ODEQ) and Buyer.
- (d) An offer is made by ODEQ of a prospective purchaser agreement to Buyer, holding Buyer harmless from future liability related to the existing petroleum spill on the property, in a form acceptable to Buyer.

To the extent that any of the foregoing can be resolved prior to the date for exercising the option, Seller shall use good faith efforts to assist Buyer in resolving such matters prior to such date.

- 13. Conveyance. At the Closing, Seller shall execute, acknowledge, and deliver to Buyer a Statutory Warranty Deed conveying the Property to Buyer, subject only to the permitted exceptions.
- 14. Waiver. Failure by Seller or Buyer to enforce any right under this Agreement shall not be deemed to be a waiver of that right or of any other right.
- 15. Successors and Assigns. Subject to the limitations on Seller's right to convey the Property set forth elsewhere herein, the terms, covenants, and conditions herein contained shall be binding on and inure to the benefit of the heirs, successors, and assigns of Seller and Buyer. Buyer may assign its interest in this Option Agreement and the Property with the consent of Seller, which consent shall not be unreasonably

withheld. In the event that an assignee assumes the obligations of Buyer hereunder, then Buyer shall have no further liability with respect to this Agreement.

16. Notices. All notices required or permitted to be given shall be in writing and shall be deemed given and received upon personal service or deposit in the United States mail, certified or registered mail, postage prepaid, return receipt requested, addressed as follows:

To Seller: David W. Harper
Attorney At Law
1618 S.W. First Avenue, Suite 415
Portland, OR 97201

To Buyer: Todd Sadlo, Senior Assistant Counsel
600 N.E. Grand Avenue
Portland, OR 97232-2736

The foregoing addresses may be changed by written notice, given in the same manner. Notice given in any manner other than the manner set forth above shall be effective when received by the party for whom it is intended.

17. Attorney Fees. If litigation is instituted with respect to this Agreement, the prevailing party shall be entitled to recover from the losing party, in addition to all other sums and allowable costs, its reasonable attorney fees, both in preparation for and at trial and any appeal or review, such amount to be set by the court before which the matter is heard.
18. No Commission. Seller has used The Lutz Snyder Company as its real estate broker in connection with this Agreement and that firm is entitled to a commission to be paid by the Seller. Seller will hold Buyer harmless of any liability to any brokerage commission claimed by Lutz Snyder Company. See below the paragraph on Seller's agreement and closing instructions.
19. Risk of Loss. Seller shall bear the risk of all loss or damage to the Property from all causes, through the Closing Date. If, before the Closing Date, and regardless of whether the exercise notice has yet been given or is subsequently given, all or part of the Property is damaged by fire or by any other cause of any nature or if all or any portion of the Property is taken by condemnation, or if any such condemnation is threatened, Seller shall give Buyer written notice of such event. Buyer may terminate this Agreement by giving written notice to Seller within 15 days following receipt by Buyer of written notice from Seller of such casualty or condemnation and Seller will return to Buyer the Option Money Payments previously paid.

20. Integration, Modification, or Amendments. This Agreement contains the entire agreement of the parties with respect to the Property and supersedes all prior written and oral negotiations and agreements with respect to the Property. Any modifications, changes, additions, or deletions to this Agreement must be approved by Seller and Buyer, in writing.
21. Representation. Seller and Buyer have each been represented by separate legal counsel of choice with respect to this transaction. Except as otherwise provided in Section 16, each party shall be responsible for all attorney fees incurred by it with respect to this Agreement.
22. Severability. Each provision of this Agreement is severable from any and all other provisions of this Agreement. Should any provision(s) of this Agreement be for any reason unenforceable, the balance shall nonetheless be of full force and effect.
23. No Merger. The obligations contained in this Agreement, except for those specifically discharged in escrow (such as conveyance title to the subject Property and delivery of money and documents in the escrow), shall not merge with transfer of title but shall remain in effect until fulfilled.
24. Governing Law; Interpretation. This Agreement shall be governed by the laws of Oregon. In the event a court of competent jurisdiction holds any portion of this Agreement to be void or unenforceable as written, Seller and Buyer intend that (a) that portion of this Agreement be enforced to the extent permitted by law, and (b) the balance of this Agreement remain in full force and effect.
25. Time is of the Essence. Time is of the essence of this Agreement.
26. Statutory Disclaimer. THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.
27. Accommodating a 1031 Exchange: If Seller desires to transfer the property through an exchange transaction under Section 1031 of the Internal Revenue Code, Buyer agrees to cooperate with such transaction so long as (a) such cooperation is at the expense of the Seller; (b) Buyer assumes no additional risk or liability nor loses any remedies or rights against Seller due to the exchange transaction; (c) the closing on the property is not delayed as a result of the exchange; (d) the Seller executes and delivers a statutory warranty deed directly to the Buyer; and (e) Buyer is not obligated to hold title to any additional property. Seller agrees to indemnify, hold harmless and defend Buyer from and against any and all claims, damages, costs, liabilities, losses,

and expenses (including reasonable attorney's fees) arising out of the exchange transaction. Buyer understands that Seller may assign its rights under this option to an intermediary for the purpose of accomplishing this transaction and that the intermediary will have no continuing obligations to the Buyer other than to complete the transfer of title to the property under the terms hereof. Buyer will at all times look to the Seller for performance of all continuing obligations under this Agreement.

Executed and effective on the day and year first above written.

SELLER:

Joyce M. Taylor
Trustee Signature

Joyce M. Taylor
(Print)

John W. Richmond
Trustee Signature

John W. Richmond
(Print)

BUYER:

By: _____

Name: _____

Title: _____

Seller's Agreement of Closing Instruction Executed this Date.

The Seller having executed this option agreement hereby agrees to pay the Lutz Snyder Company, the listing broker, the sum of \$98,000.00 and this is to include all fees owed in and all co-op transactions that the listing broker has entered into. Said sum shall be paid broker in the closing escrow. Seller hereby grants such listing broker a lien on the proceeds of the sale after the full sum is received in closing, including the \$10,000.00 earnest money paid on the exercise of the option. All closing shall be handled as above set out. In the event Buyer fails to complete this option after it is exercised, \$5,000.00 of the earnest money shall be given to the broker and \$5,000.00 of the earnest money shall be given to the Seller.

THE MORAND TRUST

By: Joyce M. Taylor
Trustee

By: John W. Richmond
Trustee

Attachments:

Exhibit A - Property Description

Exhibit B - Form of Memorandum

rpj1243

Exhibit A

LEGAL DESCRIPTION

That certain tract which was conveyed to Richard Gordon Scott and Grace E. Scott, husband and wife, by Deed in Book 118, Page 435, Deed Records of Washington County, Oregon, which is bounded as follows:

Beginning at the corner common to Sections 16, 17, 20 and 21, in Township 2 South, Range 1 West of the Willamette Meridian, in the County of Washington and State of Oregon; thence South on the West line of Section 21, a distance of 414 feet to a point; thence South 80° East 170 feet to a point; thence South 27°1' East 516.4 feet to a point; thence East 901.2 feet to the West line of the right of way hereinafter described; thence North along the said West line of the right of way 903.5 feet to the North line of Section 21; thence West 1303.5 feet along the North line of said Section 21 to the place of beginning.

ALSO that certain tract of land situated in Section 16, Township 2 South, Range 1 West of the Willamette Meridian, in the County of Washington and State of Oregon, and comprising all of the land in said Section 16 on the South side of the Tualatin River and which may also be described as a tract being bounded: On the West by the West line of Section 16; on the South by the South line of Section 16; and on the North and East by the Tualatin River, the said tract is the identical land which was conveyed to Richard Gordon Scott and Grace E. Scott by Deeds in Deed Book 83, Page 571 and Deed Book 109, Page 569.

ALSO that certain tract of land lying and being in Section 21, in Township 2 South, Range 1 West of the Willamette Meridian, in the County of Washington and State of Oregon, which is more particularly described as follows, to-wit:

Beginning at the Northwest corner of the East one-half of the Northwest one-quarter of Section 21, Township 2 South, Range 1 West of the Willamette Meridian; thence South, along the West line of said East one-half of the Northwest one-quarter of said section, 130 rods, more or less, to the county road, also known as Taylor's Bridge Road and now S.W. Pacific Drive; thence Easterly, along said county road, also known as Taylor's Bridge Road, 1 rod; thence North and parallel with the said West line thereof, 130 rods, more or less, to the South line of Section 16; thence West 1 rod, to the place of beginning.

ALSO that certain tract of land situated in Section 21, Township 2 South, Range 1 West of the Willamette Meridian, and more particularly described as follows:

Beginning at the Southeast corner of the Southwest one-quarter of the Southwest one-quarter of Section 16, Township 2 South, Range 1 West of the Willamette Meridian, in the County of Washington and State of Oregon, running thence West along the South line of said section, 1 rod to a point; thence South to a point in the center line of the Taylor's Bridge Road, also known as County Road; thence Easterly along the center line of said road, 1 rod; thence North to the point of beginning, this identical tract was conveyed to Richard Gordon Scott and Grace E. Scott by Deed Book 83, Page 571.

ALSO a tract described as:

Beginning at an iron pipe on the North line of Section 21, Township 2 South, Range 1 West of the Willamette Meridian, in the County of Clackamas and State of Oregon, which point of beginning bears North 88°56' East 1,314.0 feet from the Northwest corner of said Section 21, and running thence North 88°56' East along the North line of said Section 21 a distance of 967.9 feet to an iron pipe; thence South 0°15' East 1,539.6 feet to a point in the center of County Road No. 1308, from which point an iron pipe

LEGAL DESCRIPTION

bears North 0°15' West 34.1 feet; thence South 60°01' West in the center of County Road No. 1308 a distance of 1,112.8 feet to a point on the West line of that certain tract of land conveyed to Herman Krause by Deed as recorded on Page 186, of Deed Book 126; thence North 0°17' West along said West line a distance of 2,077.7 feet to the place of beginning.

EXCEPTING THEREFROM a strip of land which is described as follows:

Beginning at the Northwest corner of the above described tract, and running thence South 0°17' East along the West line thereof a distance of 2,077.7 feet to a point in the center of County Road No. 1308; thence North 60°01' East in the center of said road 19.0 feet to a point; thence North 0°17' West 2,068.5 feet to a point on the North line of the above described tract; thence South 88°56' West 16.5 feet to the place of beginning.

EXCEPT from the above described tracts those portions thereof conveyed by Deeds in Deed Book 220, Page 19, and Deed Book 308, Page 326 and any portion thereof South of S.W. Kammrow Avenue.

ALSO EXCEPTING THEREFROM that portion lying within the Bonneville Power Administration Right of Way, being more particularly described in Declaration of Taking, recorded May 22, 1939, in Deed Book 180, Page 501.

FURTHER EXCEPTING a portion of that tract of land described in Warranty Deed to Richard G. Scott in Deed Book 176, Page 161 which lies Easterly of the East line of the Bonneville Power Administration right of way.

TOGETHER WITH a perpetual easement over and upon the following described land for ingress and egress over, across and upon said parcel of land; for use thereof for customary agricultural purposes, except as herein limited; for the use of any well or natural springs or water courses thereon and the water therefrom; and for laying and maintaining water pipes under, upon and across said parcel of land; all in such manner as in the opinion of the United States Bonneville Power Administration will not interfere with the use and occupancy of said parcel of land by said Power Administration for the present or future construction, operation and maintenance of an electric power transmission and distribution system thereon with wires and appurtenances convenient thereto, said land being described as:

PARCEL I:

A parcel of land containing 1.93 acres and being all that portion of the Southwest one-quarter of Section 16, Township 2 South, Range 1 West of the Willamette Meridian, in the County of Washington and State of Oregon, lying South of the center line of the Tualatin River, which lies within a strip of land 100 feet in width of which 75.0 feet lie on the Westerly side of a 25.0 foot line on the Easterly side of the Vancouver-Eugene Transmission Line Survey; said survey line being located as follows:

Beginning at a point which is the intersection of said survey line with the North line of the Northwest one-quarter of said Section 16, said point being South 89°38'04" West along said North line a distance of 826.82 feet from the one-quarter section corner common to Sections 9 and 16, Township 2 South, Range 1 West of the Willamette Meridian, in the County of Washington and State of Oregon; thence running South 33°15'00" East a distance of 365.50 feet to an angle point; thence South 0°31'30" East a distance of 4,957.41 feet to a point on the South line of the Southwest one-quarter

LEGAL DESCRIPTION

of said Section 16, said point being North $89^{\circ}14'26''$ East, a distance of 2,029.58 feet from the section corner common to Sections 16, 17, 20 and 21, Township 2 South, Range 1 West of the Willamette Meridian.

PARCEL II:

A parcel of land containing 3.86 acres and being all that portion of that property lying in the Northwest one-quarter of Section 21, Township 2 South, Range 1 West of the Willamette Meridian, in the County of Washington and State of Oregon, described as beginning at an iron pipe on the North line of said Section 21, a distance of 1,314 feet East of the Northwest corner of said section; thence East along the North line of said Section 21 a distance of 967.9 feet to an iron pipe; thence South $0^{\circ}15'$ East 1,539.6 feet to a point in the center of County Road No. 1308; thence South $60^{\circ}01'$ West in the center of said road a distance of 1,112.8 feet to a point on the West line of that tract of land conveyed to Herman Krause by Deed recorded in Deed Book 126, Page 186; thence North $0^{\circ}17'$ West along said West line a distance of 2,077.7 feet to the place of beginning, which lies within a strip of land 100 feet in width, of which 75.0 feet lie on the Westerly side and 25.0 feet lie on the Easterly side of the Vancouver-Eugene Transmission Line Survey, said survey line being located as follows:

Beginning at a point which is the intersection of said survey line within the North line of the Northwest one-quarter of said Section 21, said point being North $89^{\circ}14'26''$ East a distance of 2,029.58 feet from the section corner common to Sections 16, 17, 20 and 21, Township 2 South, Range 1 West of the Willamette Meridian, in the County of Washington and State of Oregon; thence running South $0^{\circ}31'30''$ East, a distance of 5,283.90 feet to a point on the South line of the Southwest one-quarter of said Section 21, said point being South $89^{\circ}30'30''$ West along said South line a distance of 524.12 feet from the one-quarter section corner common to Sections 21 and 28, Township 2 South, Range 1 West of the Willamette Meridian.

FOR SALE

Approximately 155.3 Acres

On Hwy. 99 between King City and Sherwood



Marketed by:

Jim Falconer

**Lutz
Snyder**
REALTORS



No warranty or representation expressed or implied is made as to the accuracy of the information contained herein and the advertiser makes no representation or warranty as to the accuracy of the information contained herein. The advertiser is not responsible for any errors or omissions that may appear hereon. The advertiser is not responsible for any errors or omissions that may appear hereon.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING) RESOLUTION NO. 95 -2128
THE EXECUTIVE OFFICER TO ENTER)
INTO AGREEMENT TO OPTION PROPERTY) Introduced by Mike Burton,
IN THE NEWELL CREEK TARGET AREA) Executive Officer

WHEREAS, In July 1992, Metro completed the Metropolitan Greenspaces Master Plan which identified a desired system of natural areas interconnected with greenways and trails; and

WHEREAS, Acquisition of natural areas from willing sellers is a primary strategy for preservation of natural areas; and

WHEREAS, The Option To Purchase Real Property Agreement is part of Metro's Options Demonstration Project approved by Council Resolution No. 93-1832; and

WHEREAS, Funds to obtain options from willing sellers to purchase land are allocated via Council Ordinance No. 93-511; and

WHEREAS, A Process for Considering and Executing Options to Purchase Lands was adopted by Council Resolution No. 94-1919; and

WHEREAS, The property, as indicated in Exhibit A, is in a target area as set out in Resolution No. 94 - 2011A which referred a 135.6 million dollar bond measure for public consideration on May 16, 1995; now, therefore,

BE IT RESOLVED,

That the Metro Council authorizes the Executive Officer to enter into an agreement as attached in Exhibit A.

ADOPTED by Metro Council this _____ day of _____, 1995.

J. Ruth Mc Farland , Presiding Officer

Staff Report

CONSIDERATION OF RESOLUTION NO. 95 -2128, FOR THE PURPOSE OF ENTERING INTO AN AGREEMENT FOR AN OPTION FOR PROPERTY IN THE NEWELL CREEK TARGET AREA

Date: 3 April 1995

Presented by: Nancy Chase

PROPOSED ACTION

Resolution No. 95 -2128 requests the approval of a resolution to authorize the Executive Officer to execute an agreement with Applied Resources Inc., Northridge Investment Co. and Spirit, Inc. for the option to purchase property in the Newell Creek Target Area..

BACKGROUND AND ANALYSIS

The Options Demonstration Project approved by Council Resolution 93 -1832 provided funds to obtain options from willing sellers. The properties selected by this project are to be located in either local or regional Greenspace target areas.

This option is for property, within the Newell Creek Target Area, which is a regional target area. The property consists of two parcels totaling approximately 45 acres. Twenty five of these acres are zoned single family residential. The remaining acreage is outside the Urban Growth Boundary and is zoned for forest use. This parcel may have timber value.

The property contains numerous springs and a year round tributary to Newell Creek. Since Newell Creek still provides salmon, trout and steelhead habitat, control of a major tributary is important. The property was logged over 50 years ago and most of the site is now heavily forested with a wide variety of native vegetation.

More detailed information on the option is available upon request.

BUDGET IMPACT

The owners have set a base price which is subject to verification by an appraisal. The offer allows for \$10,000 in option money. The option money will be used for an independent appraisal. Metro will select the appraiser from a list of qualified appraisers supplied by the owner. The option will need to be exercised by June 12, 1995. Option money has been budgeted in the 94/95 FY. Acquisition funds are subject to passage of the Open Space bond measure scheduled for May 16, 1995. The Newell Creek Target area is budgeted to receive \$6.7 million dollars for land acquisition.

OPTION TO PURCHASE REAL PROPERTY

THIS OPTION AGREEMENT (the "Agreement") is made and entered into by and between Applied Resources, Inc., Northridge Investment Co., Spirit, Inc., others who may be in title, et. al. (the "Seller") and Metro, a municipal corporation of the state of Oregon organized under Oregon Revised Statutes, chapter 268, and the 1992 Metro Charter (the "Buyer"), this _____ day of April, 1995.

1. Grant of Option. Seller, in consideration of the sum of \$10,000, does hereby grant to Buyer the sole, exclusive and non-assignable option to purchase the real property described in Exhibit "I" attached and incorporated by this reference into this Agreement (the "Property") in the manner and for the price stated in this Agreement.

2. Option Terms.
 - 2.1 Term. This Agreement shall become effective (the effective date) on that date executed by Seller, provided that within 14 days thereafter, Buyer formally accepts the agreement and delivers to Seller a fully executed agreement and delivers to escrow the *Option Money* as provided in Section 3. The term of the option shall commence on the effective date and shall continue for a period ending no later than June 12, 1995.

 - 2.2 Exercise of Option. Buyer may exercise this option by written notice to Seller at any time during the term stating that Buyer has elected to exercise the option. Upon exercise of this option, Buyer shall be obligated to purchase the Property from Seller and Seller shall be obligated to sell the Property to Buyer for the price and in the manner herein set forth. Further, it is the intent of the Buyer that the option shall be exercised when the Bond Measure election scheduled for the May 16, 1995 is successful with time added for a recount if needed; hence the June 12, 1995 date for the end of the term. In the event the Buyer exercises the option the Buyer shall proceed to closing with all due diligence.

 - 2.3 Failure to Exercise Option. If Buyer fails for any reason to exercise this option in the manner set forth herein, Buyer shall have no further claim against or interest in the Property or any of the Option Money Payments, unless Buyer is entitled to a refund of the Option Money Payments under another provision of this Agreement. In the event of the failure to exercise the option, Buyer shall provide Seller with any instruments that Seller reasonably may deem necessary for the purpose of removing from the public record any

cloud on title to the Property which is attributable to the grant or existence of this option.

3. Option Money. In payment for Seller's grant of this option, Buyer will pay \$10,000.00 non-refundable option payment, mentioned in Section 1, into an escrow for the purpose stated in Section 4 herein, which sum shall not be applied to the purchase price.
4. Purchase Price and Terms. If the Buyer exercises this option the purchase price shall be \$1,115,000.00. The parties agree the property shall be appraised based on the highest and best of the property as determined in a full narrative written appraisal prepared by a State Certified Appraiser. The appraisal shall not modify the purchase price. ~~Buyer~~ ^{Seller} shall submit a list of five appraisers with competency in the appraisal of raw subdivision land. Buyer shall select the appraiser to perform the appraisal from the Seller's list and assign the problem to the selected appraiser. Upon completion of the appraisal the appraiser shall submit it to the Buyer for review. A summary of the appraisal shall be delivered to the Seller by the fastest method reasonably possible.

Upon completion of the appraisal the appraiser shall submit his invoice for payment to escrow to receive payments for services performed. Escrow will be instructed to pay the appraiser's fee not to exceed the amount of the option payment deposit (\$10,000.00). Escrow will be further instructed that immediately after payment of the appraiser's fee the Seller shall be notified and the remaining funds shall be paid to the Seller upon demand. In the event Buyer exercises this option then costs incurred for the appraisal shall be paid to Seller at closing in addition to the purchase price.

In the event the appraised value is at least 80% of the purchase price Buyer shall exercise the option under the terms prescribed in Subsection 2.2 herein and proceed to close forthwith. In the event the appraised value is less than 80% of the purchase price, the Buyer may elect to exercise the option at said purchase price under the terms at its sole discretion. However, if the Buyer does not wish to close at the said purchase price, notice shall be given to Seller within 14 days of the receipt of said appraisal but not later than June 12th, 1995. In the event such a notice is given Seller or the Buyer, independent of one to the other, may declare this agreement null and void and of no further binding effect on either party.

The entire balance of the purchase price, plus or minus any adjustments provided for in this agreement, shall be paid at closing.

5. Recording. On the effective date, Seller shall execute, acknowledge and deliver to Buyer a memorandum in the form attached as Exhibit III. In the event Buyer fails to exercise the option before the term expires, the memorandum will automatically terminate on that date and the Seller will not have to seek a release or quitclaim deed. Buyer shall record the memorandum.

6. **Possession.** Possession of the Property shall remain with Seller, subject to the covenants in this Agreement, until Buyer exercises the option and closing of the sale of the property. Buyer shall be entitled to exclusive possession of the Property on and after the closing date.

7. **Access to Property.** Seller grants to Buyer and its agents the right to enter on the Property at any reasonable times before the closing date for the purpose of conducting tests or studies that Buyer may deem necessary or appropriate in connection with its acquisition of the Property. Seller shall cooperate with Buyer in making such tests and studies. The cooperation of the Seller shall in no way make the Seller liable for any costs arising from the activities of the Buyer. The costs of all such tests and/or studies attributable to the Buyer shall be paid by the Buyer and any costs for permits or license required for the performance of the tests and or studies shall be the sole responsibility of the Buyer. No soil tests or drilling shall be undertaken without first obtaining Seller's approval and that of any appropriate governing body with respect to the agents retained to perform such work and the location and purpose of the tests or drilling. Buyer shall not interfere with or disturb the rights of any tenants of Seller in possession of any portion of the Property. Buyer shall protect, defend, and hold Seller harmless from any loss, liability, or damage to persons or property arising out of or related to Buyer's activities on the Property. If Buyer fails to exercise the option and purchase the Property, Buyer shall fully compensate Seller for any physical damage to the Property or charge on it attributable to Buyer's activities pursuant to this paragraph. In the event Buyer fails to exercise the option, Buyer shall deliver to Seller a legible copy of any reports, studies, and drawings owned by Buyer that relate to the Property.

8. **Covenants of Seller.** Seller acknowledges that the Covenants of Seller contained in this Agreement, including the Covenants contained in this Section 8 (the "Covenants"), are material inducements to Buyer to enter into this Agreement. The Covenants specifically delineated in this section are the following:
 - 8.1 **Information.** Seller agrees to deliver to Buyer, within 20 days after the effective date, photocopies of all documents related to the use or ownership of the Property that Seller possesses, including (without limitation) all studies, reports, aerial photographs, and other documents of a like nature.
 - 8.2 **Maintenance.** Before the Closing Date, Seller shall maintain the Property in the same condition as it now exists, ordinary wear and tear excepted, and shall not cause or permit any waste.
 - 8.3 **Seller's Promise to Remove Personal Property.** Before the Closing Date, Seller promises to remove or cause to be removed from the Subject Property at Seller's expense any and all personal property and/or trash, rubbish, or any

other foreign objects and/or materials deposited by Seller, unless otherwise agreed to in writing by Buyer.

- 8.4 **Covenant to Maintain Property in Natural State.** Seller, its successors and assigns hereby covenants, promises, agrees to maintain the Property and retain the vegetation, water ways, wet lands, fauna, earth and any other natural thing which may exist on the property. Except that the Seller may complete such work and provide minimal sight corridors for certain instruments used for surveying and engineering tasks related approval of Seller's planned development.
- 8.5 **Ownership.** During the term, Seller shall not sell, contract to sell, assign, lease, or otherwise transfer the Property or any part of it, unless it is transferred subject to this option.

Upon the passage of the Bond Measure, Seller would start the proceedings with the City of Oregon City to partition off the property being sold to the Buyer from the portion that is being retained by Seller. Said portion being retained by the Seller has 60 feet of frontage on Beaver Creek Road and lies westerly of Tax Lot 204. The partitioned property being transferred to the Buyer in the event this agreement is closed shall have access to Beaver Creek Road by way of the easement described in the Statutory Warranty Deed (Balcom to Northridge Investment Co.) recorded December 4, 1989 as Fee No. 89-54178 and by this reference is made a part hereof (see Exhibit II [pages 1-7] attached hereto). Said partitioning would be completed prior to closing.

9. Seller's Representations.

- 9.1 Seller has full power and authority to enter into this Agreement (and the persons signing this Agreement for Seller, if Seller is not an individual, have full power and authority to sign for Seller and to bind it to this Agreement) and to sell, transfer and convey all right, title, and interest in and to the subject Property in accordance with this Agreement.
- 9.2 The subject Property has legal vehicular access to a public road. Reference to the existing deed given by the Balcoms which describes an access to the Subject Property and which is to be assigned to the Buyer is hereby noted.
- 9.3 No one other than Seller will be in possession of any portion of the subject Property at the close of escrow.

- 9.4 There is no suit, action, arbitration, legal, administrative, or other proceeding or inquiry pending or threatened against the subject Property, or any portion thereof, or pending or threatened against Seller which could affect Seller's title to the subject Property, or any portion thereof, affect the value of the subject Property or any portion thereof, or subject an owner of the subject Property, or any portion thereof, to liability. Except for appeals pending before the Land Use Board of Appeals and related actions. And except that Applied Resources, Inc. interest in the Subject Property may be subject to Federal Tax Lien recorded August 22, 1994 as recorder's Fee No. 94-067042 in the amount of \$1,467,342.00. Serial No. is 939410863. The lien is to be released at the time of closing.
- 9.5 There are no:
- (a) Intended public improvements or private rights which will result in the creation of any liens upon the subject Property or any portion thereof except that the Buyer accepts responsibility for those certain requirements imposed on Seller by the City of Oregon City per the existing Final Order to develop Newell Creek Homesites;
 - (b) Uncured notices which have been served upon Seller from any governmental agency notifying Seller of any violations of law, ordinance, rule or regulation which would affect the subject Property or any portion thereof;
 - (c) Actual or impending mechanic's liens against the subject Property or any portion thereof; and
 - (d) Notices or other information giving Seller reasonable grounds to believe that any conditions existing on the subject Property or in the vicinity of the subject Property or in ground or surface waters associated with the subject Property may have a physical affect on the property and accordingly may have a material effect on the value of the Subject Property or subject the owner of the Subject Property to potential liabilities under environmental laws.
- 9.6 There is no lease, license, permit, option, right of first refusal, or other agreement, written or oral, which affects the subject Property or any portion thereof except that the property is subject to a Joint Venture Agreement. Buyer accepts the easement over the Newell Creek Homesites portion of the sale benefiting the northern most 20 acre portion of the sale.

- 9.7 Neither the grant nor the exercise of the option will constitute a breach or default under any agreement to which Seller is bound and/or to which the subject Property is subject.
- 9.8 Hazardous Substances. For purposes of this subsection, the phrase "Hazardous Substances" has the same meaning as is designated in ORS 465.200(9). Seller warrants, represents, and covenants as follows:
- (a) To the knowledge of Seller, there are no Hazardous Substances in, upon, or buried on or beneath the Property and no Hazardous Substances have been emitted or released from the Property in violation of any environmental laws of the federal or state government;
 - (b) To the knowledge of Seller, no underground storage tanks are located on the Property, including (without limitation) any storage tanks that contain, or previously contained, any Hazardous Substances, and Seller agrees not to cause or permit any such tanks to be installed in the Property before Closing.
- 9.9 Status of Seller. Seller warrants that Seller is not a foreign person, foreign partnership, foreign corporation, or foreign trust, as those terms are defined in IRC § 1445.

Each of the above representations is material and is relied upon by Buyer. Each of the above representations shall be deemed to have been made as of the close of escrow and shall survive the close of escrow. Seller shall indemnify, defend with counsel of Buyer's choice and hold Buyer harmless from all expense, loss, liability, damages and claims, including Buyer's attorney fees, if necessary, arising out of the breach of any of Seller's warranties, representations, and covenants. Upon close of escrow, if Buyer so requests, Seller shall deliver to Buyer a certificate in a form satisfactory to Buyer's counsel stating that each of the above representations is true and current as of the close of escrow.

If, before the close of escrow, Seller discovers any information or facts that would materially change the foregoing warranties and representations, Seller shall immediately give notice to Buyer of those facts and information. It shall be Buyer's duty to give Seller written notice of all matters which come to Buyer's attention which could be construed to relate to an alleged breach of Seller representations or warranties hereunder within 30 days of the date such information first comes to Buyer. If any of the foregoing representations and warranties cease to be true before the close of escrow, Seller shall be obligated

to use its best efforts to remedy the problem before the close of escrow. If the problem is not remedied before close of escrow, Buyer may elect to either (a) terminate this Agreement in which case Buyer shall have no obligation to purchase the subject Property, or (b) defer the Closing Date until such problem has been remedied. Buyer's election in this regard shall not constitute a waiver of Buyer's rights in regard to any loss or liability suffered as a result of a representation or warranty not being true, nor shall it constitute a waiver of any other remedies provided in this Agreement or by law or equity. Buyer's damages claims shall be limited to the actual amount of any Option Money paid to and received by Seller while equitable remedies shall be reserved as specified in Section 10 herein.

10. Remedies Upon Default. In the event Seller defaults in the performance of any of Seller's obligations under this Agreement, Buyer shall, in addition to any and all other remedies provided in this Agreement or by law or equity, have the right of specific performance against Seller however, Buyer's damage claims are limited to the actual amount of any Option Money paid to and received by Seller. In the event Buyer defaults in the performance of any of its obligations under this Agreement, Seller shall have the right to retain the option consideration without thereby waiving Seller's right to recover damages for breach of contract or any other remedy provided in this Agreement or by law or equity.
11. Property Taxes and Expenses. During the term of this option, Seller shall pay all taxes, assessments, and expenses related to the Property. Property taxes shall be prorated as of the Closing Date.
12. Closing.
 - 12.1 Time and Place. Closing of the sale and purchase of the Property (the "Closing") shall occur on or before July 31, 1995 or as soon thereafter as Seller can complete the partition discussed in Subsection 8.5 herein. The escrow for the Closing shall be established at the office of First American Title Co., 200 S.W. Market St., Suite 1776, Portland, OR 97201-5786. The Escrow Officer shall be Patricia Parsons or that person selected by Seller. Phone 503-795-7600, Fax 503-795-7614.
 - 12.2 Closing Obligations. On the Closing Date, Seller and Buyer shall deposit the following documents and funds in escrow, and the Title Company shall close escrow in accordance with the instructions of Seller and Buyer.
 - 12.2.1 Seller shall deposit the following:
 - (a) The conveyance documents described in Section 13, duly executed and acknowledged;

- (b) A duly executed affidavit certifying that Seller is not a foreign person, trust, partnership, or corporation in compliance with the requirements of IRC § 1445;
- (c) Original counterparts of legible photocopies of all documents, feasibility studies, surveys, engineering reports, and other items of a similar nature in the possession of Seller that relate to the Property;
- (d) Such documents as the Title Company may require to evidence the authority of Seller to consummate this transaction; and
- (e) Such other documents and funds, including (without limitation) escrow instructions, as are required by Escrow of Seller to close the sale in accordance with this Agreement.

12.2.2 Buyer shall deposit the following:

- (a) The cash payment specified in Section 4, minus any credits available to Buyer under the terms of this Agreement;
- (b) Such documents as the Title Company may require to evidence the authority of Buyer to consummate the transaction contemplated; and
- (c) Such other documents and funds, including (without limitation) escrow instructions, as are required by Escrow of Buyer to close the sale and purchase of the Property in accordance with this Agreement.

12.3 Costs. Buyer and Seller each shall pay one-half of the escrow fee of the Title Company with respect to the Closing. Seller shall pay the premium for the title insurance policy that Seller is obligated to provide to Buyer, and for all conveyance or excise taxes payable by reason of the purchase and sale of the Property. Buyer shall pay the fee (exclusive of any conveyance or excise tax) for recording the conveyance documents referred to herein.

12.4 Prorations. All items of expense incurred by Seller with respect to the Property shall be paid by Seller at Closing, without proration. All real property taxes and assessments payable with respect to the tax year in which Closing occurs shall be prorated between Seller and Buyer as of the Closing Date.

- 12.5 **Title Insurance Policies.** As soon as practicable after Closing, and in any event no later than 30 days after the Closing Date, Seller shall cause the Title Company to issue at Seller expense its standard form Owner's ALTA Title Insurance Policy, with extended coverage, in the amount of the purchase price, insuring fee simple title to the Property vested in Buyer, subject only to the exceptions approved by Buyer as published by the Title Company and those exceptions permitted by references herein.
13. **Conveyance.** At the Closing, Seller shall execute, acknowledge, and deliver to Buyer a Statutory Warranty Deed conveying the Property to Buyer, subject only to the exceptions approved by Buyer as published by the Title Company and those exceptions permitted by references herein.
14. **Waiver.** Failure by Seller or Buyer to enforce any right under this Agreement shall not be deemed to be a waiver of that right or of any other right.
15. **Successors and Assigns.** Subject to the limitations on Seller's right to convey the Property set forth elsewhere herein, the terms, covenants, and conditions herein contained shall be binding on and inure to the benefit of the heirs, successors, and assigns of Seller and Buyer.
16. **Notices.** All notices required or permitted to be given shall be in writing and shall be deemed given and received upon personal service or deposit in the United States mail, certified or registered mail, postage prepaid, return receipt requested, addressed as follows:

To Seller: Northridge Development Co.
1001 Molalla Ave., Suite 214
Oregon City, OR 97045

To Buyer: Metro
Attention: Nancy Chase
600 NE Grand Ave.
Portland, OR 97232-2736

The foregoing addresses may be changed by written notice, given in the same manner. Notice given in any manner other than the manner set forth above shall be effective when received by the party for whom it is intended.

17. **Commissions.** Buyer represents that it has not used a commissioned real estate broker in connection with this Agreement or the transaction contemplated by this

Agreement. Seller is represented by Builder's Realty, Inc. an Oregon licensed real Estate Brokerage Firm. Seller will compensate Builder's Realty, Inc. for their services. The principals in Builder's Realty, Inc., Lloyd Farley and Daniel R. Adams, are licensed real estate brokers in the State of Oregon and are officers and/or principals in two of the selling entities, Northridge Investment Co. and Spirit, Inc. In the event any person asserts a claim for a broker's commission or finder's fee against one of the parties to this Agreement, the party against whom the claim is asserted will hold the other party harmless from said claim except in the case of Builder's Realty, Inc. claims against the Seller.

18. Risk of Loss. Seller shall bear the risk of all loss or damage to the Property from all causes, through the Closing Date. If, before the Closing Date, and regardless of whether the exercise notice has yet been given or is subsequently given, all or part of the Property is damaged by fire or by any other cause of any nature or if all or any portion of the Property is taken by condemnation, or if any such condemnation is threatened, Seller shall give Buyer written notice of such event. Buyer may terminate this Agreement by giving written notice to Seller within 15 days following receipt by Buyer of written notice from Seller of such casualty or condemnation and Seller will return to Buyer the Option Money Payments previously paid less any amount paid for the appraisal.
19. Integration, Modification, or Amendments. This Agreement contains the entire agreement of the parties with respect to the Property and supersedes all prior written and oral negotiations and agreements with respect to the Property. Any modifications, changes, additions, or deletions to this Agreement must be approved by Seller and Buyer, in writing.
20. Representation. Seller and Buyer have each been represented by separate legal counsel of choice with respect to this transaction. Except as otherwise provided in Section 17, each party shall be responsible for all attorney fees incurred by it with respect to this Agreement.
21. No Merger. The obligations contained in this Agreement, except for those specifically discharged in escrow (such as conveyance title to the subject Property and delivery of money and documents in the escrow), shall not merge with transfer of title but shall remain in effect until fulfilled.
22. Governing Law; Interpretation. This Agreement shall be governed by the laws of Oregon. In the event a court of competent jurisdiction holds any portion of this Agreement to be void or unenforceable as written, Seller and Buyer intend that (a) that portion of this Agreement be enforced to the extent permitted by law, and (b) the balance of this Agreement remain in full force and effect.
23. Time is of the Essence. Time is of the essence of this Agreement.

24. Statutory Disclaimer. THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Executed and effective on the day and year first above written.

SELLER:

APPLIED RESOURCES, INC.

By: X

Name: JAMES WELSH

Title: PRES.

SELLER:

NORTHRIDGE INVESTMENT Co.

By: Lloyd M. Farley

Name: Lloyd M. FARLEY

Title: PRES.

SELLER:

By: _____

Name: _____

Title: _____

BUYER:

SPIRIT, INC.

By: Lloyd M. Farley

Name: Lloyd M. FARLEY

Title: PRES.

Attachments:

- Exhibit I: Property Legals
- Exhibit II: 1989 Statutory Warranty Deed
- Exhibit III: Form of Memorandum
- Tax Map

Exhibit I

These legal descriptions of the three parcels to be transferred to Metro in the event the option, of which this exhibit is a part, is exercised according to its tenets are not wholly correct until certain land surveys can be completed before the closing of the agreement. However, for the purposes of the option the legal descriptions are sufficient during this interim period. The legal description of Parcel II is considered to be correct in its present form but it too will be verified at the time that Parcels I and III are surveyed for final accuracy.

PARCEL I

A part of Section 5, Township 3 South, Range 2 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

Beginning at the Northeast Corner of the Samuel N. Vance Claim No. 51 and running thence North on line between Sections 4 and 5, Township 3 South, Range 2 East, of the Willamette Meridian, 16.00 chains to a stake, 6.64 chains North of the one-quarter section corner on said section line; thence West 12.80 chains to a stake; thence South 15.50 chains to a stone; thence West 14.24 chains to a stake; thence South 25° 30' East 5.80 chains; thence East 80 feet; thence North 25° 30' West 5.25 chains to a stake; thence East 33 feet to a stake; thence South 25° 30' East 933 feet to an iron pipe; thence South 19° West 355.8 feet, more or less, to a point on the Northerly right of way line of Beaver Creek Road; thence Easterly, along said right of way to an intersection with the East line of the Samuel Vance Donation Land Claim; thence North 17° 12' East along said donation land claim line 21.94 chains, more or less, to the point of beginning.

EXCEPTING THEREFROM a tract described as follows:

Beginning at the Southwest corner of the hereinabove described tract; thence Easterly, along the Northerly right of way line of Beaver Creek Road, a distance of 60 feet to the true point of beginning; thence continuing Easterly, along said right of way line, 372 feet to an iron pipe; thence North 19° East 400 feet; thence Westerly, parallel with the Northerly right of way line of said Beaver Creek Road, 372 feet to a point North 19° East of the true point of beginning; thence South 19° West 400 feet to the true point of beginning.

EXCEPTING THEREFROM that tract of land conveyed to Paul N. Rumbold, et ux, by Deed recorded as Recorder's Fee No. 72 8435.

ALSO EXCEPTING THEREFROM that tract of land conveyed to John A. Hinds, et al, by Contract recorded September 7, 1979 as Recorder's Fee No. 79 39334.

ALSO EXCEPTING THEREFROM that portion conveyed to Jerry L. Yarberry, et al, by Contract recorded September 12, 1986 as Recorder's Fee No. 86 34288.

ALSO EXCEPTING THEREFROM the North 16.00 chains of the East 12.80 chains lying North of the North line of the Samuel N. Vance Donation Land Claim.

ALSO EXCEPTING THEREFROM that portion lying Southerly and Easterly of the following described line:

Beginning at the Southwest corner of the hereinabove described tract; thence Easterly, along the Northerly right of way line of Beaver creek Road, a distance of 60 feet to the true point of beginning; thence continuing Easterly, along said right of way line, 372 feet to an iron pipe; thence North 19° East 200 feet to the beginning of the line to be described; thence East to an intersection with the West line of said Portland General Electric easement as recorded in Book 615, Page 556 on December 28, 1962; thence in a Southeasterly direction at right angles to said Westerly line of said easement 35 feet; thence North 45° 18' 30" East to a point on the Easterly line of the Samuel N. Vance Donation Land Claim and the terminus of the herein described line. 1-9-95

PARCEL II

A part of Section 5, Township 3 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

Beginning at the Northeast corner of the Samuel N. Vance Claim No. 51 and running thence North on a line between Sections 4 and 5, Township 3 South, Range 2 East, of the Willamette Meridian, 16.00 chains to a stake, 6.64 chains North of the one-quarter section corner on said section line; thence West 12.80 chains to a stake; thence South 16.00 chains to a point on the North line of the Samuel N. Vance Donation Land Claim No. 51; thence East along the North line of said donation land claim line 12.80 chains to the point of beginning. 1-9-95

PARCEL III

A part of Section 5, Township 3 South, Range 2 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

Beginning at the Northeast corner of the Samuel N. Vance Claim No. 51 and running thence North on line between Sections 4 and 5, Township 3 South, Range 2 East, of the Willamette Meridian, 16.00 chains to a stake, 6.64 chains North of the one-quarter section corner on said section line; thence West 12.80 chains to a stake; thence South 15.50 chains to a stone; thence West 14.24 chains to a stake; thence South 25° 30' East 5.80 chains; thence East 80 feet; thence North 25° 30' West 5.25 chains to a stake; thence East 33 feet to a stake; thence South 25° 30' East 933 feet to an iron pipe; thence South 19° West 355.8 feet, more or less, to a point on the Northerly right of way line of Beaver creek Road; thence Easterly, along said right of way to an intersection with the East line of the Samuel Vance Donation Land Claim; thence North 17° 12' East along said donation land claim line 21.94 chains, more or less, to the point of beginning.

EXCEPTING THEREFROM a tract described as follows:

Beginning at the Southwest corner of the hereinabove described tract; thence Easterly, along the Northerly right of way line of Beaver creek Road, a distance of 60 feet to the true point of

beginning; thence continuing Easterly, along said right of way line, 372 feet to an iron pipe; thence North 19° East 400 feet; thence Westerly, parallel with the Northerly right of way line of said Beaver Creek Road, 372 feet to a point North 19° East of the true point of beginning; thence South 19° West 400 feet to the true point of beginning.

EXCEPTING THEREFROM that tract of land conveyed to Paul N. Rumbold, et ux, by Deed recorded as Recorder's Fee No. 72 8435.

ALSO EXCEPTING THEREFROM that tract of land conveyed to John A. Hinds, et al, by Contract recorded September 7, 1979 as Recorder's Fee No. 79 39334.

ALSO EXCEPTING THEREFROM that portion conveyed to Jerry L. Yarberry, et al, by Contract recorded September 12, 1986 as Recorder's Fee No. 86 34288.

ALSO EXCEPTING THEREFROM the North 16.00 chains of the East 12.80 chains lying North of the North line of the Samuel N. Vance Donation Land Claim.

ALSO EXCEPTING THEREFROM that portion lying Northerly and Westerly of the following described line:

Beginning at the Southwest corner of the hereinabove described tract; thence Easterly, along the Northerly right of way line of Beaver Creek road, a distance of 60 feet to the true point of beginning; thence continuing Easterly, along said right of way line, 372 feet to an iron pipe; thence North 19° East 200 feet to the beginning of the line to be described; thence East to an intersection with the West line of said Portland General Electric easement as recorded in Book 615, Page 556 on December 28, 1962; thence in a Southeasterly direction at right angles to said Westerly line of said easement 35 feet; thence North 45° 18' 30" East to a point on the Easterly line of the Samuel N. Vance Donation Land Claim and the terminus of the herein described line.

1-9-95

35

Exhibit II

WARRANTY DEED - STATUTORY FORM

DON J. BALCOM and MARY A. BALCOM, husband and wife, Grantors, convey and warrant to NORTHRIDGE INVESTMENT CO., an Oregon corporation, Grantee, the following described real property free of encumbrances except as specifically set forth herein situated in Clackamas County, Oregon, to-wit:

See Exhibit "A" in two pages and Exhibit "B" in one page attached hereto and incorporated herein as though set forth verbatim.

Easement

In addition, Grantors convey and warrant to Grantee an Easement in perpetuity for ingress, egress, utilities, landscape, signage together with the right to excavate, fill and necessary additional slope easements as may be reasonably necessary in connection with all of said uses over, along and under a strip of land which shall be 60 feet wide pertaining to the primary easement (plus any required slope easements) over and along the parcel of real property described on Exhibit "C" appended hereto which, if a centerline is described shall be 30 feet in width on each side of the said centerline. It being the intention of the grant of this easement that access be provided from the public way presently known as Beaver Creek Road lying at the Southwesterly end thereof to the property described on Exhibits "A" and "B" above in this conveyance. Grantee shall have the right at its or its successors or assigns' sole election to utilize the aforesaid easement and right-of-way for the benefit of the parcels of real property described in Exhibits "A" and/or "B" or both together with such other property lying contiguous to either parcel described in Exhibit "A" and/or "B" as said Grantee, its successors or assigns shall designate in writing.

IF

The said property is free from encumbrances except building and use restrictions, zoning ordinances, real property taxes now a lien, Easement recorded Book 540, Page 40 relative to Exhibit "B"; Easement recorded Book 294, Page 461 and second Easement recorded Book 615, Page 556 relative to Exhibit "A".

The premises described in Exhibits "A", "B" and "C" are free in every respect from any and all hazardous waste, dangerous materials and/or any other substance which is or could violate any local, state or federal law, rule or regulation and Grantors will hold Grantee harmless from all claims direct or indirect including costs of defense, investigation, fines, penalties and forfeitures related thereto.

Grantee herewith assumes and agrees to pay all real property taxes now a lien including real property taxes which are subject to current foreclosure procedures by the applicable County agency. Grantee agrees to pay all of said real property

- 2 -

taxes on or before September 1, 1990 and Grantee herewith agrees to and now holds Grantors harmless from the claims attributable to the aforesaid real property taxes.

The true consideration for this conveyance is \$132,000.00.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

DATED this 22 day of November, 1989.

Don J. Balcom
DON J. BALCOM

Mary A. Balcom
MARY A. BALCOM

Don J. Balcom and
Mary A. Balcom
GRANTORS

Northridge Investment Co.
5200 S.W. Macadam, Suite 580
Portland, OR 97201
GRANTEES

AFTER RECORDING RETURN TO:
Carlton D. Warren
Attorney at Law
850 N.E. 122nd Avenue
Portland, OR 97230

UNTIL A CHANGE IS REQUESTED, ALL
TAX STATEMENTS SHALL BE SENT TO
THE FOLLOWING ADDRESS:
Northridge Investment Co.
5200 S.W. Macadam, Suite 580
Portland, OR 97201

STATE OF OREGON, County of Multnomah) ss.

Personally appeared the above named DON J. BALCOM and MARY A. BALCOM and acknowledged the foregoing instrument to be their voluntary act and deed. Before me:

Carlton D. Warren
NOTARY PUBLIC FOR OREGON
My Commission Expires: 1-5-91

Applied.37-Exhibit II

Description:

2nd AMENDED LEGAL DESCRIPTION:

A part of Section 5, Township 3 South, Range 2 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

Beginning at the Northeast corner of the Samuel N. Vance Claim No. 51 and running thence North on line between Sections 4 and 5, Township 3 South, Range 2 East, of the Willamette Meridian, 16.00 chains to a stake, 6.64 chains North of the one-quarter section corner on said section line; thence West 12.80 chains to a stake; thence South 15.50 chains to a stone; thence West 14.24 chains to a stake; thence South 25° 30' East 5.80 chains; thence East 80 feet; thence North 25° 30' West 5.25 chains to a stake; thence East 33 feet to a stake; thence South 25° 30' East 933 feet to an iron pipe; thence South 19° West 355.8 feet, more or less, to a point on the Northerly right of way line of Beaver Creek Road; thence Easterly, along said right of way to an intersection with the East line of the Samuel Vance Donation Land Claim; thence North 17° 12' East along said donation land claim line 21.94 chains, more or less, to the point of beginning.

EXCEPTING THEREFROM a tract described as follows:

Beginning at the Southwest corner of the hereinabove described tract; thence Easterly, along the Northerly right of way line of Beaver Creek Road, a distance of 60 feet to the true point of beginning; thence continuing Easterly, along said right of way line, 372 feet to an iron pipe; thence North 19° East 400 feet; thence Westerly, parallel with the Northerly right of way line of said Beaver Creek Road, 372 feet to a point North 19° East of the true point of beginning; thence South 19° West 400 feet to the true point of beginning.

EXCEPTING THEREFROM that tract of land conveyed to Paul N. Rumbold, et ux, by Deed recorded as Recorder's Fee No. 72 8435.

ALSO EXCEPTING THEREFROM that tract of land conveyed to John A. Hinds, et al, by Contract recorded September 7, 1979 as Recorder's Fee No. 79 39334.

ALSO EXCEPTING THEREFROM that portion conveyed to Jerry L. Yarberry, et al, by Contract recorded September 12, 1986 as Recorder's Fee No. 86 34288.

ALSO EXCEPTING THEREFROM the North 16.00 chains of the East 12.80 chains lying North of the North line of the Samuel N. Vance Donation Land Claim.

of the following described line: thence North and Easterly

Beginning at the Southwest corner of the hereinabove described tract; thence Easterly, along the Northerly right of way line of Beaver Creek Road, a distance of 60 feet to the true point of beginning; thence continuing Easterly, along said right of way line, 372 feet to an iron pipe; thence North 19° East 200 feet to the beginning of the line to be described; thence East to an intersection with the West line of said Portland General Electric easement as recorded in Book 615, Page 556 on December 28, 1962; thence in a Southeasterly direction at right angles to said Westerly line of said easement 35 feet; thence North 45°18'30" East to a point on the Easterly line of the Samuel N. Vance Donation Land Claim and the terminus of the herein described line.

Q.B.

Description:

A part of Section 5, Township 3 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

Beginning at the Northeast corner of the Samuel N. Vance Claim No. 51 and running thence North on a line between Sections 4 and 5, Township 3 South, Range 2 East, of the Willamette Meridian, 16.00 chains to a stake, 6.64 chains North of the one-quarter section corner on said section line; thence West 12.80 chains to a stake; thence South 16.00 chains to a point on the North line of the Samuel Vance Donation Land Claim No. 51; thence East along the North line of said donation land claim line 12.80 chains to the point of beginning.

Handwritten initials: A.B.

A part of Section 5, Township 3 South, Range 2 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

Beginning at the Northeast corner of the Samuel N. Vance Claim No. 51 and running thence North on line between Sections 4 and 5, Township 3 South, Range 2 East, of the Willamette Meridian, 16.00 chains to a stake, 6.64 chains North of the one-quarter section corner on said section line; thence West 12.80 chains to a stake; thence South 15.50 chains to a stone; thence West 14.24 chains to a stake; thence South 25° 30' East 15.80 chains; thence East 80 feet; thence North 25° 30' West 5.25 chains to a stake; thence East 33 feet to a stake; thence South 19° West 355.8 feet, more or less, to a point on the Northerly right of way line of Beaver Creek Road; thence Easterly, along said right of way to an intersection with the East line of the Samuel Vance Donation Land Claim; thence North 17° 12' East along said donation land claim line 21.94 chains, more or less, to the point of beginning.

EXCEPTING THEREFROM a tract described as follows:

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EXCEPTING THEREFROM that tract of land conveyed to Paul N. Rumbold, et ux, by Deed recorded as Recorder's Fee No. 72 8435.

ALSO EXCEPTING THEREFROM that tract of land conveyed to John A. Hinds, et al, by Contract recorded September 7, 1979 as Recorder's Fee No. 79 39334.

ALSO EXCEPTING THEREFROM that portion conveyed to Jerry L. Yarberry, et al, by Contract recorded September 12, 1986 as Recorder's Fee No. 86 34288.

ALSO EXCEPTING THEREFROM the North 16.00 chains of the East 12.80 chains lying North of the North line of the Samuel N. Vance Donation Land Claim.

ALSO EXCEPTING THEREFROM that portion lying Northerly and Westerly of the following described line;

Beginning at the Southwest corner of the hereinabove described tract; thence Easterly, along the Northerly right of way line of Beaver Creek Road, a distance of 60 feet to the true point of beginning; thence continuing Easterly, along said right of way line, 372 feet to an iron pipe; thence North 19° East 200 feet to the beginning of the line to be described; thence East to an intersection with the West line of said Portland General Electric easement as recorded in Book 615, Page 556 on December 28, 1962; thence in a Southeasterly direction at right angles to said Westerly line of said easement 35 feet; thence North 45°18'30" East to a point on the Easterly line of the Samuel N. Vance Donation Land Claim and the terminus of the herein described line.

STATE OF OREGON
County of Clatsop

I, John F. Kaufman, County Clerk, for the County of Clatsop, do hereby certify that the instrument of writing was received for recording in the records of said county at

1989 DEC 4 P11 4:14



Witness my hand and seal as above

John F. Kaufman

JOHN F. KAUFMAN
County Clerk

Recording Certificate
CCP-41 (Rev. 12-86)

89 54178

Applied.37-Exhibit II

D.B.

When recorded, mail to:
Right of Way Associates, Inc.
10186 SW Laurel Street
Beaverton, OR 97005
Attn: Nathan R. Pool, Agent

Exhibit III

MEMORANDUM OF OPTION

This is a memorandum of a certain Option Agreement dated _____, 1995, between Applied Resources, Inc., Northridge Investment Co., Spirit, Inc., and others who may be in title, et. al. ("Seller"), and Metro, an Oregon municipal corporation ("Buyer"). By said Option Agreement, Seller has granted to Buyer an exclusive option to purchase that certain real property in Clackamas County, Oregon, described in Exhibit A attached herein and incorporated herein by this reference.

Said option extends from the date of the Option Agreement through and including June 12, 1995 at which time it shall automatically expire.

The true and actual consideration paid for this option, stated in terms of dollars, is \$10,000.00.

SELLER: Northridge Investment, Inc.

By: _____
Lloyd Farley, President

STATE OF OREGON)
)
County of _____)

On this ____ day of _____, 1995, before me, a Notary Public in and for said County and State, personally appeared the within named Lloyd Farley who is proven on the basis of satisfactory evidence to be the President of the above named corporation and acknowledged that he executed the same freely and voluntarily for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above written.

Notary Public for Oregon
My Commission Expires: _____

SELLER: Spirit, Inc.

By: _____
Lloyd Farley, President

STATE OF OREGON)
)
County of _____)

On this ____ day of _____, 1995, before me, a Notary Public in and for said County and State, personally appeared the within named Lloyd Farley who is proven on the basis of satisfactory evidence to be the President of the above named corporation acknowledged that he executed the same freely and voluntarily for the purposes therein contained

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above written.

Notary Public for Oregon
My Commission Expires: _____

SELLER: Applied Resources, Inc.

By: _____
James Welsh, President

STATE OF IDAHO)
)
County of _____)

On this ____ day of _____, 1995, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named James Welsh who is proven on the basis of satisfactory evidence to be the President of the above

named corporation and acknowledged that he executed the same freely and voluntarily for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above written.

Notary Public for Idaho
My Commission Expires: _____

Additional seller, if any, shall use the space below.

24. Statutory Disclaimer. THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Executed and effective on the day and year first above written.

SELLER:

APPLIED RESOURCES, INC.
 By: X James Welsh
 Name: JAMES WELSH
 Title: PRES
4th April 1995

SELLER:

 By: _____
 Name: _____
 Title: _____

SELLER:

 By: _____
 Name: _____
 Title: _____

BUYER:

 By: _____
 Name: _____
 Title: _____

Attachments:

- Exhibit I: Property Legals
- Exhibit II: 1989 Statutory Warranty Deed
- Exhibit III: Form of Memorandum
- Tax Map

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING) RESOLUTION NO. 95 -2129
THE EXECUTIVE OFFICER TO ENTER)
INTO AGREEMENT TO OPTION PROPERTY) Introduced by Mike Burton,
IN THE NEWELL CREEK TARGET AREA) Executive Officer

WHEREAS, In July 1992, Metro completed the Metropolitan Greenspaces Master Plan which identified a desired system of natural areas interconnected with greenways and trails; and

WHEREAS, Acquisition of natural areas from willing sellers is a primary strategy for preservation of natural areas; and

WHEREAS, The Option To Purchase Real Property Agreement is part of Metro's Options Demonstration Project approved by Council Resolution No. 93-1832; and

WHEREAS, Funds to obtain options from willing sellers to purchase land are allocated via Council Ordinance No. 93-511; and

WHEREAS, A Process for Considering and Executing Options to Purchase Lands was adopted by Council Resolution No. 94-1919; and

WHEREAS, The property, as indicated in Exhibit A, is in a target area as set out in Resolution No. 94 - 2011A which referred a 135.6 million dollar bond measure for public consideration on May 16, 1995; now, therefore,

BE IT RESOLVED,

That the Metro Council authorizes the Executive Officer to enter into an agreement as attached in Exhibit A.

ADOPTED by Metro Council this _____ day of _____, 1995.

J. Ruth Mc Farland , Presiding Officer

Staff Report

CONSIDERATION OF RESOLUTION NO. 95 -2129, FOR THE PURPOSE OF ENTERING INTO AN AGREEMENT FOR AN OPTION FOR PROPERTY IN THE NEWELL CREEK TARGET AREA

Date: 3 April 1995

Presented by: Nancy Chase

PROPOSED ACTION

Resolution No. 95-2129 requests the approval of a resolution to authorize the Executive Officer to execute an agreement with Donald and Florine McEwen for the option to purchase property in the Newell Creek Target Area.

BACKGROUND AND ANALYSIS

The Options Demonstration Project approved by Council Resolution 93 -1832 provided funds to obtain options from willing sellers. The properties selected by this project are to be located in either local or regional Greenspace target areas.

This option is for property, within the Newell Creek Target Area, which is a regional target area. The property consists of approximately 9.16 acres and is accessed off Beaver Creek Lane. One acre is still in a natural state. The remaining acreage was logged several years ago and will need control of non-native vegetation (blackberry and scotchbroom). The property is zoned single family residential and is important to the Target Area because of its location in the watershed. Since Newell Creek still provides salmon, trout and steelhead habitat, control of this property is important for water quality protection as well as providing a quality experience for future users of this Greenspace.

This property is contiguous to the Applied Resources property on the east. More detailed information on the option is available upon request.

BUDGET IMPACT

The owners have set a base price which is subject to verification by an appraisal. The offer allows for \$100 in option money. If the bond measure passes Metro has until September 30, 1995 to close the transaction.

Option money has been budgeted in the 94/95 FY. Acquisition funds are subject to passage of the Open Space bond measure scheduled for May 16, 1995. The Newell Creek Target area is budgeted to receive \$6.7 million dollars for land acquisition.

OFFER TO PURCHASE REAL ESTATE

March 15, 1995

Donald and Florine McEwen (husband and wife)
2277 Buck St.
West Linn, Oregon 97068

Parcel: Newell Creek 38-2

Re: R32E05A01600

Dear Mr. and Mrs. McEwen::

Metro has reviewed the available information regarding your site and determined that the acquisition of your property would meet Metro's goals for acquisition of greenspaces. Accordingly, Metro (hereinafter Buyer) hereby tenders this offer to purchase your property which it understands to be comprised of the legal description, 32E05A Lot1600, Clackamas County, Oregon (see Exhibit A - Metes and Bounds), and to be approximately 9.16 acres in size. Said offer is subject to the following conditions:

1. **PURCHASE PRICE:** Purchase price offered by Metro for the above property is the sum of **One hundred and ninety nine thousand and No/100 Dollars (\$199,000.00)** to be paid in cash upon closing if the fair market value of this property in a full narrative written appraisal prepared by an Oregon Licensed Certified Appraiser selected by Metro is within 90% of this sum. Metro may elect to proceed to closing at the above purchase price if its appraisal of the fair market value of this property is less than 90% of the purchase price by written notice to Seller.
2. **EARNEST MONEY:** Seller, in consideration of the sum of \$100.00, does hereby grant to Buyer the sole and exclusive right to purchase the real property described in Exhibit A attached and incorporated by this reference into the Agreement (the Property) in the manner and for the price stated in this Agreement. This consideration shall be paid within 30 days of the execution of this Agreement. In the event this sale is not consummated, the Earnest Money received by the Seller shall be its sole remedy for settlement it being the intention of the parties that the Earnest Money be regarded as liquidated damages. However, the Earnest Money is returnable to the Buyer under the following circumstances: (1) The formula for the sale as outlined in Condition 1 cannot be met, (2) the bond measure mentioned in Condition 3 is not passed, (3) the Buyer does not wish to close based on its finding hazardous materials contamination as explained in

Condition 4. The Buyer, at its sole discretion, may elect to close this transaction, even if these conditions are not met, by written notice to the Seller to do so.

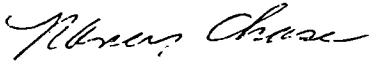
3. **VOTER APPROVAL:** This offer is expressly contingent upon approval by the voters of the greenspaces bond measure scheduled for May 16, 1995. In the event the measure does not receive voter approval this agreement is null and void.
4. **ENVIRONMENTAL ASSESSMENT:** Buyer shall have the right to conduct a preliminary environmental assessment of the property, in whatever detail Buyer determines to be necessary. The assessment shall be paid for by Buyer. Seller hereby authorizes Buyer to enter into the property at Buyer's convenience for the purpose of performing this assessment, including such tests as Buyer determines to be appropriate. If Buyer determines the property is affected by hazardous materials contamination, Buyer may at its sole discretion terminate this Agreement. If Buyer fails to perform this assessment within 60 days of satisfaction of conditions 1 and 3, this condition shall have no effect.
5. **METRO COUNCIL APPROVAL:** Notwithstanding any other provisions of this Agreement, purchase of the property is subject to approval by the Metro Council.
6. **SURVEY:** The Buyer, at its cost, shall have the Property surveyed to verify lot lines and acreage.
7. **CLOSING DATE: TIME IS OF THE ESSENCE.** It is the intention of the parties to close in a timely manner on or about September 30, 1995; however, reasonable extensions will be approved by Seller to allow Buyer to adequately assess property's utility for the buyer's purposes and to allow the appraiser to perform and complete the full narrative written appraisal mentioned in item 1, to allow adequate time for the preparation of closing documents and delivery of a marketable title.
8. **MAINTAIN PROPERTY IN ITS NATURAL STATE:** Seller(s), its successors and assigns hereby covenants, promises, agrees to maintain the Property entirely in its present condition and natural state .
9. **OWNERSHIP:** During the term of this Agreement, Seller shall not sell, assign, lease or otherwise transfer the Property or any part of it, unless it is transferred subject to this offer, nor grant an option to any third party to acquire all or any portion of it excepting for the fields that may be presently leased for the purpose of growing an annual crop.
10. **THIS SALE WILL BE CLOSED IN ESCROW:** Costs of escrow shall be shared equally between the Seller and the Buyer.
11. **POSSESSION:** Seller shall remove all personal property not sold to Buyer and deliver possession to Buyer no later than one day after closing.

12. **PRORATIONS:** Prorates for rents, current year's taxes, interest on assumed obligations, and other prepaid expenses attributable to the Property shall be as of the date Buyer is entitled to possess.
13. **TITLE INSURANCE:** As part of closing, Seller shall furnish to Buyer a title insurance policy in the amount of the purchase price showing good and marketable title. Prior to closing, Seller will furnish to Buyer a preliminary title report made by a title insurance company showing the condition of the title to the Property.
14. **BINDING EFFECT/CONSENT:** This Agreement is binding upon the heirs, personal representatives, successors and assigns of Buyer and Seller.
15. **MEDIATION/ARBITRATION IN LIEU OF LITIGATION:** Seller(s) and Buyer(s) involved in this transaction each agree that all claims, controversies or disputes whether they be statutory, contract and/or tort claims between or among Seller(s) and/or Buyers which arise out of or are related to this Offer (hereinafter collectively referred to as "Claims") shall be resolved in accordance with the mediation and arbitration procedures specified herein. The following matters are excluded from these provisions and do not constitute Claims: (a) judicial or non-judicial foreclosure, forfeiture or any other action or proceeding to enforce a trust deed, mortgage or land sale contract; (b) a forcible entry and detainer action; or (c) the filing or enforcement of a mechanics lien. The filing of a notice of pending action (lis pendens) or the application to any court having jurisdiction thereof for the issuance of any provisional process or other remedy described in Oregon rules of civil procedure 79 through 85 (or corresponding federal remedies) including a restraining order, attachment, or appointment of a receiver shall not constitute a waiver of the right to utilize the procedures specified herein. The proceeds resulting from the exercise of any such remedy shall be held by the party obtaining such proceeds, for disposition as may be determined either by an agreement of the parties pursuant to a mediation or by the arbitration award.
16. **MEDIATION:** All Claims shall be submitted to mediation in accordance with the rules and procedures of the American Arbitration Association or the Mediator mutually agreed to by the parties.
17. **ARBITRATION:** Any claim that has not been resolved by mediation (including a non-resolution due to the inability of the parties to agree upon a mediator) shall be resolved by arbitration in accordance with the then effective arbitration rules of the Arbitration Service of Portland or the American Arbitration Association, whichever organization is selected by the party who first initiates arbitration by filing a claim in accordance with the filing rules of the organization selected, and any judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof. The obligation to arbitrate shall survive closing of this transaction. In any arbitration proceeding, the parties shall be entitled to such discovery as the arbitrator deems reasonable.
18. **ATTORNEY FEES IN ARBITRATION:** The prevailing party in the arbitration shall be entitled to recover reasonable costs and attorney fees in connection therewith, and the

determination of who is the prevailing party, what are reasonable costs, and the amount of attorney fees to be paid to the prevailing party shall be decided by the arbitrator(s) (with respect to all recoverable attorney fees incurred prior to and during the arbitration proceedings) and by the court or courts, including any appellate court, that hears any exceptions made to an award submitted to it for confirmation as a judgment or that determines any application to stay arbitration or to compel arbitration with respect to a claim (with respect to attorney fees incurred in such court proceedings).

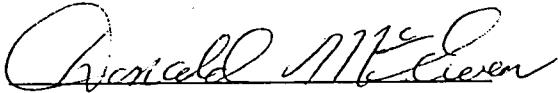
Please review this offer and indicate your acceptance by signing in the designated space below and returning one of the enclosed originals to this office. Contact me by phone at (503) 797-1845, or by FAX at (503) 797-1849 with your questions, concerns or comments.

Sincerely,



Nancy Chase, Senior Regional Planner

sellers are entering into this transaction with the express intent of doing a 1031 tax deferred exchange, at no additional cost to the purchasers. IT is also understood that seller is a licensed R.T.R. in Oregon



Donald McEwan

3-24-95

Date



Florine McEwan

3-24-95

Date

Metro
Regional Parks and Greenspaces

By: _____

_____ Date

Title: _____

THIS MAP IS FURNISHED AS A CONVENIENCE IN LOCATING PROPERTY AND THE COMPANY ASSUMES NO LIABILITY FOR ANY VARIATIONS AS MAY BE DISCLOSED BY ACTUAL SURVEY



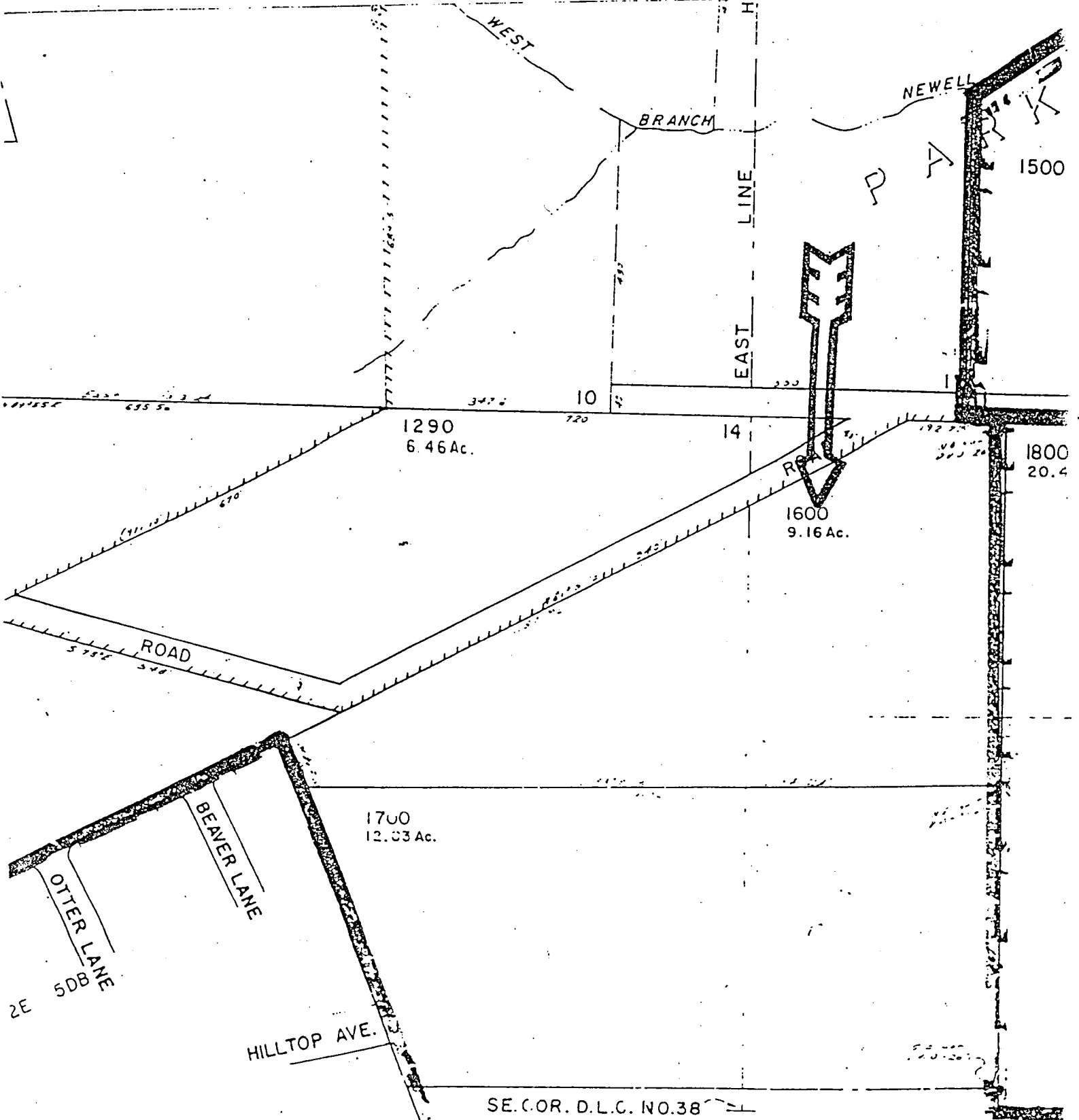
First American Title Insurance Company of Oregon

An assumed business name of TITLE INSURANCE COMPANY OF OREGON

1700 S.W. FOURTH AVENUE, PORTLAND, OR 97201-5512
(503) 222-3651



MAP 32E5A



SE. COR. D.L.C. NO.38

SEE MAP 3 2E 5D

EXHIBIT "A"

Part of the William Holmes Donation Land Claim and part of Section 5, Township 3 South, Range 2 East of the Willamette Meridian, in the City of Oregon City, County of Clackamas and State of Oregon, more particularly described as follows:

Beginning at the Northeast corner of a tract of land conveyed to Henry N. Jackson by R.G. Stingley by deed recorded in Book "O", page 265, Deed Records; thence South $0^{\circ}54'$ East on the East line of said Jackson tract, 553.74 feet to the Northeast corner of a tract of land conveyed to Gustav Schnorr by deed recorded in Book 60, page 161, Deed Records; thence South $80^{\circ}45'$ West tracing the Northerly line of said Schnorr tract, 1104.23 feet to the most Northerly Northwest corner of said Schnorr tract; thence North $21^{\circ}4'$ West 80 feet, more or less, to the Southeasterly line of that tract of land conveyed to Charles H. Gale by deed recorded in Book 60, page 239, Deed Records of Clackamas County, Oregon; thence North $61^{\circ}51'$ East along the said Southeasterly line of said Gale tract 1157 feet, more or less, to a point South $88^{\circ}59'$ West 192.77 feet from the point of beginning; thence North $88^{\circ}59'$ East 192.77 feet to the point of beginning.

TOGETHER WITH an easement for ingress and egress as contained in deed recorded August 15, 1968 as Recorder's Fee No. 68 17027.

FINAL ACKNOWLEDGMENT OF AGENCY RELATIONSHIPS

TO BE COMPLETED AT TIME OF CONTRACT & RECEIPT FOR EARNEST MONEY

3-2E-5A TL 1600 (subject property address or legal description)

The following agency relationship(s) in this transaction is (are) hereby consented to and acknowledged:

(a) Don McEwen (selling real estate licensee)

of Oregon Realty (name of real estate organization) is the agent of (check one):

the buyer exclusively as an agent of the buyer.

the seller exclusively as an agent of the seller.

both the seller and the buyer as set out in the in-company agreement.

(b) _____ (listing agent if not the same

as selling agent) of _____ (name of real estate organization) is the agent of (check one):

the seller exclusively as seller's agent.

both the seller and the buyer as set out in the in-company agreement.

ACKNOWLEDGED

Buyer: _____ Dated: _____

Buyer: _____ Dated: _____

Seller: Don McEwen Dated: 3-24-95

Seller: Flaine McEwen Dated: 3-24-95

Broker's Initials _____ Date: _____

FINAL ACKNOWLEDGMENT OF AGENCY RELATIONSHIPS



BUYER'S AGENCY DISCLOSURE ACKNOWLEDGMENT (Oregon)

INITIAL ACKNOWLEDGMENT OF PROSPECTIVE BUYER & BUYER'S LIMITED AUTHORIZATION REGARDING IN-COMPANY SALES

By my signature below, I acknowledge:

- (1) I have received and read and I understand the material set out on the back of this disclosure form.
- (2) I understand that a seller's agent, including a listing agent, is the agent of the seller exclusively, unless the seller and the buyer otherwise agree.
- (3) I understand that, unless otherwise disclosed in writing, all real estate licensees including real estate licensees participating in a multiple listing service are agents of the seller exclusively.
- (4) I understand that I may engage my own agent to be my buyer's agent.
- (5) A situation may arise wherein the licensee I have hired to be my agent may also be the agent for the seller of specific real property I wish to acquire.
- (6) If this situation arises, I authorize my agent to act as an in-company agent for that specific real property after making a reasonably diligent effort to contact me in order to obtain my consent.
- (7) I have read and understand the "In-Company Sales" section on the reverse side of this form.
- (8) The following information, which has previously been disclosed by the buyer to the agent, is confidential and is not to be disclosed to the seller:

- (9) I understand that Don McEwen of Oregon Realty, REALTORS®, the agent presenting this form to me, is (check applicable relationship):
 an agent of the seller.
 an agent as buyer's agent.

SIGNATURES:

Buyer: _____ Date: _____
Signature Print Name

Buyer: _____ Date: _____
Signature Print Name

Agent to Sign and date: Don McEwen 3-24-95 Real Estate Licensee
Name Date

Oregon Realty, REALTORS® Real Estate Organization

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING) RESOLUTION NO. 95 -2130
THE EXECUTIVE OFFICER TO ENTER)
INTO AGREEMENT TO OPTION PROPERTY) Introduced by Mike Burton,
IN THE FOREST PARK TARGET AREA) Executive Officer

WHEREAS, In July 1992, Metro completed the Metropolitan Greenspaces Master Plan which identified a desired system of natural areas interconnected with greenways and trails; and

WHEREAS, Acquisition of natural areas from willing sellers is a primary strategy for preservation of natural areas; and

WHEREAS, The Option To Purchase Real Property Agreement is part of Metro's Options Demonstration Project approved by Council Resolution No. 93-1832; and

WHEREAS, Funds to obtain options from willing sellers to purchase land are allocated via Council Ordinance No. 93 - 511; and

WHEREAS, A Process for Considering and Executing Options to Purchase Lands was adopted by Council Resolution No. 94-1919; and

WHEREAS, The property, as indicated in Exhibit A, is in a target area as set out in Resolution No. 94 - 2011A which referred a 135.6 million dollar bond measure for public consideration on May 16, 1995; now, therefore,

BE IT RESOLVED,

That the Metro Council authorizes the Executive Officer to enter into an agreement as attached in Exhibit A.

ADOPTED by Metro Council this _____ day of _____, 1995.

J. Ruth Mc Farland , Presiding Officer

Staff Report

CONSIDERATION OF RESOLUTION NO. 95 - 2130, FOR THE PURPOSE OF ENTERING INTO AN AGREEMENT FOR AN OPTION FOR PROPERTY IN THE FOREST PARK TARGET AREA

Date: 3 April 1995

Presented by: Nancy Chase

PROPOSED ACTION

Resolution No. 95 - 2130 requests the approval of a resolution to authorize the Executive Officer to execute an agreement with Poppy P. and William E. Wyatt for the option to purchase property in the Forest Park Target Area..

BACKGROUND AND ANALYSIS

The Options Demonstration Project approved by Council Resolution 93 -1832 provided funds to obtain options from willing sellers. The properties selected by this project are to be located in either local or regional Greenspace target areas.

This option is for property within the Forest Park Target Area which is a regional target area. The property, located on NW Newberry Road, is 4.75 acres in size and is zoned for one homesite. The property abuts Forest Park on the east, is fairly level and contains second growth timber. It is in close proximity to the Wildwood Trail. The purchase of this property will help expand the Park at its most narrow point. This is considered critical in preserving and enhancing the wildlife corridor. Both Portland Parks and The Friends of Forest Park support the option of this property.

More detailed information on the option is available upon request.

BUDGET IMPACT

The Wyatt's have agreed to a sale price of \$59,900, and the price is subject to verification by an appraisal. The offer allows for \$500 in option money. Option money has been budgeted in the 94/95 FY . Acquisition funds are subject to passage of the Open Space bond measure scheduled for May 16, 1995. The Forest Park Target area is budgeted to receive \$4.7 million dollars for land acquisition.

OFFER TO PURCHASE REAL ESTATE

March 9, 1995

Poppy P. and William E. Wyatt (husband and wife)
C/O Bill Bevan, Pro West Properties, Inc.
PO Box 767
Newberg OR 97132

Re: Property on SW Newberry Road, R 522702230

Dear Mr. and Mrs. Wyatt:

Metro has reviewed the available information regarding your site and determined that the acquisition of your property would meet Metro's goals for acquisition of greenspaces. Accordingly, Metro (hereinafter Buyer) hereby tenders this offer to purchase your property which it understands to be comprised of the legal description, Lot 16 Macleays Sklyine Hm. Map 5, 1N 1W, Multnomah County, Oregon (see Exhibit A - Metes and Bounds), and to be approximately 4.75 acres in size. Said offer is subject to the following conditions:

1. **PURCHASE PRICE:** Purchase price offered by Metro for the above property is the sum of **Fifty Nine Thousand and 900 Dollars (\$59,900.00)**, less earnest money, to be paid in cash upon closing if the fair market value of this property in a full narrative written appraisal prepared by an Oregon Licensed Certified Appraiser selected by Metro is within 90% of this sum. Metro may elect to proceed to closing at the above purchase price if its appraisal of the fair market value of this property is less than 90% of the purchase price by written notice to Seller(s).
2. **EARNEST MONEY:** Seller, in consideration of the sum of \$500.00, does hereby grant to Buyer the sole and exclusive right to purchase the real property described in Exhibit A attached and incorporated by this reference into the Agreement (the Property) in the manner and for the price stated in this Agreement. This consideration shall be paid within 30 days of the execution of this Agreement. In the event this sale is not consummated, the Earnest Money received by the Seller shall be its sole remedy for settlement it being the intention of the parties that the Earnest Money be regarded as liquidated damages. However, the Earnest Money is returnable to the Buyer under the following circumstances: (1) The formula for the sale as outlined in Condition 1 cannot be met, (2) the bond measure mentioned in Condition 3 is not passed, (3) the Buyer does

not wish to close based on its finding hazardous materials contamination as explained in Condition 4. The Buyer, at its sole discretion, may elect to close this transaction, even if these conditions are not met, by written notice to the Seller to do so.

3. **VOTER APPROVAL:** This offer is expressly contingent upon approval by the voters of the greenspaces bond measure scheduled for the May 16, 1995.
4. **ENVIRONMENTAL ASSESSMENT:** Buyer shall have the right to conduct a preliminary environmental assessment of the property, in whatever detail Buyer determines to be necessary. The assessment shall be paid for by Buyer. Seller hereby authorizes Buyer to enter into the property at Buyer's convenience for the purpose of performing this assessment, including such tests as Buyer determines to be appropriate. If Buyer determines the property is affected by hazardous materials contamination, Buyer may at its sole discretion terminate this Agreement. If Buyer fails to perform this assessment within 90 days of satisfaction of conditions 1 and 3, this condition shall have no effect.
5. **METRO COUNCIL APPROVAL:** Notwithstanding any other provisions of this Agreement, purchase of the property is subject to approval by the Metro Council.
6. **SURVEY:** The Buyer, at its cost, shall have the Property surveyed to verify lot lines and acreage.
7. **CLOSING DATE: TIME IS OF THE ESSENCE.** It is the intention of the parties to close in a timely manner on or about August 31, 1995; however, reasonable extensions will be approved by Seller to allow Buyer to adequately assess property's utility for the buyer's purposes and to allow the appraiser to perform and complete the full narrative written appraisal mentioned in item 1, to allow adequate time for the preparation of closing documents and delivery of a marketable title.
8. **MAINTAIN PROPERTY IN ITS NATURAL STATE:** Seller(s), its successors and assigns hereby covenants, promises, agrees to maintain the Property entirely in its present condition and natural state.
9. **OWNERSHIP:** During the term of this Agreement, Seller shall not sell, assign, lease or otherwise transfer the Property or any part of it, unless it is transferred subject to this offer, nor grant an option to any third party to acquire all or any portion of it.
10. **THIS SALE WILL BE CLOSED IN ESCROW:** Costs of escrow shall be shared equally between the Seller and the Buyer.
11. **POSSESSION:** Possession of the Property shall remain with Seller, subject to the Covenants in this Agreement, until Buyer exercises the option and Closing of the sale of the Property. Buyer shall be entitled to exclusive possession of the Property on and after the Closing Date.

12. **PRORATIONS:** Prorates for rents, current year's taxes, interest on assumed obligations, and other prepaid expenses attributable to the Property shall be as of the date Buyer is entitled to possess.
13. **TITLE INSURANCE:** As part of closing, Seller shall furnish to Buyer a title insurance policy in the amount of the purchase price showing good and marketable title. Prior to closing, Seller will furnish to Buyer a preliminary title report made by a title insurance company showing the condition of the title to the Property.
14. **BINDING EFFECT/CONSENT:** This Agreement is binding upon the heirs, personal representatives, successors and assigns of Buyer and Seller.
15. **MEDIATION/ARBITRATION IN LIEU OF LITIGATION:** Seller(s) and Buyer(s) involved in this transaction each agree that all claims, controversies or disputes whether they be statutory, contract and/or tort claims between or among Seller(s) and/or Buyers which arise out of or are related to this Offer (hereinafter collectively referred to as "Claims") shall be resolved in accordance with the mediation and arbitration procedures specified herein. The following matters are excluded from these provisions and do not constitute Claims: (a) judicial or non-judicial foreclosure, forfeiture or any other action or proceeding to enforce a trust deed, mortgage or land sale contract; (b) a forcible entry and detainer action; or (c) the filing or enforcement of a mechanics lien. The filing of a notice of pending action (lis pendens) or the application to any court having jurisdiction thereof for the issuance of any provisional process or other remedy described in Oregon rules of civil procedure 79 through 85 (or corresponding federal remedies) including a restraining order, attachment, or appointment of a receiver shall not constitute a waiver of the right to utilize the procedures specified herein. The proceeds resulting from the exercise of any such remedy shall be held by the party obtaining such proceeds, for disposition as may be determined either by an agreement of the parties pursuant to a mediation or by the arbitration award.
16. **MEDIATION:** All Claims shall be submitted to mediation in accordance with the rules and procedures of the American Arbitration Association or the Mediator mutually agreed to by the parties.
17. **ARBITRATION:** Any claim that has not been resolved by mediation (including a non-resolution due to the inability of the parties to agree upon a mediator) shall be resolved by arbitration in accordance with the then effective arbitration rules of the Arbitration Service of Portland or the American Arbitration Association, whichever organization is selected by the party who first initiates arbitration by filing a claim in accordance with the filing rules of the organization selected, and any judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof. The obligation to arbitrate shall survive closing of this transaction. In any arbitration proceeding, the parties shall be entitled to such discovery as the arbitrator deems reasonable.

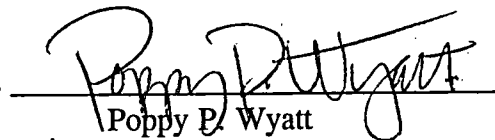
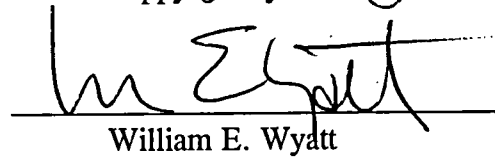
18. **ATTORNEY FEES IN ARBITRATION:** The prevailing party in the arbitration shall be entitled to recover reasonable costs and attorney fees in connection therewith, and the determination of who is the prevailing party, what are reasonable costs, and the amount of attorney fees to be paid to the prevailing party shall be decided by the arbitrator(s) (with respect to all recoverable attorney fees incurred prior to and during the arbitration proceedings) and by the court or courts, including any appellate court, that hears any exceptions made to an award submitted to it for confirmation as a judgment or that determines any application to stay arbitration or to compel arbitration with respect to a claim (with respect to attorney fees incurred in such court proceedings).

Please review this offer and indicate your acceptance by signing in the designated space below and returning one of the enclosed originals to this office. Contact me by phone at (503) 797-1845, or by FAX at (503) 797-1849 with your questions, concerns or comments.

Sincerely,



Nancy Chase, Senior Regional Planner


Poppy P. Wyatt
William E. Wyatt

15 March 95
Date

3/16/95
Date

Metro
Regional Parks and Greenspaces

By: _____

Date

Title: _____

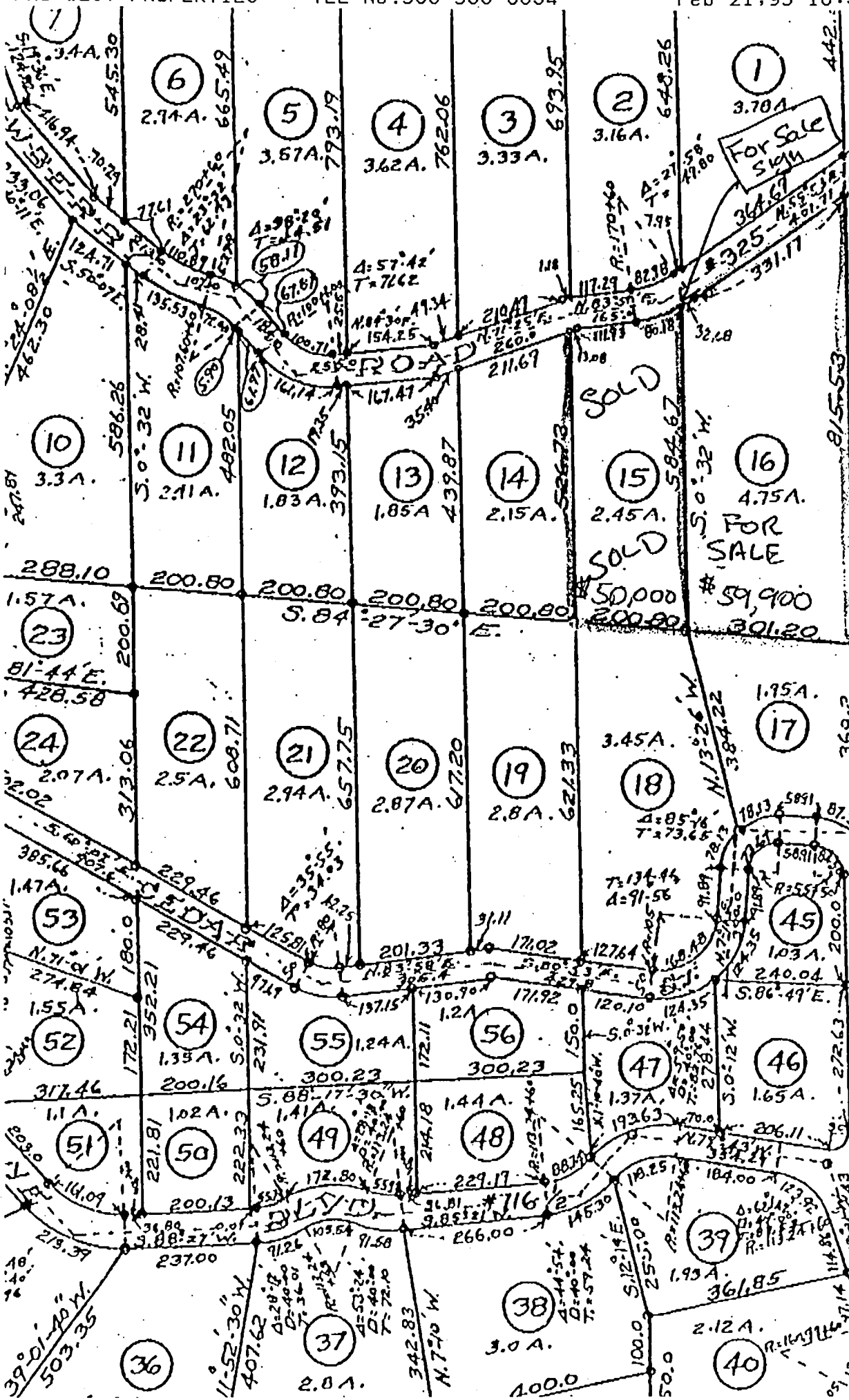
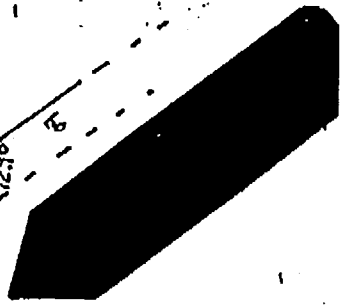


Exhibit A



H O R D I N G

S.0°-32' W. - 2584.90

Δ: 88.05
T: 77.36

Pipe for section

Δ: 43°-18'
D: 30'-00"
T: 109

CHICAGO TITLE INSURANCE COMPANY
10001 SE SUNNYSIDE ROAD
CLACKAMAS, OR 97015

Exhibit A

= METROSCAN PROPERTY PROFILE =
Multnomah County

=====

OWNERSHIP INFORMATION

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Parcel Number:R52270 2230 T:01N R:01W S:05 Q:
Map Number :51N1W
Owner :WYATT POPPY P;WILLIAM E
CoOwner :
Site Address :NW NEWBERRY RD PORTLAND 97231
Mail Address :1517 SE MAPLE AVE PORTLAND OR 97214
Telephone :

=====

SALES AND LOAN INFORMATION

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Transferred: Loan Amount :
Document # :2473-0979 Lender :
Sale Price : Loan Type :
Deed Type : Interest Rate:
% Owned : Vesting Type :

=====

ASSESSMENT AND TAX INFORMATION

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Land :\$15,000 Exempt Amount:
Structure : Exempt Type :
Total :\$15,000 Levy Code :001
% Improved: Millage Rate :23.2125
1992 Taxes :\$348.19

=====

PROPERTY DESCRIPTION

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Map Grid :
Census :Tract Block
ImprvType:A VACANT LAND
Zoning :FF
Sub/Plat :MACLEAYS SKYLINE HMS
NbrhdCode:210
Land Use :470 OTHER, AGRICULTURAL, UNIMPROVED
Legal :MACLEAYS SKYLINE HMS EXC PT IN ST
:LOT 16 SEE -2231 FOR ADD'L TAXES
:MAP 51N1W

Exhibit A

BOOK 2473 PAGE 981

EXHIBIT "A"

Lots 15 and 16, MACLEAY'S SKYLINE HOMES, in the City of Portland, County of Multnomah and State of Oregon. EXCEPT the following:

Two tracts of land in the Northeast one-quarter of Section 5, Township 1 North, Range 1 West, Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, described as follows:

PARCEL "A":

Beginning at the intersection of the South line of N.W. Newberry Road, as dedicated by the plat of MACLEAY'S SKYLINE HOMES, a recorded plat in Multnomah County, Oregon, and the West line of Lot 15 of said plat; thence North 69°49'54" East along the South line of said dedicated street 13.11 feet; thence North 62°15'54" East along the South line of said dedicated street 102.32 feet to a point; thence South 74°47'00" West a distance of 117.60 feet to a point in the West line of said Lot 15; thence North 1°03'06" West along said West line 12.58 feet to the point of beginning.

PARCEL "B":

Beginning at a point in the South line of N.W. Newberry Road as dedicated by the plat of MACLEAY'S SKYLINE HOMES, a recorded plat in Multnomah County, Oregon, said point being South 54°17'54" West 186.09 feet from the Northeast corner of Lot 16 of said plat; thence South 54°17'54" West along the South line of said dedicated street 119.66 feet to a point; thence Northeasterly along a nontangent curve to the left, having a radius of 507.50 feet, the chord of which bears North 35°54'27" East 46.77 feet, a distance of 46.79 feet; thence North 53°16'00" East a distance of 72.94 feet to the point of beginning.

106114

STATE OF OREGON }
Multnomah County

I, Clerk for the Recorder of Conveyances, in and for said County, do hereby certify that the within instrument of writing was recorded for record and entered in the record of said County.

91 MAY -1 PM 3:10

MULTNOMAH COUNTY, OREGON

In Book BOOK 2473 PAGE 979 On Page

Witness my hand and seal of office at said

Recorder of Conveyances

M Burns
Recorder

153
20

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING) RESOLUTION NO. 95 -2132
THE EXECUTIVE OFFICER TO ENTER)
INTO AGREEMENT TO OPTION PROPERTY) Introduced by Mike Burton,
IN THE FOREST PARK TARGET AREA) Executive Officer

WHEREAS, In July 1992, Metro completed the Metropolitan Greenspaces Master Plan which identified a desired system of natural areas interconnected with greenways and trails; and

WHEREAS, Acquisition of natural areas from willing sellers is a primary strategy for preservation of natural areas; and

WHEREAS, The Option To Purchase Real Property Agreement is part of Metro's Options Demonstration Project approved by Council Resolution No. 93-1832; and

WHEREAS, Funds to obtain options from willing sellers to purchase land are allocated via Council Ordinance No. 93 - 511; and

WHEREAS, A Process for Considering and Executing Options to Purchase Lands was adopted by Council Resolution No. 94-1919; and

WHEREAS, The property, as indicated in Exhibit A, is in a target area as set out in Resolution No. 94 - 2011A which referred a 135.6 million dollar bond measure for public consideration on May 16, 1995; now, therefore,

BE IT RESOLVED,

That the Metro Council authorizes the Executive Officer to enter into an agreement as attached in Exhibit A.

ADOPTED by Metro Council this _____ day of _____, 1995.

J. Ruth Mc Farland , Presiding Officer

Staff Report

CONSIDERATION OF RESOLUTION NO. 95 -2132, FOR THE PURPOSE OF ENTERING INTO AN AGREEMENT FOR AN OPTION FOR PROPERTY IN THE FOREST PARK TARGET AREA

Date: 5 April 1995

Presented by: Nancy Chase

PROPOSED ACTION

Resolution No. 95 - 2132 requests the approval of a resolution to authorize the Executive Officer to execute an agreement with JJ & Associates for the option to purchase property in the Forest Park Target Area.

BACKGROUND AND ANALYSIS

The Options Demonstration Project approved by Council Resolution 93 -1832 provided funds to obtain options from willing sellers. The properties selected by this project are to be located in either local or regional Greenspace target areas.

This option is for property within the Forest Park Target Area which is a regional target area. The property, located on NW Newberry Road, is zoned for commercial forest use but could be approved for at least one homesite. The property is 115 acres in size and was recently logged and reforested. This property is accessed off NW Newberry Road and is in the wildlife corridor connecting Forest Park to the Coast Range. A goal of the Forest Park Target Area is to protect this corridor through purchase of land and/or easements.

The site might also be used for the "Greenway to the Pacific" trail.

More detailed information on the option is available upon request.

BUDGET IMPACT

JJ and Associates have agreed to a base price which is subject to verification by an appraisal. The offer allows for \$100 in option money. Option money has been budgeted in the 94/95 FY. Metro has until July 31, 1995 to exercise the option. Acquisition funds are subject to passage of the Open Space bond measure scheduled for May 16, 1995. The Forest Park Target area is budgeted to receive \$4.7 million dollars for land acquisition.

OPTION TO PURCHASE REAL PROPERTY

THIS OPTION AGREEMENT (the "Agreement") is made and entered into by and between JJ & Associates (the "Seller") and Metro, a municipal corporation of the state of Oregon organized under Oregon Revised Statutes, chapter 268, and the 1992 Metro Charter (the "Buyer"), this 31 day of March, 1995.

1. Grant of Option. Seller, in consideration of the sum of \$100 (one hundred dollars), does hereby grant to Buyer the sole and exclusive option to purchase the real property described in Exhibit "A", attached and incorporated by this reference into this Agreement (the Property) in the manner and for the price stated in this Agreement.
2. Option Terms.
 - 2.1 Term. This agreement shall become effective (the effective date) on that date executed by seller, provided that within 28 days thereafter, Buyer formally accepts the agreement and delivers to seller a fully executed agreement and the initial cash sum as provided in Section 3. The initial term of the option shall commence on the effective date and shall continue until July 31, 1995. Buyer shall have the right to extend the term of the option for an additional period of three months, commencing on the date the initial term expires and ending on October 31, 1995. Buyers payment of the additional cash sum due under Section 2 before the initial term expires shall constitute an election to extend the option to the extended term date above.
 - 2.2 Exercise of Option. Buyer may exercise this option by written notice to Seller at any time during the term stating that Buyer has elected to exercise the option. Upon exercise of this option, buyer shall be obligated to purchase the Property from Seller and Seller shall be obligated to sell the property to Buyer for the price and in the manner herein set forth.
 - 2.3 Failure to Exercise Option. If Buyer fails for any reason to exercise this option in the manner set forth herein, buyer shall have no further claim against or interest in the Property or any of the option money payments, unless buyer is entitled to a refund of the option money payments under another provision of this Agreement. In the event of the failure to exercise the option Buyer shall provide Seller with any instruments that Seller reasonably may deem necessary for the purpose of removing from the public record any cloud on title to the Property which is attributable to the grant or existence of this option.

3. Option Money. In payment for Seller's grant of this option, buyer has paid or will pay Seller the following option money payments: (a) The initial cash sum of \$100 mentioned in Section 1; and (b) If Buyer elects to extend the option term under Section 2, Buyer will pay Seller at the time of the election the additional cash sum of \$5,000.
4. Purchase Price and Terms. Seller sets the Sale price at \$250,000 (two hundred and fifty thousand dollars) less the option payments made to the seller. In the event that the appraisal of the fair market value of the property indicates a value of at least 85% of the sale price then the sale shall go forward to closing at the sale price. In the event the indicated value is less than 85% of the sale price then Metro is no longer obligated by this agreement to proceed to closing at the sale price. Fair market value shall be based on the highest and best use of the property as determined in a full narrative written appraisal prepared by a state certified appraiser mutually selected by both parties, retained, and paid by Buyer. The entire balance of the purchase price shall be paid at closing.
5. Recording. On the effective date, Seller shall execute, acknowledge, and deliver to Buyer a memorandum in the form attached as Exhibit B. In the event Buyer fails to exercise the option before the term expires, the memorandum will automatically terminate on that date and the Seller will not have to seek a release or quitclaim deed. Buyer shall record the memorandum.
6. Possession. Possession of the Property shall remain with Seller, subject to the Covenants in this Agreement, until Buyer exercises the option and Closing of the sale of the Property. Buyer shall be entitled to exclusive possession of the Property on and after the Closing Date.
7. Access to Property. Seller grants to Buyer and its agents the right to enter on the Property at any reasonable times before the Closing Date for the purpose of conducting tests or studies that Buyer may deem necessary or appropriate in connection with its acquisition of the Property. Seller shall cooperate with Buyer in making such tests and studies. No soil tests or drilling shall be undertaken without first obtaining Seller's approval with respect to the agents retained to perform such work and the location and purpose of the tests or drilling. Buyer shall not interfere with or disturb the rights of any tenants of Seller in possession of any portion of the Property. Buyer shall protect, defend, and hold Seller harmless from any loss, liability, or damage to persons or property arising out of or related to Buyer's activities on the Property. If Buyer fails to exercise the option and purchase the Property, Buyer shall fully compensate Seller for any physical damage to the Property or charge on it attributable to Buyer's activities pursuant to this paragraph. In the event Buyer fails to exercise the option, Buyer shall deliver to Seller a legible copy of any reports, studies, and drawings owned by Buyer that relate to the Property.
8. Covenants of Seller. Seller acknowledges that the Covenants of Seller contained in this Agreement, including the Covenants contained in this Section 8 (the "Covenants"), are

material inducements to Buyer to enter into this Agreement. The Covenants specifically delineated in this section are the following:

- 8.1 **Information.** Seller agrees to deliver to Buyer, within 20 days after the effective date, photocopies of all documents related to the use or ownership of the Property that Seller possesses, including (without limitation) all studies, reports, aerial photographs, and other documents of a like nature.
- 8.2 **Maintenance.** Before the Closing Date, Seller shall maintain the Property in the same condition as it now exists, ordinary wear and tear excepted, and shall not cause or permit any waste.
- 8.3 **Seller's Promise to Remove Personal Property.** Before the Closing Date, Seller promises to remove or cause to be removed from the subject Property at Seller's expense any and all personal property and/or trash, rubbish, or any other unsightly or offensive materials, unless otherwise agreed to in writing by Buyer.
- 8.4 **Covenant to Maintain Property in Natural State.** Seller, its successors and assigns hereby covenants, promises, agrees to maintain the Property in its existing condition as of the effective date of this option.
- 8.5 **Ownership.** During the term, Seller shall not sell, contract to sell, assign, lease, or otherwise transfer the Property or any part of it, unless it is transferred subject to this option, nor grant an option to any third party to acquire all or any portion of it.

9. Seller's Representations.

- 9.1 Seller has full power and authority to enter into this Agreement (and the persons signing this Agreement for Seller, if Seller is not an individual, have full power and authority to sign for Seller and to bind it to this Agreement) and to sell, transfer and convey all right, title, and interest in and to the subject Property in accordance with this Agreement.
- 9.2 The subject Property has legal vehicular access to a public road.
- 9.3 No one other than Seller will be in possession of any portion of the subject Property at the close of escrow.
- 9.4 There is no suit, action, arbitration, legal, administrative, or other proceeding or inquiry pending or threatened against the subject Property, or any portion thereof, or pending or threatened against Seller which could affect Seller's title to the subject Property, or any portion thereof, affect the value of the subject Property or any portion thereof, or subject an owner of the subject Property, or any portion thereof, to liability.

9.5 There are no:

- (a) Intended public improvements or private rights which will result in the creation of any liens upon the subject Property or any portion thereof;
- (b) Uncured notices which have been served upon Seller from any governmental agency notifying Seller of any violations of law, ordinance, rule or regulation which would affect the subject Property or any portion thereof;
- (c) Actual or impending mechanic's liens against the subject Property or any portion thereof; and
- (d) Notices or other information giving Seller reason to believe that any conditions existing on the subject Property or in the vicinity of the subject Property or in ground or surface waters associated with the subject Property may have a material effect on the value of the subject Property or subject the owner of the subject Property to potential liabilities under environmental laws.

9.6 Other than none, there is no lease, license, permit, option, right of first refusal, or other agreement, written or oral, which affects the subject Property or any portion thereof.

9.7 Neither the grant nor the exercise of the option will constitute a breach or default under any agreement to which Seller is bound and/or to which the subject Property is subject.

9.8 Hazardous Substances. For purposes of this subsection, the phrase "Hazardous Substances" has the same meaning as is designated in ORS 465.200(9). Seller warrants, represents, and covenants as follows:

- (a) To the knowledge of Seller, there are no Hazardous Substances in, upon, or buried on or beneath the Property and no Hazardous Substances have been emitted or released from the Property in violation of any environmental laws of the federal or state government;
- (b) Seller has not brought onto, stored on, buried, used on, emitted or released from, or allowed to be brought onto, stored on, buried, used on, or emitted or released from, the Property any Hazardous Substances in violation of any environmental laws of the federal or state government; and
- (c) To the knowledge of Seller, no underground storage tanks are located on the Property, including (without limitation) any storage tanks that contain, or previously contained, any Hazardous Substances, and Seller agrees not to

cause or permit any such tanks to be installed in the Property before Closing.

- 9.9 Status of Seller. Seller warrants that Seller is not a foreign person, foreign partnership, foreign corporation, or foreign trust, as those terms are defined in IRC § 1445.

Each of the above representations is material and is relied upon by Buyer. Each of the above representations shall be deemed to have been made as of the close of escrow and shall survive the close of escrow. Seller shall indemnify, defend with counsel of Buyer's choice and hold Buyer harmless from all expense, loss, liability, damages and claims, including Buyer's attorney fees, if necessary, arising out of the breach of any of Seller's warranties, representations, and covenants. Upon close of escrow, if Buyer so requests, Seller shall deliver to Buyer a certificate in a form satisfactory to Buyer's counsel stating that each of the above representations is true and current as of the close of escrow.

If, before the close of escrow, Seller discovers any information or facts that would materially change the foregoing warranties and representations, Seller shall immediately give notice to Buyer of those facts and information. If any of the foregoing warranties and representations cease to be true before the close of escrow, Seller shall be obligated to use its best efforts to remedy the problem before the close of escrow. If the problem is not remedied before close of escrow, Buyer may elect to either (a) terminate this Agreement in which case Buyer shall have no obligation to purchase the subject Property and all option payments shall be refunded to Buyer, or (b) defer the Closing Date until such problem has been remedied. Buyer's election in this regard shall not constitute a waiver of Buyer's rights in regard to any loss or liability suffered as a result of a representation or warranty not being true, nor shall it constitute a waiver of any other remedies provided in this Agreement or by law or equity.

10. Remedies Upon Default. In the event Seller defaults in the performance of any of Seller's obligations under this Agreement, Buyer shall, in addition to any and all other remedies provided in this Agreement or by law or equity, have the right of specific performance against Seller. In the event Buyer defaults in the performance of any of its obligations under this Agreement, Seller shall have the right to retain the option payment and such forfeiture shall be Seller's exclusive remedy for Buyer's nonperformance.
11. Property Taxes and Expenses. During the term of this option, Seller shall pay all taxes, assessments, and expenses related to the Property. Property taxes shall be prorated as of the Closing Date.
12. Closing.

12.1 Time and Place. Closing of the sale and purchase of the Property (the "Closing") shall occur on a date (the "Closing Date") selected by Buyer, but in all events the Closing

shall occur within thirty days after the date that the exercise notice is given. The escrow for the Closing shall be established at the office of Fidelity National Title Company (the "Title Company"), at 900 SW Fifth ST. Portland, Oregon 97204.

12.2 Closing Obligations. On the Closing Date, Seller and Buyer shall deposit the following documents and funds in escrow, and the Title Company shall close escrow in accordance with the instructions of Seller and Buyer.

12.2.1 Seller shall deposit the following:

- (a) The conveyance documents described in Section 11, duly executed and acknowledged;
- (b) A duly executed affidavit certifying that Seller is not a foreign person, trust, partnership, or corporation in compliance with the requirements of IRC § 1445;
- (c) Original counterparts of legible photocopies of all documents, feasibility studies, surveys, engineering reports, and other items of a similar nature in the possession of Seller that relate to the Property;
- (d) Such documents as Buyer or the Title Company may require to evidence the authority of Seller to consummate this transaction; and
- (e) Such other documents and funds, including (without limitation) escrow instructions, as are required of Seller to close the sale in accordance with this Agreement.

12.2.2 Buyer shall deposit the following:

- (a) The cash payment specified in Section 4, minus any credits available to Buyer under the terms of this Agreement;
- (b) Such documents as Seller or the Title Company may require to evidence the authority of Buyer to consummate the transaction contemplated; and
- (c) Such other documents and funds, including (without limitation) escrow instructions, as are required of Buyer to close the sale and purchase of the Property in accordance with this Agreement.

- 12.3 **Costs.** Buyer and Seller each shall pay one-half of the escrow fee of the Title Company with respect to the Closing. Seller shall pay the premium for the title insurance policy that Seller is obligated to provide to Buyer, and for all conveyance or excise taxes payable by reason of the purchase and sale of the Property. Buyer shall pay the fee (exclusive of any conveyance or excise tax) for recording the conveyance documents referred to herein.
- 12.4 **Prorations.** All items of expense incurred by Seller with respect to the Property shall be paid by Seller at Closing, without proration. All real property taxes and assessments payable with respect to the tax year in which Closing occurs shall be prorated between Seller and Buyer as of the Closing Date.
- 12.5 **Title Insurance Policies.** As soon as practicable after Closing, and in any event no later than 30 days after the Closing Date, Seller shall cause the Title Company to issue at Seller expense its standard form Owner's ALTA Title Insurance Policy, with extended coverage, in the amount of the purchase price, insuring fee simple title to the Property vested in Buyer, subject only to the permitted exceptions.
13. **Conveyance.** At the Closing, Seller shall execute, acknowledge, and deliver to Buyer a Statutory Warranty Deed conveying the Property to Buyer, subject only to the permitted exceptions.
14. **Waiver.** Failure by Seller or Buyer to enforce any right under this Agreement shall not be deemed to be a waiver of that right or of any other right.
15. **Successors and Assigns.** Subject to the limitations on Seller's right to convey the Property set forth elsewhere herein, the terms, covenants, and conditions herein contained shall be binding on and inure to the benefit of the heirs, successors, and assigns of Seller and Buyer. Buyer may assign its interest in this Option Agreement and the Property to any person or entity, without the consent of Seller. In the event that an assignee assumes the obligations of Buyer hereunder, then Buyer shall have no further liability with respect to this Agreement.
16. **Notices.** All notices required or permitted to be given shall be in writing and shall be deemed given and received upon personal service or deposit in the United States mail, certified or registered mail, postage prepaid, return receipt requested, addressed as follows:

To Seller: JJ & Associates
 747 West Powell Blvd.
 Gresham, Oregon 97030

To Buyer: Metro
Attention: Nancy Chase
600 NE Grand Ave.
Portland, Oregon 97232-2736

The foregoing addresses may be changed by written notice, given in the same manner. Notice given in any manner other than the manner set forth above shall be effective when received by the party for whom it is intended.

17. Attorney Fees. If litigation is instituted with respect to this Agreement, the prevailing party shall be entitled to recover from the losing party, in addition to all other sums and allowable costs, its reasonable attorney fees, both in preparation for and at trial and any appeal or review, such amount to be set by the court before which the matter is heard.
18. No Commission. Each party represents to the other that it has not used a real estate broker in connection with this Agreement or the transaction contemplated by this Agreement. In the event any person asserts a claim for a broker's commission or finder's fee against one of the parties to this Agreement, the party against whom the claim is asserted will hold the other party harmless from said claim.
19. Risk of Loss. Seller shall bear the risk of all loss or damage to the Property from all causes, through the Closing Date. If, before the Closing Date, and regardless of whether the exercise notice has yet been given or is subsequently given, all or part of the Property is damaged by fire or by any other cause of any nature or if all or any portion of the Property is taken by condemnation, or if any such condemnation is threatened, Seller shall give Buyer written notice of such event. Buyer may terminate this Agreement by giving written notice to Seller within 15 days following receipt by Buyer of written notice from Seller of such casualty or condemnation and Seller will return to Buyer the Option Money Payments previously paid.
20. Integration, Modification, or Amendments. This Agreement contains the entire agreement of the parties with respect to the Property and supersedes all prior written and oral negotiations and agreements with respect to the Property. Any modifications, changes, additions, or deletions to this Agreement must be approved by Seller and Buyer, in writing.
21. Representation. Seller and Buyer have each been represented by separate legal counsel of choice with respect to this transaction. Except as otherwise provided in Section 16, each party shall be responsible for all attorney fees incurred by it with respect to this Agreement.
22. Severability. Each provision of this Agreement is severable from any and all other provisions of this Agreement. Should any provision(s) of this Agreement be for any reason unenforceable, the balance shall nonetheless be of full force and effect.

23. No Merger. The obligations contained in this Agreement, except for those specifically discharged in escrow (such as conveyance title to the subject Property and delivery of money and documents in the escrow), shall not merge with transfer of title but shall remain in effect until fulfilled.
24. Governing Law: Interpretation. This Agreement shall be governed by the laws of Oregon. In the event a court of competent jurisdiction holds any portion of this Agreement to be void or unenforceable as written, Seller and Buyer intend that (a) that portion of this Agreement be enforced to the extent permitted by law, and (b) the balance of this Agreement remain in full force and effect.
25. Time is of the Essence. Time is of the essence of this Agreement.
26. Statutory Disclaimer. THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

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Executed on the day and year first above written.

SELLER: Lee & Associates
 By: James G Moore
 Name: JAMES G. MOORE
 Title: PARTNER

BUYER:

 By: _____
 Name: Mike Burton
 Title: Executive Officer

Attachments:

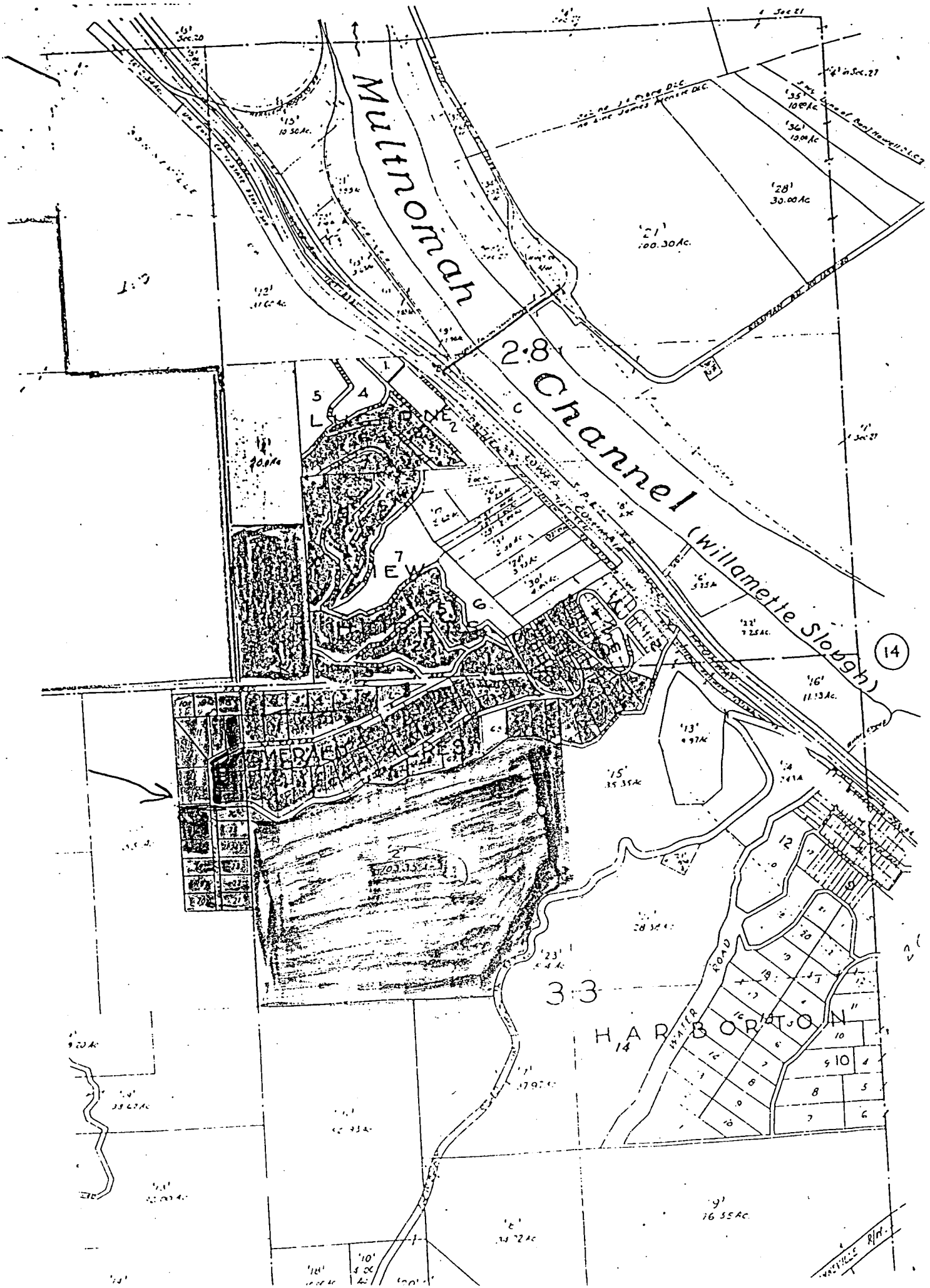
- Exhibit A - Property
- Exhibit B - Form of Memorandum

EXHIBIT A

Lots 15 to 26, EMERALD ACRES, Multnomah County

Tax lot 2 in Section 33 2 N 1 W : 103.52 acres

(see attached map)



Multnomah

2.8 Channel (Willamette Slough)

5
4
7
6
E.V.

MERABE

HARBOR BOTTOM

WATER ROAD

14

'21'
100.30 Ac.

'28'
30.00 Ac.

'36'
13.00 Ac.

'35'
10.00 Ac.

'22'
7.25 Ac.

'16'
11.13 Ac.

'13'
9.97 Ac.

'15'
15.35 Ac.

'23'
4.4 Ac.

'11'
17.97 Ac.

'11'
6.93 Ac.

'12'
22.00 Ac.

'10'
33.67 Ac.

'12'
9.20 Ac.

'9'
16.55 Ac.

'6'
13.72 Ac.

'10'
4.00 Ac.

'10'
10.00 Ac.

Sec. 20
No. 14
James D.C.
No. 14
James D.C.

Sec. 27

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AGENDA ITEM 6.1
Meeting Date: April 20, 1995

Ordinance No. 95-595

Amending The FY 1994-95 Budget and Appropriations Schedule for the Purpose of Reflecting Funding Increases Due to Costs Associated With Household Hazardous Waste Events, Delivered Solid Waste Tonnage in Excess of Budget Expectations, and Transferring Appropriations Within the Solid Waste Revenue Fund and the Rehabilitation and Enhancement Fund; and Declaring an Emergency.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 95-595, AMENDING THE FY 1994-95 BUDGET AND APPROPRIATIONS SCHEDULE FOR THE PURPOSE OF REFLECTING FUNDING INCREASES DUE TO COSTS ASSOCIATED WITH HOUSEHOLD HAZARDOUS WASTE EVENTS, DELIVERED SOLID WASTE TONNAGE IN EXCESS OF BUDGET EXPECTATIONS, AND TRANSFERRING APPROPRIATIONS WITHIN THE SOLID WASTE REVENUE FUND AND THE REHABILITATION AND ENHANCEMENT FUND; AND DECLARING AN EMERGENCY.

Date: April 6, 1995

Presented by: Roosevelt Carter

FACTUAL BACKGROUND AND ANALYSIS

This action requests adjustments to the Solid Waste Revenue Fund and the Rehabilitation and Enhancement Fund for the following purposes:

SOLID WASTE REVENUE FUND

1. Transfer \$150,000 from the Operations Division, Operating Account, Materials & Services Category, as follows:
 - a) \$120,000 to the Operations Division, Operating Account, Personal Services Category, to fund costs associated with household hazardous waste collection events.
 - b) \$30,000 to the Operations Division, Operating Account, Personal Services Category to fund costs associated with St. Johns Landfill seasonal activities.
2. Transfer \$12,115 from the Operations Division, Operating Account, Materials and Services Category to the General Account, Operations Division, Capital Category, to reclassify Capital items included as Materials & Services in the Flow Control Enforcement Contract.
3. Transfer \$15,000 from the Budget and Finance Division, Operating Account, Materials & Services Category, to the Budget and Finance Division, General Account, Capital Category to appropriately classify certain expenditures as Capital Outlay expenditures.

REHABILITATION AND ENHANCEMENT FUND

4. Transfer \$5,000 from the Forest Grove Account, Contingency Category, to the Forest Grove Account, Materials & Services Category.
5. Transfer \$15,000 from the Oregon City Account, Contingency Category, to the Oregon City Account, Materials & Services Category.

These two transfers are required to fund increased costs associated with higher than originally estimated tonnage flows through June 30, 1995.

6. Transfer \$315 from the Contingency Category to the Composter Enhancement Account, Materials & Services Category, to reflect actual interest accrued in this account during FY 1994-95. This allows for all funds in this account to be spent during FY 1994-95 and close the account.

Each action will be explained separately.

SOLID WASTE REVENUE FUND

- "1. a) Transfer \$120,000 to the Operations Division, Operating Account, Personal Services Category, Operations Division, to fund costs associated with hazardous waste collection events and St. Johns Landfill seasonal activities."*

FY 1994-95 Household Hazardous Waste Collection Events

In a budget note to the FY 1994-95 budget, the Council indicated the Department should develop a plan for providing hazardous waste services in outlying areas, primarily east Multnomah and Washington Counties. After working with local governments and the Solid Waste Advisory Committee, staff presented a draft plan to the Council in December 1994. A key element of this plan called for 8-10 satellite events per year. Four satellite events had occurred successfully in the first part of FY 1994-95.

Alternative means of providing the same services by using contractors have been fully investigated. There are two ways in which to configure contract services: (1) contract for the complete event -- planning, organizing, and implementation, and (2) contract only for the temporary labor for the events.

The household hazardous waste collection events held prior to 1990 were done using the first option, contracting for the complete event. Since that time, all hazardous waste events have been managed and held using Metro employees exclusively. Non-financial reasons for the initial decision to go in this direction include liability, work scope control (reuse, recycling needs, safety), and flexibility.

The second alternative would be to use a contractor to supply only the temporary labor for the events. The cost for hiring temporary employees through a temporary employment agency is 40-55% higher than the compensation rate for Metro temporary employees. Metro temporaries cost \$12.47 plus 11% fringe, for a total of \$13.84 per hour. The use of a temporary service would increase the cost to \$17.00 per hour. Also, the events are held on Sunday and ORS 279.334 requires Metro to pay time and a half for contract labor on Sunday; a requirement that does not apply to temporary Metro employees not exceeding 40 hours per week. This would increase the average cost per event by approximately \$10,000. Given eight events per year, staff estimates that the total cost per year would be \$80,000 higher with contract employees.

Staff continues to compare the costs of contracting versus in-house services. Over the last ten events conducted with Metro employees, the average cost per customer has been \$68. As a comparison, DEQ currently contracts for the same service outside the Metro region with a private vendor at \$96 per customer.

The amount of \$120,000 is the equivalent of 4.75 Temporary FTE to cover work performed during FY 1994-95.

"1. b) Transfer \$30,000 to the Operations Division, Operating Account, Personal Services Category to fund costs associated with St. Johns Landfill seasonal activities."

St. Johns Landfill Seasonal Activities

Currently, four full-time staff are budgeted and assigned to the landfill for closure and maintenance activities. Other operations staff, including scalehouse and hazardous waste technicians, have provided cost-effective, temporary assistance to the St. Johns Landfill gas monitoring project over the past year, and anticipate continuing this service for at least the near-term horizon. These Metro permanent staff are less costly than contractor employees, and more importantly, are more reliable in providing monitoring and oversight functions on a very expensive construction project.

This amendment transfers \$30,000 from the Operations Division, Operating Account, Materials & Services Category, to the Operations Division, Operating Account, Personal Services Category to pay for these temporary employees.

The amount of \$30,000 is the equivalent of 1.00 Temporary FTE to cover work performed during FY 1994-95.

"2. Transfer \$12,115 from the Operations Division, Operating Account, Materials and Services Category to the General Account, Operations Division, Capital Category, to reclassify Capital items included as Materials & Services in the Flow Control Enforcement Contract."

Flow Control Enforcement Contract

Under an agreement with the Multnomah County Sheriff's Office, Metro has inadvertently budgeted and paid for capital items (two-way radios, computer, video camera, etc.) in the Miscellaneous Professional Services classification. This occurred as a result of misinterpretation of a clause allowing the County first right of refusal on the repurchase (at fair market value) of certain items should the contract be terminated.

The Accounting staff has determined that Metro possesses legal ownership of these items in spite of the clause giving Multnomah County repurchase rights. Furthermore, these items should be depreciated in the annual financial statements.

To correct this situation, it is necessary to reclassify these purchases as capital items. This action will require the transfer of \$12,115 from the Operating Account, Operations Division, Materials & Services Category, to the General Account, Operations Division, Capital Outlay to cover items already charged to Materials & Services, and for the remaining fiscal year.

"3. Transfer \$15,000 from the Budget and Finance Division, Operating Account, Materials & Services Category, to the Budget and Finance Division, General Account, Capital Category to appropriately classify certain expenditures as Capital Outlay expenditures."

Expenditures Reclassification

The FY 1994-95 Budget & Finance Division budget includes \$21,260 in the Materials & Services Category for Maintenance & Repair Equipment. This amount includes \$15,000 for computer replacements and upgrades. Originally, it was planned that existing machines would be upgraded.

However, it is more cost-effective to buy new machines than to upgrade old computers. This action requests the transfer of \$ 15,000 from the Budget & Finance Division, Operating Account, Materials and Services Category to the Budget & Finance Division, General Account, Capital Category.

REHABILITATION AND ENHANCEMENT FUND

- "4. Transfer \$5,000 from the Forest Grove Account, Contingency Category, to the Forest Grove Account, Materials & Services Category.*
- 5. Transfer \$15,000 from the Oregon City Account, Contingency Category, to the Oregon City Account, Materials & Services Category."*

Delivered Solid Waste Tonnage in Excess of Budget Expectations

The privately-owned Forest Grove Transfer Station collects and remits to Metro a Rehabilitation and Enhancement fee of \$.50 per ton for all waste that is disposed at the station. Metro then transmits these funds to the City of Forest Grove for enhancement projects in the vicinity of the transfer station. A similar fee is collected directly by Metro and is remitted to the City of Oregon City for community enhancement projects near the Metro South Station.

FY 1994-95 estimates of payments for the Cities of Forest Grove and Oregon City prepared last year were based on 68,235 tons and 385,381 tons respectively. Current projections revise those estimates upward to 69,430 for Forest Grove and 390,342 for Oregon City. Contingency of \$50,000 was included in the budget to provide funds, if projections for tonnage at transfer stations were exceeded. A transfer of \$5,000 for the Forest Grove Account and \$15,000 for the Oregon City Account are required to ensure that adequate appropriations are available in each account for dispersal.

- "6. Transfer \$315 from the Contingency Category to the Composter Enhancement Account, Materials & Services Category, to reflect actual interest accrued in this account during FY 1994-95. This allows for all funds in this account to be spent during FY 1994-95 and close the account."*

Composter Community Enhancement Program

The program began when the Riedel MSW Composter facility opened in 1991. The \$.50 per ton fee was collected on all waste disposed at the facility during operation until early in 1992. Nine projects selected by the citizen oversight committee were funded totaling \$64,587, leaving a balance of \$2,335; the remaining funds were approved by the committee for dispersal this year. Actual interest that accrued in the account prior to final dispersal totals an additional \$315. Action requested would transfer \$315 from the Contingency Account to the Composter Enhancement Account, Materials and Services Category. All funds in the account will be spent in FY 1994-95; and the appropriation to this account for FY 1995-96 will be deleted.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Ordinance No. 95-595.

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Staff Report Ord. 95-595
April 6, 1995

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING THE FY 1994-95)
BUDGET AND APPROPRIATIONS SCHEDULE)
FOR THE PURPOSE OF REFLECTING FUNDING)
INCREASES DUE TO COSTS ASSOCIATED WITH)
HOUSEHOLD HAZARDOUS WASTE EVENTS,)
DELIVERED SOLID WASTE TONNAGE IN)
EXCESS OF BUDGET EXPECTATIONS, AND)
TRANSFERRING APPROPRIATIONS WITHIN THE)
SOLID WASTE REVENUE FUND AND THE)
REHABILITATION AND ENHANCEMENT FUND;)
AND DECLARING AN EMERGENCY.)

ORDINANCE NO. 95-595

Introduced by Mike Burton
Executive Officer

WHEREAS, additional funding is required for the remaining household hazardous waste satellite collection events mandated by the Regional Solid Waste Management Plan, and

WHEREAS, solid waste tonnage received at the Forest Grove Transfer Station and the Oregon City Transfer Station are above forecast requiring larger Rehabilitation and Enhancement Fees to be collected and passed through to local governments, and

WHEREAS, it is appropriate to expend the last of the funds in the Rehabilitation and Enhancement account for the discontinued composter facility, and

WHEREAS, it is proposed for Metro to hire its own temporaries rather than contract for seasonal work at the St. Johns Landfill, and

WHEREAS, it is necessary to correctly reflect some expenditures as capital rather than Materials & Services, and

WHEREAS, The Metro Council has reviewed and considered the need to transfer appropriations within the FY 1994-95 Budget; and

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

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

THE METRO COUNCIL ORDAINS AS FOLLOWS;

1. That the FY 1994-95 Budget and Schedule of Appropriations are hereby amended as shown in the column titled "Revision" of Exhibits A and B to this Ordinance

for the purpose of transferring within the Solid Waste Revenue Fund: \$15,000 from Budget & Finance Division Materials & Services to the General Account Capital Outlay, \$150,000 From the to the Operations Division Materials & Services to the Operations Division Personal Services, \$12,115 from the Operations Division Materials & Services Division to the General Account Capital Outlay, and adding 5.75 FTE temporary employees.

2. That the FY 1994-95 Budget and Schedule of Appropriations are hereby amended as shown in the column titled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring from the Rehabilitation & Enhancement Fund Contingency: \$315 to the Composter Enhancement Account Materials & Services, \$5,000 to the Forest Grove Account Materials & Services, and \$15,000 to the Oregon City Account Materials & Services.

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

ADOPTED by the Metro Council this _____ day of _____, 1995.

ATTEST:

J. Ruth McFarland, Presiding Officer

Recording Secretary

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Exhibit A
Ordinance No. 95-595

Solid Waste Revenue Fund

FISCAL YEAR 1994-95		CURRENT BUDGET		REVISION		ORDINANCE 95-595	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Operating Account (Budget and Finance)							
	Total Personal Services	8.00	495,560			8.00	495,560
	<u>Materials & Services</u>						
521110	Computer Software		5,470				5,470
521111	Computer Supplies		2,045				2,045
521310	Subscriptions		225				225
521320	Dues		75				75
524190	Misc. Professional Services		94,815				94,815
525640	Maintenance & Repairs Services-Equipment		21,260		(15,000)		6,260
525740	Capital Lease Payments-Furniture & Equipment		10,105				10,105
526200	Ads & Legal Notices		515				515
526310	Printing Services		25,000				25,000
526320	Typesetting & Reprographics Services		1,000				1,000
526420	Postage		56,015				56,015
526500	Travel		3,350				3,350
526510	Mileage Reimbursement		1,030				1,030
526612	Disposal Operations-Landfill Disposal		127,075				127,075
526800	Training, Tuition, Conferences		7,625				7,625
526900	Miscellaneous Purchased Services		0				0
528100	License, Permits, Payments to Other Agencies		716,545				716,545
529500	Meetings		105				105
	Total Materials & Services		1,072,255		(15,000)		1,057,255
	TOTAL EXPENDITURES	8.00	1,567,815		(15,000)	8.00	1,552,815

Operating Account (Operations)

	<u>Personal Services</u>						
511121	SALARIES-REGULAR EMPLOYEES (full time)						
	Senior Manager	1.00	60,803			1.00	60,803
	Sr. Solid Waste Planner	1.00	50,382			1.00	50,382
	Assoc. Solid Waste Planner	1.00	48,174			1.00	48,174
	Associate Program Supervisor	3.00	125,979			3.00	125,979
	Hazardous Waste Specialist	5.00	179,208			5.00	179,208
	Senior Service Supervisor	1.00	42,226			1.00	42,226
	Service Supervisor	2.00	70,764			2.00	70,764
511221	WAGES-REGULAR EMPLOYEES (full time)						
	Hazardous Waste Technician	17.00	519,556			17.00	519,556
	Equipment Operator	1.00	32,366			1.00	32,366
	Scalehouse Technician	14.00	416,325			14.00	416,325
511225	WAGES-REGULAR EMPLOYEES (part time)						
	Scalehouse Technician	2.15	52,490			2.15	52,490
511235	WAGES-TEMPORARY EMPLOYEES (part time)						
	Temporary	0.00	0	5.75	135,000	5.75	135,000
511400	OVERTIME		53,500				53,500
512000	FRINGE		710,862		15,000		725,862
	Total Personal Services	48.15	2,362,635	5.75	150,000	53.90	2,512,635
	<u>Materials & Services</u>						
521100	Office Supplies		13,000				13,000
521110	Computer Software		4,500				4,500
521111	Computer Supplies		4,200				4,200
521210	Landscape Supplies		6,000				6,000

Exhibit A
Ordinance No. 95-595

Solid Waste Revenue Fund

FISCAL YEAR 1994-95		CURRENT BUDGET		REVISION		ORDINANCE 95-595	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Operating Account (Operations Continued)							
521220	Custodial Supplies		1,500				1,500
521260	Printing Supplies		2,500				2,500
521290	Other Supplies		102,000				102,000
521292	Small Tools		7,000				7,000
521293	Promotion Supplies		12,000				12,000
521310	Subscriptions		4,085				4,085
521320	Dues		800				800
521400	Fuels & Lubricants		11,000				11,000
521410	Fuels & Lubricants - Tax Exempt		1,193,313				1,193,313
521510	Maintenance & Repairs Supplies-Building		2,700				2,700
521520	Maintenance & Repairs Supplies-Grounds		3,100				3,100
521530	Maintenance & Repairs Supplies-Vehicles		2,000				2,000
521540	Maintenance & Repairs Supplies-Equipment		93,700				93,700
524130	Promotion/Public Relations		5,500				5,500
524190	Misc. Professional Services		1,545,591		(12,115)		1,533,476
524210	Data Processing Services		10,000				10,000
525110	Utilities-Electricity		26,000				26,000
525120	Utilities-Water & Sewer		22,000				22,000
525610	Maintenance & Repairs Services-Building		8,000				8,000
525630	Maintenance & Repairs Services-Vehicles		4,200				4,200
525640	Maintenance & Repairs Services-Equipment		100,435				100,435
525710	Equipment Rental		8,000				8,000
525720	Rentals - Land & Building		15,562				15,562
525740	Capital Lease Payments-Furniture & Equipment		27,800				27,800
526200	Ads & Legal Notices		18,000				18,000
526310	Printing Services		26,000				26,000
526320	Typesetting & Reprographics Services		1,500				1,500
526410	Telephone		30,000				30,000
526420	Postage		10,000				10,000
526430	Catalogues & Brochures		1,500				1,500
526500	Travel		6,300				6,300
526510	Mileage Reimbursement		6,160				6,160
526610	Disposal Operations		5,421,745				5,421,745
526611	Disposal Operations-Transportation		10,354,036				10,354,036
526612	Disposal Operations-Landfill Disposal		21,818,774				21,818,774
526613	Disposal Operations-Hazardous Material		1,893,400		(120,000)		1,773,400
526700	Temporary Help Services		30,000		(30,000)		0
526800	Training, Tuition, Conferences		55,200				55,200
526910	Uniform Supply & Cleaning Services		49,800				49,800
526911	Disposal Protective Gear		80,000				80,000
528100	License, Permits, Payments to Other Agencies		17,875				17,875
528310	Real Property Taxes		350				350
529500	Meetings		3,500				3,500
Total Materials & Services			43,060,626		(162,115)		42,898,511
TOTAL EXPENDITURES		48.15	45,423,261	5.75	(12,115)	53.90	45,411,146

Exhibit A
Ordinance No. 95-595

Solid Waste Revenue Fund

FISCAL YEAR 1994-95		CURRENT BUDGET		REVISION		ORDINANCE 95-595	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
General Account							
<u>Capital Outlay</u>							
	BUDGET AND FINANCE						
571500	Purchases-Office Furniture & Equipment		21,355		15,000		36,355
	OPERATIONS						
571400	Purchases-Equipment & Vehicles		50,000		8,900		58,900
571500	Purchases-Office Furniture & Equipment		10,000		3,215		13,215
	WASTE REDUCTION						
574520	Construction - Buildings and Related		25,000				25,000
	ADMINISTRATION						
571500	Purchases-Office Furniture & Equipment		28,315				28,315
	METRO SOUTH						
574130	Engineering Services		30,000				30,000
574520	Construction Work-Improvements		303,000				303,000
	ST. JOHNS LANDFILL						
574571	Const. Work/Materials-Final Cover & Imp.		80,000				80,000
	METRO CENTRAL IMPROVEMENTS						
574520	Const. Work/Materials-Bldgs, Exhibits & Rel.		114,000				114,000
	Total Capital Outlay		661,670		27,115		688,785
	Total Requirements		661,670		27,115		688,785
	TOTAL REVENUE FUND EXPENDITURES	102.95	90,550,007	0.00	0	102.95	90,550,007

Exhibit A
Ordinance No. 95-595

Rehabilitation & Enhancement Fund

FISCAL YEAR 1994-95		CURRENT BUDGET		REVISION		ORDINANCE 95-595	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
<u>Materials & Services</u>							
NORTH PORTLAND ENHANCEMENT ACCOUNT							
524190	Misc. Professional Services		445,000				445,000
526200	Ads & Legal Notices		500				500
526310	Printing Services		700				700
526420	Postage		400				400
526800	Training, Tuition, and Conferences		500				500
529500	Meetings		360				360
COMPOSTER ENHANCEMENT ACCOUNT							
524190	Misc. Professional Services		2,335		315		2,650
METRO CENTRAL ENHANCEMENT ACCOUNT							
524190	Misc. Professional Services		387,750				387,750
526200	Ads & Legal Notices		500				500
526310	Printing Services		552				552
526420	Postage		500				500
529500	Meetings		500				500
FOREST GROVE ACCOUNT							
528100	License, Permits, Payments to Other Agencies		34,118		5,000		39,118
OREGON CITY ACCOUNT							
528100	License, Permits, Payments to Other Agencies		192,690		15,000		207,690
Total Materials & Services			1,066,405		20,315		1,086,720
599999	Contingency		250,000		(20,315)		229,685
TOTAL EXPENDITURES		0.00	2,743,375	0.00	0	0.00	2,743,375

**Exhibit B
Ordinance 95-595**

	Current Appropriation	Revision	ORD. NO. 95-595 Proposed Appropriation
SOLID WASTE REVENUE FUND			
Budget and Finance			
Personal Services	495,560		495,560
Materials & Services	1,072,255	(15,000)	1,057,255
Subtotal	1,567,815	(15,000)	1,552,815
Operations			
Personal Services	2,362,635	150,000	2,512,635
Materials & Services	43,060,626	(162,115)	42,898,511
Subtotal	45,423,261	(12,115)	45,411,146
General Account			
Capital Outlay	661,670	27,115	688,785
Subtotal	661,670	27,115	688,785
Total Fund Requirements	90,550,007	0	90,550,007
REHABILITATION & ENHANCEMENT FUND			
Composter Enhancement Account			
Materials & Services	2,335	315	2,650
Subtotal	2,335	315	2,650
Forest Grove Account			
Materials & Services	34,118	5,000	39,118
Subtotal	34,118	5,000	39,118
Oregon City Account			
Materials & Services	192,690	15,000	207,690
Subtotal	192,690	15,000	207,690
General Expenses			
Interfund Transfers	42,254		42,254
Contingency	250,000	(20,315)	229,685
Subtotal	292,254	(20,315)	271,939
Total Fund Requirements	2,743,375	0	2,743,375
TOTAL APPROPRIATIONS	206,805,631	0	206,805,631

AGENDA ITEM 6.2
Meeting Date: April 20, 1995

Ordinance No. 95-599

Amending the FY 1994-95 Budget and Appropriations Schedule to Reflect Operational Needs at the Metro Washington Park Zoo; and Declaring an Emergency.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO 95-599 AMENDING THE FY 1994-95 BUDGET AND APPROPRIATIONS SCHEDULE TO REFLECT EXPECTED OPERATIONAL NEEDS AT METRO WASHINGTON PARK ZOO; AND DECLARING AN EMERGENCY

Date: March 31, 1995

Presented by: Kathy Kiaunis

FACTUAL BACKGROUND AND ANALYSIS

This action requests adjustments to the Zoo Operating Fund totaling \$274, 636. A total of \$123,030 of this amount would come from other line-items within the zoo budget and \$151,606 would come from Contingency.

This adjustment is requested for the following purposes:

1. Transfer \$37,000 from Materials and Services to Personal Services in the Animal Management division to fund additional staff costs due to the delay in closure of the Animal Care Center and unanticipated disability and family leave related expenses. Savings in animal food and animal purchase costs will offset the increased personnel costs.
2. Transfer \$65,000 from Capital Outlay to Materials and Services in Facilities Management due to increased utility usage and rates. Savings are available in Capital Outlay due to eliminating some projects and deferring painting projects until 1995-96.
3. Transfer \$5,000 from Materials and Services to Personal Services in the Marketing division to fund additional event temporary help and correction of an employee anniversary date. Funds are available from Miscellaneous Professional Services due to the elimination of ZooBloom in 1994-95.
4. Transfer \$30,782 from Contingency to Personal Services and \$120,824 from Contingency to Materials and Services in the Visitor Services division to fund additional temporary labor, food and goods for resale needed due to better than anticipated attendance and sales. Also transfer \$6,030 from Design Services Capital Outlay to Capital Outlay in Visitor Services to pay for an oven budgeted and purchased in 1993-94, but not paid for until 1994-95. Savings are available in Design Services Capital Outlay due to elimination or deferral of some projects.

5. Transfer \$10,000 from Capital Outlay to Personal Services in Design Services division to fund costs associated with vacation payouts. Funds are available from Capital Outlay due to the elimination or deferral of some budgeted projects.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 95-599.

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING THE FY 1994-95) ORDINANCE NO. 95-599
BUDGET AND APPROPRIATIONS)
SCHEDULE TO REFLECT OPERATIONAL) Introduced by Mike Burton
NEEDS AT THE METRO WASHINGTON PARK) Executive Officer
ZOO; AND DECLARING AN EMERGENCY)

WHEREAS, The Metro Council has reviewed and considered the need to transfer appropriations with the FY 1994-95 Budget; and

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

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

THE METRO COUNCIL HEREBY ORDAINS;

1. The FY 1994-95 Budget, and Schedule of Appropriations, are hereby amended as shown in the column titled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring \$151,606 from the Zoo Operating Fund Contingency and transferring \$123,030 from various appropriation categories to various other appropriation categories as reflected in Exhibits A and B to this Ordinance.

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

ADOPTED by the Metro Council this _____ day of _____, 1995.

ATTEST:

J. Ruth McFarland, Presiding Officer

Recording Secretary

Exhibit B
Ordinance No. 95-599
FY 1994-95 SCHEDULE OF APPROPRIATIONS

	Current Appropriation	Revision	Proposed Appropriation
ZOO OPERATING FUND			
Administration			
Personal Services	768,193	0	768,193
Materials & Services	174,595	0	174,595
Capital Outlay	6,180	0	6,180
Subtotal	948,968	0	948,968
Animal Management			
Personal Services	2,298,268	37,000	2,335,268
Materials & Services	532,185	(37,000)	495,185
Capital Outlay	77,446	0	77,446
Subtotal	2,907,899	0	2,907,899
Facilities Management			
Personal Services	1,822,777	0	1,822,777
Materials & Services	1,401,501	65,000	1,466,501
Capital Outlay	169,740	(65,000)	104,740
Subtotal	3,394,018	0	3,394,018
Education Services			
Personal Services	644,673	0	644,673
Materials & Services	222,300	0	222,300
Capital Outlay	7,500	0	7,500
Subtotal	874,473	0	874,473
Marketing			
Personal Services	323,762	5,000	328,762
Materials & Services	667,784	(5,000)	662,784
Capital Outlay	4,650	0	4,650
Subtotal	996,196	0	996,196
Visitor Services			
Personal Services	1,565,076	30,782	1,595,858
Materials & Services	1,297,420	120,824	1,418,244
Capital Outlay	117,000	6,030	123,030
Subtotal	2,979,496	157,636	3,137,132
Design Services			
Personal Services	285,194	10,000	295,194
Materials & Services	159,099	0	159,099
Capital Outlay	199,500	(16,030)	183,470
Subtotal	643,793	(6,030)	637,763
General Expenses			
Interfund Transfers	1,356,276	0	1,356,276
Contingency	513,781	(151,606)	362,175
Subtotal	1,870,057	(151,606)	1,718,451
Unappropriated Balance	3,685,996	0	3,685,996
Total Fund Requirements	18,300,896	0	18,300,896

All Other Appropriations Remain As Previously Adopted

**Exhibit A
Ordinance No. 95-599**

FISCAL YEAR 1994-95		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Animal Management							
<u>Personal Services</u>							
511121	SALARIES-REGULAR EMPLOYEES (full time)						
	Managers	1.00	57,809			0	57,809
	Program Supervisor	1.00	52,576			0	52,576
	Associate Service Supervisor	1.00	36,269			0	36,269
	Research Coordinator	1.00	50,110			0	50,110
	Veterinarian	2.00	91,496			0	91,496
	Assistant Research Coordinator	1.00	28,281			0	28,281
511135	WAGES-TEMPORARY EMPLOYEES (part time)						
	Program Assistant 2	0.50	12,775			0	12,775
	Administrative Support Asst. - Secretary	0.50	11,076			0	11,076
511221	WAGES-REGULAR EMPLOYEES (full time)						
	Administrative Support Assistant C	1.00	27,623			0	27,623
	Records Specialist	1.00	34,217			0	34,217
511225	WAGES-REGULAR EMPLOYEES (part time)						
	Management Intern	0.15	3,871			0	3,871
	Animal Hospital Attendant	1.00	19,335			0	19,335
	Program Assistant 1	0.65	15,507			0	15,507
	Administrative Assistant	0.50	12,526			0	12,526
511235	WAGES-TEMPORARY EMPLOYEES (part time)						
	Management Intern	0.35	8,518			0	8,518
511321	REPRESENTED 483-REGULAR EMPLOYEES (full time)						
	Nutrition Technician	1.00	30,518			0	30,518
	Senior Animal Keeper	7.00	225,516			0	225,516
	Animal Keeper	26.00	796,012			0	796,012
511325	REPRESENTED 483-REGULAR EMPLOYEES (part time)						
	Animal Keeper-PT	1.50	45,776			0	45,776
511335	REPRESENTED 483-TEMPORARY EMPLOYEES (part time)						
	Animal Keeper	0.31	8,120	1.26	33,333	1.57	41,453
511400	OVERTIME		66,950		0		66,950
512000	FRINGE		663,387		3,667		667,054
	Total Personal Services	48.46	2,298,268	1.26	37,000	49.72	2,335,268
<u>Materials & Services</u>							
521100	Office Supplies		990		0		990
521111	Computer Supplies		5,035		0		5,035
521230	Vet & Medical Supplies		82,176		0		82,176
521260	Printing Supplies		670		0		670
521270	Animal Food		217,330		(32,000)		185,330
521290	Other Supplies		66,067		0		66,067
521292	Small Tools		1,550		0		1,550
521310	Subscriptions & Publications		3,090		0		3,090
521320	Dues		3,790		0		3,790
524190	Misc. Professional Services		34,985		0		34,985
525640	M&R-Equipment(Contract/Agreement)		4,120		0		4,120
525710	Equipment Rental		2,775		0		2,775
526310	Printing Services		6,542		0		6,542
526500	Travel		46,958		0		46,958
526700	Temporary Help Services		8,892		0		8,892
526800	Training, Tuition, Conferences		2,600		0		2,600
526910	Uniform Supply & Cleaning		21,115		0		21,115
528100	License, Permits, Payments to Other Agencies		500		0		500
529700	Animal Purchases		23,000		(5,000)		18,000
	Total Materials & Services		532,185		(37,000)		495,185
	Total Capital Outlay		77,446		0		77,446
	TOTAL EXPENDITURES	48.46	2,907,899	1.26	0	49.72	2,907,899

**Exhibit A
Ordinance No. 95-599**

FISCAL YEAR 1994-95		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Facilities Management							
	Total Personal Services	41.17	1,822,777	0.00	0	41.17	1,822,777
	<u>Materials & Services</u>						
521100	Office Supplies		2,000		0		2,000
521110	Computer Software		1,500		0		1,500
521111	Computer Supplies		1,800		0		1,800
521210	Landscape Supplies		49,000		0		49,000
521220	Custodial Supplies		49,000		0		49,000
521260	Printing Supplies		500		0		500
521290	Other Supplies		15,304		0		15,304
521292	Small Tools		8,150		0		8,150
521310	Subscriptions & Publications		500		0		500
521320	Dues		946		0		946
521400	Fuels & Lubricants		34,000		0		34,000
521510	Maintenance & Repairs Supplies-Building		80,530		0		80,530
521511	Maintenance & Repairs Supplies-HVAC		24,000		0		24,000
521512	Maintenance & Repairs Supplies-Electrical		26,022		0		26,022
521520	Maintenance & Repairs Supplies-Grounds		16,500		0		16,500
521530	Maintenance & Repairs Supplies-Vehicles		14,000		0		14,000
521540	Maintenance & Repairs Supplies-Equipment		14,500		0		14,500
521550	Maintenance & Repairs Supplies-Railroad		33,000		0		33,000
524190	Misc. Professional Services		7,500		0		7,500
524210	Data Processing Services		5,000		0		5,000
525110	Utilities-Electricity		224,100		0		224,100
525120	Utilities-Water & Sewer		420,000		65,000		485,000
525130	Utilities-Natural Gas		84,000		0		84,000
525150	Utilities-Sanitation Services		54,000		0		54,000
525200	Cleaning Services		16,600		0		16,600
525610	M&R-Bldg(Contract/Agreement)		22,100		0		22,100
525620	M&R-Grnds(Contract/Agreement)		51,135		0		51,135
525630	M&R-Vehicles(Contract/Agreement)		6,700		0		6,700
525640	M&R-Equipment(Contract/Agreement)		7,225		0		7,225
525650	M&R-Railroad(Contract/Agreement)		6,500		0		6,500
525690	M&R-Other(Contracts/Agreements)		3,000		0		3,000
525710	Equipment Rental		6,850		0		6,850
525732	Operating Lease Payments-Vehicles		3,648		0		3,648
526310	Printing Services		2,500		0		2,500
526410	Telephone		71,080		0		71,080
526440	Delivery Services		2,956		0		2,956
526500	Travel		4,700		0		4,700
526700	Temporary Help Services		5,140		0		5,140
526800	Training, Tuition, Conferences		9,055		0		9,055
526910	Uniform Supply/Cleaning Services		13,500		0		13,500
528100	License, Permits, Payments to Other Agencies		2,200		0		2,200
529500	Meetings		260		0		260
529600	Miscellaneous		500		0		500
	Total Materials & Services		1,401,501		65,000		1,466,501
	<u>Capital Outlay</u>						
571200	Purchases-Improvements Other than Buildings		7,200		0		7,200
571350	Purchases-Exhibits & Related		3,000		0		3,000
571400	Purchases-Equipment & Vehicles		3,600		0		3,600
571600	Purchases-Railroad Equipment & Facilities		26,000		0		26,000
574520	Cnstrn Wrk/Mtrl-Building, Related		109,940		(65,000)		44,940
574560	Cnstrn Wrk/Mtrl-Railroad Equipment/Facilities		20,000		0		20,000
	Total Capital Outlay		169,740		(65,000)		104,740
	TOTAL EXPENDITURES	41.17	3,394,018	0.00	0	41.17	3,394,018

**Exhibit A
Ordinance No. 95-599**

FISCAL YEAR 1994-95		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Marketing							
<u>Personal Services</u>							
511121	SALARIES-REGULAR EMPLOYEES (full time)				2,455	1.00	57,683
	Senior Program Supervisor	1.00	55,228		0	1.00	37,015
	Assoc. Pub. Affairs Specialist	1.00	37,015		0	1.00	40,825
	Asst. Pub. Affairs Specialist	1.00	40,825		0	1.00	31,163
	Event Technician	1.00	31,163		0		
511225	WAGES-REGULAR EMPLOYEES (part time)				0	0.75	17,046
	Administrative Secretary	0.75	17,046		0	0.50	13,409
	Program Assistant 1	0.50	13,409		0	0.72	16,428
	Educational Service Aide 2	0.72	16,428		0		
511235	WAGES-TEMPORARY EMPLOYEES (part time)				0	0.34	6,193
	Education Service Aide II	0.34	6,193				
511335	REPRESENTED 483-TEMPORARY EMPLOYEES (part time)			0.05	1,074	0.78	18,386
	Laborer	0.78	17,312		591		591
			0		880		90,023
511400	OVERTIME		89,143				
512000	FRINGE						
	Total Personal Services	7.09	323,762	0.05	5,000	7.09	328,762
<u>Materials & Services</u>							
521100	Office Supplies		1,900		0		1,900
521111	Computer Supplies		1,450		0		1,450
521290	Other Supplies		8,250		0		8,250
521293	Promotion Supplies		90,647		0		90,647
521310	Subscriptions		2,305		0		2,305
521320	Dues		1,395		0		1,395
524130	Promotional Services		64,650		0		64,650
524190	Misc. Professional Services		230,176		(5,000)		225,176
525110	Utilities-Electricity		700		0		700
525120	Utilities-Water & Sewer		300		0		300
525640	M&R-Equipment(Contract/Agreement)		4,775		0		4,775
525710	Equipment Rental		7,470		0		7,470
525731	Operating Lease Payments-Building		18,500		0		18,500
526200	Ads & Legal Notices		148,120		0		148,120
526310	Printing Services		66,701		0		66,701
526320	Typesetting & Reprographics Services		4,000		0		4,000
526440	Delivery Service		870		0		870
526500	Travel		6,150		0		6,150
526700	Temporary Help Services		2,880		0		2,880
526800	Training, Tuition, Conferences		1,275		0		1,275
526910	Uniform Supply & Cleaning		850		0		850
528100	License, Permits, Payments to Other Agencies		2,360		0		2,360
529500	Meetings		1,545		0		1,545
529800	Miscellaneous		515		0		515
	Total Materials & Services		667,784		(5,000)		662,784
	Total Capital Outlay		4,650		0		4,650
	TOTAL EXPENDITURES	7.09	996,196	0.05	0	7.09	996,196

**Exhibit A
Ordinance No. 95-599**

FISCAL YEAR 1994-95		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Visitor Services							
<u>Personal Services</u>							
511121	SALARIES-REGULAR EMPLOYEES (full time)						
	Managers	1.00	55,099		0	1.00	55,099
	Senior Service Supervisor	2.00	88,114		0	2.00	88,114
	Associate Service Supervisor	5.00	148,352		0	5.00	148,352
	Catering Coordinator	1.00	31,313		0	1.00	31,313
511125	SALARIES-REGULAR EMPLOYEES (part time)						
	Catering Coordinator	0.90	29,072		0	0.90	29,072
	Associate Service Supervisor	0.75	21,376		0	0.75	21,376
511225	WAGES-REGULAR EMPLOYEES (part time)						
	Administrative Secretary	1.50	44,444		0	1.50	44,444
	Office Assistant	0.85	15,873		0	0.85	15,873
	Food Service/Retail Specialist	1.00	25,889		0	1.00	25,889
	Visitor Service Worker 3-reg	5.00	86,456		0	5.00	86,456
	Visitor Service Worker 1-reg	0.25	5,150		0	0.25	5,150
511235	WAGES-TEMPORARY EMPLOYEES (part time)						
	Staff Assistant	0.25	5,000		0	0.25	5,000
511241	WAGES-SEASONAL EMPLOYEES						
	Visitor Service Worker 3-temp	3.50	57,733		0	3.50	57,733
	Visitor Service Worker 2-temp	10.50	157,853		0	10.50	157,853
	Visitor Service Worker 1-temp	21.00	252,126	2.25	27,732	21.00	279,858
511321	REPRESENTED 483-REGULAR EMPLOYEES (full time)						
	Typist/Receptionist-reg	1.00	22,044		0	1.00	22,044
511325	REPRESENTED 483-REGULAR EMPLOYEES (part time)						
	Typist/Receptionist Reg.(Part Time)	2.25	49,599		0	2.25	49,599
511335	REPRESENTED 483-TEMPORARY EMPLOYEES (part time)						
	Typist/Receptionist-temp	1.60	31,417		0	1.60	31,417
	Stationmaster-temp	2.20	53,607		0	2.20	53,607
			15,450		0		15,450
511400	OVERTIME				3,050		372,159
512000	FRINGE		369,109				
	Total Personal Services	61.55	1,565,076	2.25	30,782	61.55	1,595,858
<u>Materials & Services</u>							
521100	Office Supplies		2,600		0		2,600
521110	Computer Software		900		0		900
521220	Custodial Supplies		8,200		0		8,200
521250	Tableware Supplies		86,158		0		86,158
521290	Other Supplies		26,703		0		26,703
521310	Subscriptions/Publications		450		0		450
521320	Dues		630		0		630
521540	Maintenance & Repairs Supplies-Equipment		2,600		0		2,600
523100	Merchandise for Resale-Food		593,647		78,624		672,271
523200	Merchandise for Resale-Retail		469,530		42,200		511,730
524190	Misc. Professional Services		9,700		0		9,700
525640	M&R-Equipment(Contract/Agreement)		34,300		0		34,300
525710	Equipment Rental		14,652		0		14,652
526200	Ads & Legal Notices		2,300		0		2,300
526310	Printing Services		26,600		0		26,600
526500	Travel		5,600		0		5,600
526800	Training, Tuition, Conferences		3,000		0		3,000
526910	Uniform Supply & Cleaning		9,000		0		9,000
528100	Licenses, Permits, Payments to Other Agencies		650		0		650
529500	Meetings		200		0		200
	Total Materials & Services		1,297,420		120,824		1,418,244
<u>Capital Outlay</u>							
571500	Purchases-Office Furniture & Equipment		117,000		6,030		123,030
	Total Capital Outlay		117,000		6,030		123,030
	TOTAL EXPENDITURES	61.55	2,979,496	2.25	157,636	61.55	3,137,132

**Exhibit A
Ordinance No. 95-599**

FISCAL YEAR 1994-95		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Design Services							
<u>Personal Services</u>							
511121	SALARIES-REGULAR EMPLOYEES (full time)				5,100	1.00	52,780
	Associate Program Supervisor	1.00	47,680		0	1.00	37,015
	Graphics/Exhibit Designer	1.00	37,015				
	Project Coordinator	0.25	9,882		2,500	0.25	12,382
511125	SALARIES-REGULAR EMPLOYEES (part time)				0	1.00	37,013
	Graphics/Exhibit Designer	1.00	37,013				
511221	WAGES-REGULAR EMPLOYEES (full time)				0	1.00	31,987
	Program Assistant 2-Graphics	1.00	31,987				
511225	WAGES-REGULAR EMPLOYEES (part time)				0	0.75	23,275
	Administrative Secretary	0.75	23,275		0	0.50	12,527
	Program Assistant 2-Graphics	0.50	12,527		0		1,648
511400	OVERTIME		1,648		0		
512000	FRINGE		84,167		2,400		86,567
	Total Personal Services	5.50	285,194	0.00	10,000	5.50	295,194
	Total Materials & Services		159,099		0		159,099
<u>Capital Outlay</u>							
571350	Purchases-Exhibits & Related		30,000		0		30,000
571500	Purchases-Office Furniture & Equipment		6,500		0		6,500
574120	Architectural Services		5,000		0		5,000
574130	Engineering Services		5,000		0		5,000
574520	Cnstrn Wrk/Mtrl-Building, Related		153,000		(16,030)		136,970
	Total Capital Outlay		199,500		(16,030)		183,470
	TOTAL EXPENDITURES	5.50	643,793	0.00	(6,030)	5.50	637,763
General Expenses							
	Total Interfund Transfers		1,356,276		0		1,356,276
<u>Contingency and Unappropriated Balance</u>							
599999	Contingency		513,781		(151,606)		362,175
599990	Unappropriated Balance		3,685,996				3,685,996
	Total Contingency and Unappropriated Balance		4,199,777		(151,606)		4,048,171
	TOTAL EXPENDITURES	198.79	18,300,896	3.56	0	200.05	18,300,896

AGENDA ITEM 6.3
Meeting Date: April 20, 1995

Ordinance No. 95-598

Amending the FY 1994-95 Budget and Appropriations Schedule to Reflect Actual Election Costs of the November, 1994 Election Appropriated for the Support Services Fund; and to Reflect Expected Election Costs of the May, 1995 Election Appropriated in the General Fund; and Declaring an Emergency.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO 95-598 AMENDING THE FY 1994-95 BUDGET AND APPROPRIATIONS SCHEDULE TO REFLECT ACTUAL ELECTION COSTS OF THE NOVEMBER 1994 ELECTION FOR THE SUPPORT SERVICES FUND; AND TO REFLECT EXPECTED ELECTION COSTS OF THE MAY 1995 ELECTION APPROPRIATED IN THE GENERAL FUND; AND DECLARING AN EMERGENCY

Date: March 29, 1995

Presented by: Jennifer Sims

FACTUAL BACKGROUND AND ANALYSIS

Support Services Fund, Special Appropriation, Election Expense:

An adjustment to the Support Services Fund, Special Appropriation is necessary to fully fund the actual cost of the November 1994 election. The amount budgeted for that election is \$125,000. Attached as an exhibit to this staff report, is a copy of a memo dated March 23, 1995, reporting that the actual costs for that election were \$191,228. Since the actual cost were greater than the amount budgeted, an increase of \$66,229 in this appropriation is required. The additional funds will be transferred from Support Services Fund contingency.

General Fund, Special Appropriation, Election Expense:

An adjustment to the General Fund, Special Appropriation, Election Expense is necessary to fully fund the expected cost of the May 1995 Open Spaces Bond Measure election. The amount budgeted for that election is \$150,000. The attached memo presents a new estimate of the election costs of \$220,000. This higher cost is based on recent charges for the November 1994 election. An increase of \$70,000 in the Special Appropriation for the Open Spaces Bond Measure is requested. The additional funds will be transferred from General Fund contingency. This action is being requested now as the billing for this election will not be received until after the fiscal year end when it will be too late to adjust the appropriation level. The cost will be charged to FY 1994-95, the year the election was held.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 95-598.

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING THE FY 1994-95)
BUDGET AND APPROPRIATIONS SCHEDULE TO)
REFLECT ACTUAL ELECTION COSTS OF THE)
NOVEMBER 1994 ELECTION APPROPRIATED)
FOR THE SUPPORT SERVICES FUND; AND TO)
REFLECT EXPECTED ELECTION COSTS OF)
THE MAY 1995 ELECTION APPROPRIATED IN)
THE GENERAL FUND; AND DECLARING AN)
EMERGENCY)

ORDINANCE NO. 95-598

Introduced by Mike Burton
Executive Officer

WHEREAS, The Metro Council has reviewed and considered the need to transfer appropriations with the FY 1994-95 Budget; and

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

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

THE METRO COUNCIL ORDAINS AS FOLLOWS;

1. That the FY 1994-95 Budget and Schedule of Appropriations are hereby amended as shown in the column titled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring \$66,228 from the Support Services Fund Contingency to Support Services Fund, Special Appropriation, Election Expense and transferring \$70,000 from the General Fund Contingency to the General Fund, Special Appropriation, Election Expense.

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

ADOPTED by the Metro Council this ____ day of _____, 1995.

ATTEST:

J. Ruth McFarland, Presiding Officer

Recording Secretary

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2/29/95 2:52 P.M.

Exhibit A
Ordinance No. 95-598
SUPPORT SERVICES FUND

FISCAL YEAR 1994-95		CURRENT BUDGET		REVISION	PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT		FTE	AMOUNT
Special Appropriation						
	<u>Materials & Services</u>					
528200	Election Expense		125,000	66,229		191,229
	TOTAL EXPENDITURES	0.00	125,000	0.00	66,229	0.00 191,229
General Expenses						
	Total Interfund Transfers		806,169	0		806,169
	<u>Contingency and Unappropriated Balance</u>					
599999	Contingency					
	* General		137,282	(66,229)		71,053
	* Builders License		62,987	0		62,987
	* Construction Services (Tri-Met Contract)		2,539	0		2,539
599990	Unappropriated Fund Balance-Contractors License					
	* Builders License		207,625	0		207,625
	* Capital Replacement Reserve		200,000	0		200,000
	Total Contingency and Unappropriated Balance		610,433	(66,229)		544,204
	TOTAL EXPENDITURES	81.50	7,668,704	0	81.50	7,668,704

**Exhibit A
Ordinance No. 95-598
GENERAL FUND**

FISCAL YEAR 1994-95		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Special Appropriations							
	<u>Materials & Services</u>						
524190	Misc. Professional Services		115,000		0		115,000
528200	Election Expense		150,000		70,000		220,000
	Total Materials & Services		<u>265,000</u>		<u>70,000</u>		<u>335,000</u>
	TOTAL EXPENDITURES	<u>0.00</u>	<u>265,000</u>	<u>0.00</u>	<u>70,000</u>	<u>0.00</u>	<u>335,000</u>
General Expenses							
	Total Interfund Transfers		4,241,383		0		4,241,383
	<u>Contingency and Unappropriated Balance</u>						
599999	Contingency		450,089		(70,000)		380,089
599990	Unappropriated Fund Balance		200,000				200,000
	Total Contingency and Unappropriated Balance		<u>650,089</u>		<u>(70,000)</u>		<u>580,089</u>
	TOTAL EXPENDITURES	<u>14.35</u>	<u>6,664,018</u>	<u>0.00</u>	<u>0</u>	<u>14.35</u>	<u>6,664,018</u>

Exhibit B
Ordinance No. 95-598
FY 1994-95 SCHEDULE OF APPROPRIATIONS

	Current Appropriation	Revision	Proposed Appropriation
SUPPORT SERVICES FUND			
Finance and Management Information			
Personal Services	2,321,327	0	2,321,327
Materials & Services	480,250	0	480,250
Capital Outlay	21,130	0	21,130
Subtotal	2,822,707	0	2,822,707
General Services			
Personal Services	947,694	0	947,694
Materials & Services	740,912	0	740,912
Capital Outlay	10,960	0	10,960
Subtotal	1,699,566	0	1,699,566
Office of Personnel			
Personal Services	552,092	0	552,092
Materials & Services	53,710	0	53,710
Capital Outlay	0	0	0
Subtotal	605,802	0	605,802
Office of General Counsel			
Personal Services	447,725	0	447,725
Materials & Services	29,998	0	29,998
Capital Outlay	3,600	0	3,600
Subtotal	481,323	0	481,323
Office of Public and Government Relations			
Personal Services	302,672		302,672
Materials & Services	129,782		129,782
Capital Outlay	0		0
Subtotal	432,454	0	432,454
Office of Citizen Involvement			
Personal Services	74,520	0	74,520
Materials & Services	10,730	0	10,730
Capital Outlay	0	0	0
Subtotal	85,250	0	85,250
Special Appropriation			
Materials & Services	125,000	66,229	191,229
Subtotal	125,000	66,229	191,229
General Expenses			
Interfund Transfers	806,169	0	806,169
Contingency	202,808	(66,229)	136,579
Subtotal	1,008,977	(66,229)	942,748
Unappropriated Balance	407,625	0	407,625
Total Fund Requirements	7,668,704	0	7,668,704

Exhibit B
Ordinance No. 95-598
FY 1994-95 SCHEDULE OF APPROPRIATIONS

	Current Appropriation	Revision	Proposed Appropriation
GENERAL FUND			
Council			
Personal Services	888,891	0	888,891
Materials & Services	102,243	0	102,243
Capital Outlay	13,800	0	13,800
Subtotal	1,004,934	0	1,004,934
Executive Management			
Personal Services	343,856	0	343,856
Materials & Services	40,002	0	40,002
Capital Outlay	1,600	0	1,600
Subtotal	385,458	0	385,458
Office of the Auditor			
Personal Services	76,373	0	76,373
Materials & Services	20,654	0	20,654
Capital Outlay	20,127	0	20,127
Subtotal	117,154	0	117,154
Special Appropriations			
Materials & Services	265,000	70,000	335,000
Subtotal	265,000	70,000	335,000
General Expenses			
Interfund Transfers	4,241,383		4,241,383
Contingency	450,089	(70,000)	380,089
Subtotal	4,691,472	(70,000)	4,621,472
Unappropriated Balance	200,000		200,000
Total Fund Requirements	6,664,018	0	6,664,018

All Other Appropriations Remain As Previously Adopted



METRO

DATE: March 23, 1995
TO: Metro Council
FROM: Mike Burton, Executive Officer
RE: Election Costs

As you have been previously notified, we received bills for the November election that exceed the \$125,000 budgeted for that election. The original bills we received were in error, and they have now been corrected. The amended bills for that election are as follows:

COUNTY	COST	%	POPULATION	%
Multnomah County	\$109,582	57%	610,000	54%
Washington County	50,019	26%	321,000	28%
Clackamas County	31,626	17%	210,000	29%
Total	\$191,227	100%	1,141,000	100%

A budget amendment to transfer \$66,228 out of Support Services Fund Contingency will be forthcoming.

After reviewing these billings and having discussions with the various county elections officials, we now believe that the amount of money budgeted in the General Fund for the May 16, 1995, Open Spaces ballot measure is insufficient. Presently \$150,000 is budgeted for that purpose and it appears an additional \$70,000 will be necessary. A budget amendment to transfer \$70,000 from General Fund Contingency will be forthcoming.

Based on the above, we are also in the process of reviewing the budgeted election costs in the proposed FY 1995-96 budget. Based on these billings, it now appears that the FY 1995-96 budgeted amount of \$75,000 is insufficient. Further information will be presented on this issue as soon as all research is completed.

Billings for local elections are regulated by Oregon Administrative Rules 165-20-050 – 165-20-060. A copy of those sections of OAR are attached for your information.

Billings are calculated by adding all costs of an election, then deducting those costs that can be directly attributed to a specific jurisdiction to produce a net cost. All registered voters for each jurisdiction having an election are then totaled to create an aggregate number of voters. The total net costs to be allocated are then divided by the number of aggregate voters. This factor is

Metro Council
March 23, 1995
Page 2

multiplied by the registered voters in each jurisdiction to come up with a jurisdiction's portion of the allocated costs. This portion plus any direct costs incurred specifically for that jurisdiction constitute the total election cost to a district. Once a jurisdiction has reached its total number of registered voters in the calculation of aggregate voters, no others are added. Therefore, a jurisdiction adding several measures district-wide would not pay more. Jurisdictions pay less when more jurisdictions have measures in a given election.

Attc.

Oregon Administrative Rules

Apportionment of Local Election Costs

Billing for Local Elections

Purpose

165-20-050 (1) This rule provides a uniform billing system for state, county, city and special district elections as authorized under ORS 246.179, 254.046, and 255.305:

(a) All chargeable costs incurred by the county election officer for the conduct of an election held for the state on a date other than the primary or general election, shall be paid by the state, if provided by the act calling for the election or pursuant to ORS 246.179;

(b) All chargeable costs incurred by the county election officer for the conduct of an election held for a city on a date other than the primary or general election, shall be paid by the city;

(c) All chargeable costs incurred by the county election officer for the conduct of an election held for a special district shall be paid by the special district.

(2) An "Election Equipment Amortization Worksheet" (SED Form 240), "Average Ballots Cast Worksheet" (SED Form 241), "Allocated Cost Worksheet" (SED Form 242), and "Local Elections Billing Worksheet" (SED Form 243) are attached and made a part of this rule and shall be used to detail all costs to be billed to each electoral district holding an election.

(3) Any chargeable cost billed for an election shall be supported by such documentation as copies of payroll registers, invoices, vouchers, sales slips, billings, and receipts. Any cost not specified in this rule, or any unsupported chargeable cost, need not be paid.

(4) Documentation will be provided to the electoral districts upon request.

(5) Any electoral district bills and supporting documentation shall be subject to audit by the secretary of state at any time for the purpose of verifying the accuracy of the

chargeable costs.

[ED. NOTE: The form(s) referred to or incorporated by reference in this rule are available from the Elections Division.]

Stat. Auth.: ORS 246.179, 254.046 & 255.305
Hist.: SD 40-1980, f. & ef. 4-2-80; SD 16-1984, f. & ef. 9-5-84; ELECT
2-1990(Temp), f. & cert. ef. 1-19-90; ELECT 22-1990, f. & cert. ef.
6-4-90

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Definition of Terms

165-20-055 (1) "Adjustment Cost". A value which occurs when the voter registration of a district which did not have an excess credit is multiplied by the adjustment cost per elector.

(2) "Adjustment Cost Per Elector". A unit charge derived by dividing the total excess credit by the adjustment registration.

(3) "Adjustment Registration". The total aggregate registration minus the registration of those districts which have an excess credit.

(4) "Aggregate Registration". The total number of electors from all participating electoral districts within a county.

(5) "Allocated Cost". The total of all costs on the "Allocated Cost Worksheet" (SED Form 242) incurred by the county election officer for a given election.

(6) "Allocated Cost Per Elector". A unit charge determined by dividing the allocated cost by the aggregate registration.

(7) "Amortization". The allocation of a cost of an asset over its estimated economic life:

(a) "Estimated Economic Life". The period of time over which the asset will be used. This period of time cannot be longer than the estimated physical life of the asset;

(b) "Hardware". The physical equipment used in an information system;

(c) "Software or Program". The detailed instructions which direct the hardware functions of an information system;

(d) "Hardware Maintenance Agreement". An annual expenditure for the repair or preventative maintenance of the hardware portion of an information system;

(e) "Software License or Royalty". An expenditure for the licensed use of an information system's software.

(8) "Chargeable Cost". A charge directly associated with and incurred by the county election officer to conduct a given election. Chargeable costs include apportioned costs and dedicated expenditures. Costs associated with a county's voters' pamphlet shall be considered chargeable costs for local elections. Chargeable cost does not include costs incurred for a city election held on the date of the primary or general election.

(9) "Apportioned Cost". A value which occurs when the district registration is multiplied by the allocated cost per elector.

(10) "Dedicated Expenditure". Any charge associated with and incurred by the county election officer to conduct a given election but specific to one electoral district and not to be shared or apportioned to any other electoral district; such as notice of ballot title.

(11) "Election Cost". The billing cost for a district election. A value derived by subtracting the adjustment cost from the value in the total chargeable costs minus total revenue column for each district on the "Local Elections Billing Worksheet" (SED Form 243).

(12) "Electoral District". A state, county, city, special district, or other municipal corporation for which the county election officer is required to hold an election.

(13) "Excess Credit". A value which occurs when the total revenue from a district exceeds the total cost for that district election.

(14) "Revenue". The deposits placed on account with the county election officer as provided in ORS 198.775, 261.210, and 607.025 and revenues received from submission of candidate statements and arguments for publication of the county voters' pamphlet.

[ED. NOTE: The form(s) referred to or incorporated by reference in this rule are available from the Elections Division.]

Stat. Auth.: ORS 246.179, 251.365, 254.046 & 255.305
Hist.: SD 40-1980, f. & ef. 4-2-80; SD 16-1984, f. & ef. 9-5-84; ELECT 2-1990(Temp), f. & cert. ef. 1-19-90; ELECT 22-1990, f. & cert. ef. 6-4-90; ELECT 12-1992(Temp), f. & cert. ef. 5-18-92; ELECT 35-1992, f. & cert. ef. 12-15-92

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Computation of Costs

~~165-20-060~~ (1) Computation of Election Equipment

Amortization:

(a) Compute the amortization of election equipment by using the "Election Equipment Amortization Worksheet" (SED Form 240);

(b) The amortization of election equipment which is utilized specifically to conduct an election shall be computed based on one of the following:

(A) Punch card or optical scanner ballot system counties shall use the average number of ballots cast;

(B) Mark sense multiple card ballot system counties shall use the aggregate registration calculated as of December 31st of each year.

(c) The "Average Ballots Cast Worksheet" (SED Form 241) provides the procedure for estimating the average ballots cast for all elections in a given year;

(d) County election officers who have previously amortized election equipment must determine the unamortized costs of the existing elections equipment and its remaining useful economic life prior to determining a unit charge on the "Election

Equipment Amortization Worksheet" (SED Form 240);

(e) The total amortization costs billed to electoral districts over the years the elections equipment is used cannot exceed the total purchase cost of hardware and software/programming, including interest, licensing, royalty and upgrades, and annual maintenance charges. When new hardware, software or programming costs are incurred, those costs, less the unamortized costs of the replaced equipment, should be added to the total purchase cost on the "Election Equipment Amortization Worksheet" (SED Form 240) and the amortization recomputed;

(f) Amortization of election equipment is not mandatory, however, any county election officer who chooses to amortize such equipment must use the methods specified in this rule.

(2) Computation of Allocated Costs. Compute the allocated cost by using the "Allocated Cost Worksheet" (SED Form 242):

(a) List the amount expended for items within each of the nine categories in the cost column;

(b) Total each category and place that dollar value in the total column corresponding to that category;

(c) Transfer the nine category totals to the summary page;

(d) Total the nine category totals and place that total on the grand total (allocated cost) line. Grand total will be the sum of the nine category totals;

(e) Transfer the grand total (allocated cost) figure to the allocated cost line (box #1) on the "Local Elections Billing Worksheet" (SED Form 243).

(3) Computation of Local Election Costs. Compute the local election costs by using the "Local Elections Billing Worksheet" (SED Form 243):

(a) Enter every electoral district which participated in the election, such as state, county, cities, and special districts, under district name (column "A");

(b) Place the voter registration figure of each district on the district registration line corresponding to that district (column "B");

(c) Total the number of registered voters under district registration (column "B") and transfer that figure to the aggregate registration (box #2);

(d) Divide the allocated cost (box #1) by the aggregate registration (box #2). The result is the allocated cost per elector (box #3);

(e) Multiply each district's voter registration figure (column "B") by the allocated cost per elector (box #3) and place that value on the corresponding line for that district under apportioned cost (column "C");

(f) Total the entries in the apportioned cost (column "C"):

(A) The total should equal the allocated cost (box #1);

(B) If the total does not match, the values within the apportioned cost (column "C") shall be add by adding or subtracting \$0.01s from each district's apportioned cost to achieve matching totals:

(i) When adding \$0.01s, always begin with the district paying the smallest share of the apportioned cost;

(ii) When subtracting \$0.01s, always begin with the district

paying the largest share of the apportioned cost.

(g) Place all dedicated expenditure costs for each district on the line corresponding to that district under the dedicated expenditures (column "D");

(h) Total each district's apportioned cost (column "C") and dedicated expenditures (column "D") and place that dollar value on the corresponding line for that district under total chargeable costs (column "E");

(i) Place the total of all revenues received for each district on the line corresponding to that district under total revenue (column "F"). (Example: Revenues received for the publication of candidate statements or argument statements for the county voters' pamphlet.);

(j) For every district, subtract the total revenue (column "F") from the total chargeable costs (column "E");

(A) If the result is \$0.00 or greater (costs are equal to or greater than revenues), place that dollar value in the total chargeable costs minus total revenue (column "G");

(B) If the result shows the district would receive a refund (revenues are greater than costs), place that value in the excess credit (column "H");

(C) If the result shows the district would receive a refund, place that value in excess credit (column "H"). If that revenue was from a deposit outlined in ORS 198.775, 261.210 or 607.025, circle the dollar value in excess credit (column "H") and exclude this circled dollar value and the district from any further computations (see "R" below).

(k) Total the values in excess credit (column "H") and place that dollar value in total excess credit (box #4);

(l) Adjustment registration (box #5) is computed by taking the aggregate registration (box #2) and subtracting the district registration (column "B") for each district which has an uncircled value in excess credit (column "H");

(m) Divide the total excess credit (box #4) by the adjustment registration (box #5). The result is the adjustment cost per elector (box #6);

(n) Multiply each district's voter registration figure (column "B") for district which do not have an excess credit (column "H") by the adjustment cost per elector (box #6) and place that value on the corresponding line for that district in the adjustment cost (column "I");

(o) Total the entries in adjustment cost (column "I");

(A) The total should equal the total excess credit (box #4);

(B) If the total does not match, the values within adjustment cost (column "I"), the adjustment cost shall be adjusted by adding or subtracting \$0.01s from each adjustment cost to achieve matching totals.

(p) To determine the election cost (column "J") for each district, subtract the adjustment cost (column "I") from the value on the corresponding line in total chargeable costs minus revenue (column "G"). All districts which have a dollar value in excess credit (column "H") should have no dollar value in total chargeable costs minus revenue (column "G") or in adjustment cost (column "I"); therefore, no election cost;

(q) Billing statement originate from election cost (column "J");

(r) Refunds are only made to district (petitioners) which have a circled value in excess credit (column "H") because of a deposit pursuant to ORS 198.775, 265.210, or 607.025.

[ED. NOTE: The form(s) referred to or incorporated by reference in this rule are available from the Elections Division.]

Stat. Auth.: ORS 246.179, 254.046 & 255.305
Hist.: SD 40-1980, f. & ef. 4-2-80; SD 16-1984, f. & ef. 9-5-84; ELECT 2-1990(Temp), f. & cert. ef. 1-19-90; ELECT 22-1990, f. & cert. ef. 6-4-90

AGENDA ITEM 6.4
Meeting Date: April 20, 1995

Ordinance No. 95-600

Amending the FY 1994-95 Budget and Appropriations Schedule by Transferring \$12,000 From Personal Services to Capital Outlay in the General Fund Executive Office; and Declaring an Emergency.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 95-600 AMENDING THE FY 1994-95 BUDGET AND APPROPRIATIONS SCHEDULE BY TRANSFERRING \$12,000 FROM PERSONAL SERVICES TO CAPITAL OUTLAY IN THE GENERAL FUND EXECUTIVE OFFICE; AND DECLARING AN EMERGENCY.

Date: April 5, 1995

Presented by: Mike Burton

FACTUAL BACKGROUND AND ANALYSIS

Mike Burton was sworn in as Executive Officer of Metro on January 3, 1995. Effective that date, the budget provided for a staff reduction from 4 to 2. That resulted in a dollar reduction of \$79,062.

Executive Officer Burton's response to those budget constraints was to work within the existing funds.

Ordinance 95-584 was adopted by the Council on January 15, 1995 to allow the Executive Officer to create an additional position, but this position was funded within existing reduced resources.

In addition, office space and furniture were given to the newly elected Auditor and an Executive Management work station was given to the Office of Government and Public Relations.

Because of the significantly reduced Executive staff salaries and benefits, there will be unexpended funds in Personal Services. Effective July 1, 1995, the deleted position in the Executive Officer's budget will be restored. This position will require a work station and space.

The Executive Officer is requesting a transfer of \$12,000 from Personal Services to Capital to accommodate the needed space and to acquire the necessary work station and equipment. There is no budget impact. This is a transfer from Personal Services to Capital.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 95-600.

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING THE FY 1994-95)	ORDINANCE NO. 95-600
BUDGET AND APPROPRIATIONS)	
SCHEDULE BY TRANSFERRING \$12,000)	Introduced by Mike Burton,
FROM PERSONAL SERVICES TO CAPITAL)	Executive Officer
OUTLAY IN THE GENERAL FUND)	
EXECUTIVE OFFICE; AND DECLARING AN)	
EMERGENCY)	
)	

WHEREAS, With the creation of the new Office of the Metro Auditor and the temporary reduction in the number of authorized positions for the Executive Office in FY 1994-95, office space previously used by the Executive Office was allocated to the Office of the Auditor, and

WHEREAS, The position temporarily removed from the Executive Office will be reinstated starting July 1, 1995, and

WHEREAS, One workstation from the Executive Office was transferred to the Office of Public and Government Relations, and

WHEREAS, Construction of a new office, and provision of furniture and equipment for that office and other Executive Office offices are necessary for efficient operation, and

WHEREAS, A portion of the funds currently appropriated in the General Fund Executive Office Personal Services appropriation will not be expended, and

WHEREAS, The necessary construction and acquisition of furniture and equipment can be funded by the transfer of the projected savings from the Executive Office Personal Services category to Capital Outlay without increasing the Executive Office FY 1994-95 budget, and

WHEREAS, The Metro Council has reviewed and considered the need to transfer appropriations within the FY 1994-95 Budget; and

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

THE METRO COUNCIL ORDAINS AS FOLLOWS;

1. That the FY 1994-95 Budget and Schedule of Appropriations are hereby amended as shown in the column titled "Revision" of Exhibits A and B to this Ordinance to transfer \$12,000 within the General Fund Executive Office from Personal Services to Capital Outlay.

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

ADOPTED by the Metro Council this _____ day of _____, 1995.

ATTEST:

J. Ruth McFarland, Presiding Officer

Recording Secretary

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**Exhibit A
Ordinance No. 95-600**

FISCAL YEAR 1994-95		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
GENERAL FUND							
Executive Office							
<u>Personal Services</u>							
511110	ELECTED OFFICIALS						
	Executive Officer	1.00	76,200	0	0	1.00	76,200
511121	SALARIES-REGULAR EMPLOYEES (full time)						
	Administrator	0.50	37,866	0	0	0.50	37,866
	Senior Administrative Services Analyst	0.50	26,309	0	0	0.50	26,309
	Administrative Support Assistant D	0.50	13,834	0	0	0.50	13,834
511131	SALARIES-TEMPORARY EMPLOYEES (full time)						
	Senior Administrative Services Analyst	0.50	22,359	0	0	0.50	22,359
	Administrative Support Assistant D	0.50	13,549	0	0	0.50	13,549
511221	WAGES-REGULAR EMPLOYEES (full time)						
	Administrative Support Assistant C	1.00	26,918	0	0	1.00	26,918
511400	OVERTIME		0	0	0		0
512000	FRINGE		126,821	0	(12,000)		114,821
	Total Personal Services	4.50	343,856	0	(12,000)	4.50	331,856
	Total Materials & Services		40,002				40,002
<u>Capital Outlay</u>							
571500	Purchases-Office Furniture & Equipment		1,600		12,000		13,600
	Total Capital Outlay		1,600		12,000		13,600
	TOTAL EXECUTIVE MANAGEMENT EXPENDITURES	4.50	385,458	0.00	0	4.50	385,458
	TOTAL GENERAL FUND EXPENDITURES	14.62	6,664,018	0.00	0	14.62	6,664,018

**Exhibit B
Ordinance No. 95-600**

FY 1994-95 SCHEDULE OF APPROPRIATIONS

	Current Appropriation	Revision	Proposed Appropriation
GENERAL FUND			
Council			
Personal Services	888,891		888,891
Materials & Services	102,243		102,243
Capital Outlay	13,800		13,800
	<u>1,004,934</u>	0	<u>1,004,934</u>
Executive Office			
Personal Services	343,856	(12,000)	331,856
Materials & Services	40,002		40,002
Capital Outlay	1,600	12,000	13,600
	<u>385,458</u>	0	<u>385,458</u>
Office of the Auditor			
Personal Services	76,373		76,373
Materials & Services	20,654		20,654
Capital Outlay	20,127		20,127
	<u>117,154</u>	0	<u>117,154</u>
Special Appropriations			
Materials & Services	265,000		265,000
	<u>265,000</u>	0	<u>265,000</u>
General Expenses			
Interfund Transfers	4,241,383		4,241,383
Contingency	450,089		450,089
	<u>4,691,472</u>	0	<u>4,691,472</u>
Unappropriated Balance	200,000		200,000
Total Fund Requirements	<u>6,664,018</u>	0	<u>6,664,018</u>

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AGENDA ITEM 6.5
Meeting Date: April 20, 1995

Ordinance No. 95-596

Amending the FY 1994-95 Budget and Appropriations Schedule for the Purpose of Adopting the FY 1994-95 Supplemental Budget; and Declaring an Emergency.

Requested Council Action Schedule for Supplemental Budget

- April 20, 1995**
 - First reading and public hearing on ordinance 95-596
 - Approval of Resolution 95-2124, transmitting supplemental budget to TSCC
- Week of June 5**
 - TSCC public hearing on supplemental budget (to be held at the same time as the hearing on the FY 1995-96 annual budget)
- June 22, 1995**
 - Second reading and adoption of ordinance 95-596

On April 20, 1995, the Council will need to consider both Ordinance 95-596 and Resolution 95-2124. Official action can only be taken on the Resolution at the April 20th meeting. The ordinance and resolution are companion pieces. They would normally be listed on the agenda at separate times. It would be helpful if both actions could be considered together, if that is possible under Council procedures.

The Ordinance cannot be scheduled for adoption until after the TSCC hearing. The official adoption date is requested for June 22, 1995, as Kathy Rutkowski, the Financial Planning Analyst for MERC will be on vacation during the week of June 12, 1995.

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING THE FY 1994-95) ORDINANCE NO. 95-596
BUDGET AND APPROPRIATIONS)
SCHEDULE FOR THE PURPOSE OF) Introduced by Mike Burton
ADOPTING THE FY 1994-95 SUPPLEMENTAL) Executive Officer
BUDGET; AND DECLARING AN EMERGENCY)

WHEREAS, Various conditions exist which had not been ascertained at the time of the preparation of the FY 1994-95 budget, and a change in financial planning is required; and

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

WHEREAS, Recommendations from the Tax Supervising and Conservation Commission have been received and acted upon, as reflected in the Supplemental Budget and Schedule of Appropriations; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS;

1. That the FY 1994-95 Budget and Schedule of Appropriations are hereby amended as shown in the column titled "Revision" of Exhibits A and B to this Ordinance.
2. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this ____ day of _____, 1995.

ATTEST:

J. Ruth McFarland, Presiding Officer

Recording Secretary

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**EXHIBIT A
ORDINANCE NO. 95-596
FY 1994-95 SUPPLEMENTAL BUDGET**

Spectator Facilities Operating Fund

		FISCAL YEAR 1994-95							
		ADOPTED BUDGET		REVISED BUDGET		REQUESTED CHANGE		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Resources									
Resources									
305000	Beginning Fund Balance		2,689,598		2,689,598		437,462		3,127,060
CIVIC STADIUM									
347110	Users' Fee		127,020		127,020		0		127,020
347220	Rentals-Building		207,325		207,325		0		207,325
347311	Food Service-Concessions/Food		1,045,600		1,045,600		0		1,045,600
347500	Merchandising		11,550		11,550		0		11,550
347700	Commissions		47,300		47,300		0		47,300
347900	Miscellaneous Revenue		35,225		35,225		0		35,225
361100	Interest		35,383		35,383		0		35,383
372100	Reimbursements - Labor		136,700		136,700		0		136,700
PERFORMING ARTS CENTER									
338100	Hotel/Motel Tax		0		0		600,000		600,000
347110	Users' Fee		810,000		810,000		135,000		945,000
347220	Rentals-Building		695,000		695,000		0		695,000
347311	Food Service-Concessions/Food		150,000		150,000		0		150,000
347500	Merchandising		50,000		50,000		0		50,000
347700	Commissions		170,000		170,000		0		170,000
347900	Miscellaneous Revenue		80,000		80,000		0		80,000
361100	Interest		75,000		75,000		15,000		90,000
372100	Reimbursements - Labor		1,695,058		1,695,058		619,000		2,314,058
TOTAL FUND RESOURCES			8,060,759		8,060,759		1,806,462		9,867,221

**EXHIBIT A
ORDINANCE NO. 95-596
FY 1994-95 SUPPLEMENTAL BUDGET**

Spectator Facilities Operating Fund

		FISCAL YEAR 1994-95							
		ADOPTED BUDGET		REVISED BUDGET		REQUESTED CHANGE		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Civic Stadium Operations									
	Total Personal Services	15.88	578,538	15.88	578,538	0.00	0	15.88	578,538
	Total Materials & Services		1,032,429		1,032,429		0		1,032,429
	Total Capital Outlay		250,000		250,000		0		250,000
	Total Civic Stadium Expenditures	15.88	1,860,967	15.88	1,860,967	0.00	0	15.88	1,860,967
Performing Arts Center Operations									
<u>Personal Services</u>									
511121	SALARIES-REGULAR EMPLOYEES (full time)								
	PCPA Director	1.00	67,099	1.00	67,099		0	1.00	67,099
	Sales Representative	1.00	36,566	1.00	36,566		0	1.00	36,566
	Event Services Manager	1.00	49,148	1.00	49,148		0	1.00	49,148
	Assistant Technical Services Manager	1.00	36,351	1.00	36,351		0	1.00	36,351
	Building Maintenance Supervisor	1.00	36,627	1.00	36,627		0	1.00	36,627
	Ticket Service Manager	1.00	40,405	1.00	40,405		0	1.00	40,405
	Ticket Service Supervisor I	1.00	27,734	1.00	27,734		0	1.00	27,734
	Ticket Service Supervisor II	3.00	93,918	3.00	93,918		0	3.00	93,918
	Volunteer Coordinator	0.65	19,870	0.65	19,870		0	0.65	19,870
	Development Project Manager	0.38	18,011	0.38	18,011		0	0.38	18,011
	Admissions/Security Scheduling Coordinator	0.45	11,593	0.45	11,593		0	0.45	11,593
	Technical Services Manager	1.00	49,140	1.00	49,140		0	1.00	49,140
	Senior House Manager	1.00	33,214	1.00	33,214		0	1.00	33,214
511221	WAGES-REGULAR EMPLOYEES (full time)								
	Utility Lead	3.00	81,618	3.00	81,618		0	3.00	81,618
	Receptionist	1.00	25,120	1.00	25,120		0	1.00	25,120
	Administrative Secretary	1.00	27,733	1.00	27,733		0	1.00	27,733
	Secretary	3.00	75,405	3.00	75,405		0	3.00	75,405
	Facility Security Agent	1.00	24,478	1.00	24,478		0	1.00	24,478
	Operating Engineer	2.00	74,756	2.00	74,756		0	2.00	74,756
	Bookkeeper	1.00	24,500	1.00	24,500		0	1.00	24,500
	Stagedoor Security	1.00	23,474	1.00	23,474		0	1.00	23,474
	Event Services Clerk	0.45	9,280	0.45	9,280		0	0.45	9,280
511225	WAGES-REGULAR EMPLOYEES (part time)								
	Stagehand/Utility Workers	34.98	886,550	34.98	886,550	8.50	385,000	43.48	1,271,550
	Security/Medical Workers	4.85	114,196	4.85	114,196		0	4.85	114,196
	Ushers/Gate Attendants/Supervisor	28.27	403,806	28.27	403,806	2.50	40,000	30.77	443,806
	Ticket Sellers/Supervisors	4.41	77,873	4.41	77,873		0	4.41	77,873
	House Managers/Coat Check/Elevator Op	5.32	139,721	5.32	139,721		0	5.32	139,721
	Event Custodians	5.03	86,730	5.03	86,730		0	5.03	86,730
	Engineers	1.43	53,712	1.43	53,712		0	1.43	53,712
511400	OVERTIME		26,000		26,000		10,000		36,000
512000	FRINGE		726,834		726,834		116,200		843,034
	Total Personal Services	111.22	3,401,462	111.22	3,401,462	11.00	551,200	122.22	3,952,662

**EXHIBIT A
ORDINANCE NO. 95-596
FY 1994-95 SUPPLEMENTAL BUDGET**

Spectator Facilities Operating Fund

		FISCAL YEAR 1994-95							
		ADOPTED BUDGET		REVISED BUDGET		REQUESTED CHANGE		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Performing Arts Center Operations									
<u>Materials & Services:</u>									
521100	Office Supplies		17,000		17,000		0		17,000
521290	Other Supplies		59,864		59,864		8,000		67,864
521292	Small Tools		3,662		3,662		0		3,662
521293	Promotion Supplies		1,170		1,170		0		1,170
521310	Subscriptions		340		340		0		340
521320	Dues		975		975		0		975
521510	Maint & Repair Supplies - Buildings		7,000		7,000		12,000		19,000
521540	Maint & Repair Supplies - Equipment		19,440		19,440		0		19,440
523200	Merchandise for Resale - Retail Goods		8,500		8,500		0		8,500
524130	Promotion/Public Relation Services		3,371		3,371		0		3,371
524190	Misc. Professional Services		15,000		15,000		0		15,000
525110	Utilities-Electricity		164,800		164,800		45,000		209,800
525120	Utilities-Water and Sewer		31,250		31,250		2,200		33,450
525130	Utilities-Natural Gas		43,230		43,230		19,000		62,230
525150	Utilities-Sanitation Service		10,300		10,300		3,000		13,300
525610	Maintenance & Repair Services-Building		41,200		41,200		0		41,200
525640	Maintenance & Repair Services-Equipment		50,633		50,633		0		50,633
525710	Equipment Rental		10,284		10,284		0		10,284
525720	Building Rental		95,000		95,000		0		95,000
525740	Capital Leases (FY 92)		9,170		9,170		0		9,170
526200	Advertising and Legal Notices		1,592		1,592		0		1,592
526310	Printing Services		7,420		7,420		0		7,420
526320	Typesetting & Reprographic		750		750		0		750
526410	Telephone		39,000		39,000		5,000		44,000
526420	Postage		15,750		15,750		0		15,750
526430	Catalogues & Brochures		3,600		3,600		0		3,600
526440	Communications-Delivery Services		1,275		1,275		0		1,275
526800	Travel		844		844		0		844
526700	Temporary Help Services		31,410		31,410		18,200		49,610
526800	Training, Tuition, Conferences		3,200		3,200		0		3,200
526910	Uniforms and Cleaning		12,500		12,500		0		12,500
528100	License, Permits, Payments to Other Agencies		28,500		28,500		0		28,500
529500	Meeting Expenditures		1,100		1,100		0		1,100
529800	Miscellaneous		3,750		3,750		0		3,750
529835	External Promotion Expenses		750		750		0		750
Total Materials & Services			743,630		743,630		112,400		856,030
<u>Capital Outlay</u>									
571300	Purchased Buildings, Exhibits & Related		0		110,000		0		110,000
571500	Purchases - Office Furniture and Equipment		0		0		12,000		12,000
Total Capital Outlay			0		110,000		12,000		122,000
Total Performing Arts Center Expenditures		111.22	4,145,092	111.22	4,255,092	11.00	675,600	122.22	4,930,692

**EXHIBIT A
ORDINANCE NO. 95-596
FY 1994-95 SUPPLEMENTAL BUDGET**

Spectator Facilities Operating Fund

		FISCAL YEAR 1994-95							
		ADOPTED BUDGET		REVISED BUDGET		REQUESTED CHANGE		PROPOSED BUDGET	
ACCT#	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
General Expenses									
Total Interfund Transfers			640,545		640,545		0		640,545
<u>Contingency and Unappropriated Balance</u>									
599999	Contingency		182,000		72,000		0		72,000
599990	Unappropriated Balance		1,232,155		1,232,155		1,130,862		2,363,017
Total Contingency and Unapp. Balance			1,414,155		1,304,155		1,130,862		2,435,017
TOTAL FUND REQUIREMENTS		127.10	8,060,759	127.10	8,060,759	11.00	1,806,462	138.10	9,867,221

**EXHIBIT A
ORDINANCE NO. 95-596
FY 1994-95 SUPPLEMENTAL BUDGET**

Oregon Convention Center Operating Fund

ACCT #	DESCRIPTION	FISCAL YEAR 1994-95							
		ADOPTED BUDGET		REVISED BUDGET		REQUESTED CHANGE		PROPOSED BUDGET	
		FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Resources									
<u>Resources</u>									
OREGON CONVENTION CENTER OPERATIONS									
305000	Fund Balance		8,202,133		8,202,133		1,216,327		9,418,460
338100	Hotel/Motel Tax		4,180,000		4,180,000		(600,000)		3,580,000
347220	Rentals-Building		1,291,001		1,291,001		0		1,291,001
347311	Food Service-Concessions/Food		3,989,951		3,989,951		0		3,989,951
347500	Merchandising		25,000		25,000		0		25,000
347610	Utility Services-Electric		787,500		787,500		0		787,500
347700	Commissions		33,000		33,000		0		33,000
379000	Miscellaneous Revenue		50,000		50,000		0		50,000
361100	Interest on Investments		285,657		285,657		0		285,657
372100	Reimbursements - Labor		245,000		245,000		0		245,000
374000	Parking		587,335		587,335		0		587,335
TOTAL FUND RESOURCES			19,676,577		19,676,577		616,327		20,292,904

Requirements

Total Personal Services		93.44	3,654,705	93.44	3,654,705	0.00	0	93.44	3,654,705
Total Materials & Services			5,992,834		5,992,834		0		5,992,834
Total Capital Outlay			370,000		370,000		0		370,000
Total Interfund Transfers			2,448,592		2,448,592		0		2,448,592
<u>Contingency and Unappropriated Balance</u>									
590000	Contingency		500,000		500,000		0		500,000
590000	Unappropriated Balance		2,510,446		2,510,446		616,327		3,126,773
	* Unrestricted		4,200,000		4,200,000		0		4,200,000
	* Economic Stabilization and Facilities Planning Account								
Total Contingency and Unapp Balance			7,210,446		7,210,446		616,327		7,826,773
TOTAL FUND REQUIREMENTS		93.44	19,676,577	93.44	19,676,577	0.00	616,327	93.44	20,292,904

EXHIBIT B
ORDINANCE NO. 95-596
FY 1994-95 SUPPLEMENTAL BUDGET
Schedule of Appropriations

FISCAL YEAR 1994-95				
	ADOPTED BUDGET	REVISED BUDGET	REQUESTED CHANGE	PROPOSED BUDGET
SPECTATOR FACILITIES OPERATING FUND				
Civic Stadium				
Personal Services	578,538	578,538	0	578,538
Materials & Services	1,032,429	1,032,429	0	1,032,429
Capital Outlay	250,000	250,000	0	250,000
Subtotal	1,860,967	1,860,967	0	1,860,967
Performing Arts Center				
Personal Services	3,401,462	3,401,462	551,200	3,952,662
Materials & Services	743,630	743,630	112,400	856,030
Capital Outlay	0	110,000	12,000	122,000
Subtotal	4,145,092	4,255,092	675,600	4,930,692
General Expenses				
Interfund Transfers	640,545	640,545	0	640,545
Contingency	182,000	72,000	0	72,000
Subtotal	822,545	712,545	0	712,545
Unappropriated Balance	1,232,155	1,232,155	1,130,862	2,363,017
Total Fund Requirements	8,060,759	8,060,759	1,806,462	9,867,221
OREGON CONVENTION CENTER OPERATING FUND				
Personal Services	3,654,705	3,654,705	0	3,654,705
Materials & Services	5,992,834	5,992,834	0	5,992,834
Capital Outlay	370,000	370,000	0	370,000
Interfund Transfers	2,448,592	2,448,592	0	2,448,592
Contingency	500,000	500,000	0	500,000
Unappropriated Balance	6,710,446	6,710,446	616,327	7,326,773
Total Fund Requirements	19,676,577	19,676,577	616,327	20,292,904

All Other Appropriations Remain as Previously Adopted

AGENDA ITEM 7.1
Meeting Date: April 20, 1995

Resolution No. 95-2124

For the Purpose of Approving the FY 1994-95 Supplemental Budget and Transmitting the Approved Budget to the Tax Supervising and Conservation Commission.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 95-2124 APPROVING THE FY 1994-95 SUPPLEMENTAL BUDGET AND TRANSMITTING THE APPROVED BUDGET TO THE TAX SUPERVISING AND CONSERVATION COMMISSION, AND ORDINANCE NO. 95-596 AMENDING THE FY 1994-95 BUDGET AND APPROPRIATIONS SCHEDULE FOR THE PURPOSE OF ADOPTING THE FY 1994-95 SUPPLEMENTAL BUDGET; AND DECLARING AN EMERGENCY

Date: April 4, 1995

Presented by: Pat LaCrosse
Heather Teed

FACTUAL BACKGROUND AND ANALYSIS

A supplemental budget is necessary due to unforeseen circumstances that require changes in our financial planning. These Council actions are presented toward adopting a supplemental budget for FY 1994-95. Ordinance No. 95-596 revises the FY 1994-95 budget and appropriations schedule to recognize additional operating revenues and requirements resulting from the addition of a five week Broadway series and the mega-hit "Miss Saigon", to reflect the redirection of \$600,000 in Hotel/Motel tax from the Oregon Convention Center to the Performing Arts Center per the agreement with Multnomah County, and to recognize the actual audited beginning fund balances for the Spectator Facilities Fund and the Oregon Convention Center Operating Fund. This Ordinance is presented for consideration at this time but is not intended to be adopted until after the Tax Supervising and Conservation Commission (TSCC) conducts a public hearing. TSCC review is required under Oregon Budget Law because total appropriations are being increased greater than ten percent of the value of a fund's adopted expenditures. Resolution No. 95-2124 approves the Supplemental Budget and transmits the approved budget to the TSCC. Specific changes to the budget under this proposal are explained below.

Broadway Series and "Miss Saigon"

FY 1994-95 performances at the Civic Auditorium include a five week Broadway Series promoted by Dan Bean Presents, and four weeks of performances of Miss Saigon. The contract for Miss Saigon was not signed until September, 1994. In addition, the actual dates and necessary requirements for the Broadway Series were not known until after the adoption of the FY 1994-95 budget. As a result of these events, the Performing Arts Center budget will realize approximately \$769,000 of additional revenues, and incur approximately \$675,600 of additional expenditures. The vast majority of additional expenditures is due to increased stagehand, admissions and security labor needed for the nine weeks of added performances. Specific event labor is reimbursed by the promoter with 25 percent added to cover employee payroll taxes and overhead. In addition to the personal services costs, there are increases in utilities, supplies, and purchased labor (primarily custodial assistance) due to the increase in events, and an enhancement of the phone system

to provide better service, specifically voice mail. These events are expected to provide a net positive cash flow of \$93,400.

Redirection of Hotel/Motel Tax Proceeds to the Performing Arts Center

In the Spring, 1994, the Metropolitan Exposition-Recreation Commission entered into negotiations with Multnomah County to redirect a portion of the Hotel/Motel tax dedicated to the operations of the Oregon Convention Center to the operations of the Performing Arts Center. Negotiations continued through May and June, 1994, with final approval by Multnomah County on June 16, 1994. This action reflects the decrease of \$600,000 in Hotel/Motel tax in the Oregon Convention Center Operating Fund and an increase in Hotel/Motel tax resources in the Spectator Facilities Fund. No additional appropriation authority is requested and changes in requirements will be reflected in each fund's respective ending balance. While this action is technically not required under Oregon Budget Law, it represents a significant change in the funding structure of both facilities and is requested to provide a more accurate portrayal of the financial resources of the facilities.

Recognition of Actual Fund Balance

The actual audited fund balances of both the Spectator Facilities Fund and the Oregon Convention Center Operating Fund were in excess of the estimates provided in the Adopted budget. This action requests the recognition of \$437,462 of additional fund balance in the Spectator Facilities Fund and \$1,216,327 of additional fund balance in the Oregon Convention Center Operating Fund. No additional appropriation is requested with this action. The additional resources will be reflected in each fund's respective ending balance. This action is also not required by law, however, is requested to provide a more accurate portrayal of the financial picture of the facilities.

SUMMARY OF BUDGET IMPACT

Specific line item changes and appropriation modifications are provided in Exhibits A and B to this Ordinance. The following is a summary of the changes requested in the Supplemental Budget for FY 1994-95.

	Spectator Facilities Fund	Oregon Convention Center Operating Fund
Resources:		
• Beginning Fund Balance	\$437,462	\$1,216,327
• Hotel/Motel Tax	600,000	(600,000)
• User Fees	135,000	0
• Interest Earned	15,000	0
• Reimbursed Labor	619,000	0
Total Resources	\$1,806,462	\$616,327

	Spectator Facilities Fund	Oregon Convention Center Operating Fund
Requirements:		
▪ Personal Services	\$551,200	\$0
▪ Materials & Services	112,400	0
▪ Capital Outlay	12,000	0
▪ Ending Unappropriated Balance	1,130,862	616,327
Total Requirements	\$1,806,462	\$616,327

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 95-2124 approving the Supplemental Budget and transmitting the Approved Supplemental Budget to the Tax Supervising and Conservation Commission. In addition, following TSCC review and certification, the Executive Officer recommends adoption of Ordinance No. 95-596, adopting the FY 1994-95 Supplemental Budget, recognizing the increases in operating revenues and requirements for the Broadway Series and Miss Saigon, the re-direction of Hotel/Motel tax to the Performing Arts Center, and the actual beginning fund balances for the Spectator Facilities Fund and the Oregon Convention Center Operating Fund.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE FY)	RESOLUTION NO. 95-2124
1994-95 SUPPLEMENTAL BUDGET AND)	
TRANSMITTING THE APPROVED BUDGET)	Introduced by Mike Burton
TO THE TAX SUPERVISING AND)	Executive Officer
CONSERVATION COMMISSION)	

WHEREAS, A Supplemental Budget is necessary as provided in ORS 294.480(1)(a) due to "an occurrence or condition which had not been ascertained at the time of the preparation of the budget for the current year which requires a change in financial planning;" and

WHEREAS, The Metro Council has reviewed the Proposed Supplemental Budget and held a public hearing on the Proposed Budget and considered overall issues affecting the FY 1994-95 Supplemental Budget; and

WHEREAS, Pursuant to Oregon budget law, the FY 1994-95 Supplemental Budget must be transmitted to the Tax Supervising and Conservation Commission for public hearing and review; now, therefore,

BE IT RESOLVED;

1. That the Proposed FY 1994-95 Supplemental Budget, which is on file at the Metro offices, is hereby approved.
2. That the Executive Officer is hereby direct to submit the Approved FY 1994-95 Supplemental Budget to the Tax Supervising and Conservation Commission for public hearing and review.

ADOPTED by the Metro Council this _____ day of _____, 1995.

J. Ruth McFarland, Presiding Officer

AGENDA ITEM 7.2
Meeting Date: April 20, 1995

Resolution No. 95-2127

**For the Purpose of Authorizing Contract Amendment No. 1 to Contract No. 903228 With City Center
Parking for Management Services of the Metro Parking Structure.**

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 95-2127 AUTHORIZING CONTRACT AMENDMENT NO. 1 TO CONTRACT NO. 903228 WITH CITY CENTER PARKING FOR MANAGEMENT SERVICES OF THE METRO PARKING STRUCTURE

Date: March 31, 1995

Presented By: Doug Butler

PROPOSED ACTION

The General Services Department is proposing to amend the current contract #903228 with City Center Parking for the management of Metro's Parking Structure. The amendment would both increase the total contract amount and extend the contract termination date to September 30, 1996.

FACTUAL BACKGROUND AND ANALYSIS

In October 1993, Metro entered into contract number 903228 with City Center Parking for management services for the Metro Parking Structure after selection via a competitive procurement process. The contract had a two year term and is scheduled to terminate September 30, 1995. The General Services staff are recommending amending the contract. Specifically, the three distinct elements which would be modified are:

1. To cover the cost of necessary reimbursable expenses included in the original contract.
2. To increase the contract amount to include the lease payments for an automatic ticket dispensing machine.
3. To extend the term of the original contract from two to three years.

Metro's current contract with City Center Parking for the management of the Parking Structure for daily, monthly and event parking began on October 1, 1993, and extends over a two-year period until September 30, 1995. The contracted terms of payment include a monthly management fee and reimbursement for necessary expenses in connection with management of the garage. The reimbursable expenses include non-supervisory labor, temporary help, postage and delivery fees, printing and copying, supplies, parking lot sweeping, janitorial, re-striping and temporary signage.

The original contract limit was fixed at \$14,952 for the two-year contract period. However this amount mistakenly only represented the monthly management fee and did not include the estimated reimbursable expenses. The first portion of this amendment will correct the contract amount to include the reimbursable expenses

already paid and the estimated future reimbursable expenses to be paid until the end of the contract term.

Through discussions between the General Services Director and City Center Parking, a proposal to address the problem of illegal parking within the garage has been developed. At present, it is difficult to know how many people are parking without paying under the current slot box payment system. This system allows patrons to deposit cash into a slot box which has numbered slots corresponding to the respective parking stall. It is a passive system which does not issue tickets or receipts as evidence of payment. Metro's security patrol was recently granted the authority (Ordinance No. 95-586) to write parking citations for illegal parkers.

To alleviate this situation City Center Parking would install an automated ticket dispensing machine at the entrance. Metro will lease the ticket machine at a cost that will allow the Contractor to recover the purchase price of the machine during the extended life of the contract. Once City Center has recovered the purchase cost, a minimal monthly fee of \$25.00 (similar to the slot box fee) would be charged for service and maintenance.

Although Metro could purchase this machine directly, the additional cost of the software to download the credit card charge information is considerable and one in which City Center Parking has already invested. Also, if Metro owns the ticket machine, there is no guarantee that other parking lot management companies Metro may contract with in the future will also have this specific technology to be able to utilize it for subsequent contracts. By leasing the machine Metro can avoid paying the full cost of this technology and still retain flexibility so that future contracted management of the parking structure will be able to provide alternative systems.

The ticket dispensing machine will take cash payments as well as credit card charges for daily parking and dispense a receipt which the patron display's in the windshield of their car. Any vehicles not displaying a receipt for payment will be ticketed. Repeat violators could be towed.

The machine should reduce significantly the occurrence of illegal parking and thereby increase revenues. It should also increase service to parking patrons by allowing both cash and credit purchases. City Center estimates that up to a 20% increase in parking revenues may occur based on past experience in installing the automated ticket machine at other lots. With average revenues at \$22,000 per month, a 20% increase would be \$4,400.

The contract is being extended to a full term of three years to allow Metro to take advantage of using the automated ticket machine. Under the present contract terms, the contract will expire November 30, 1995. It will not be cost effective to install the ticket machine for the remaining six months unless the contract is extended giving Metro an eighteen month period to implement and benefit from the changes.

BUDGET IMPACT

The amendment to Contract 903228 contains several distinct parts, each of which has an impact on the budget.

The past payment and estimated future cost of reimbursable expenses not included in the original contract budget summary is \$14,797 from the start of the contract to its current termination on September 30, 1995. This consists of \$10,497 in reimbursement already paid through January 1995, and \$4,300 in estimated expenses from February 1995 to September 30, 1995. The amendment would recognize the reimbursable portion of the current contract amount.

Secondly, the amendment would increase the contract amount by \$4,200 to cover the lease payment for the automated ticket dispensing machine.

Lastly there would be an additional twelve months expenses due to contract extension of \$14,376 consisting of \$7,476 in parking management fees and an estimated \$6,900 in reimbursable expenses.

	Summary	FY 1993-94	FY 1994-95	FY 1995-96	FY 1996-97
Original Contract Amount	\$14,952	\$5,607	\$7,476	\$1,869	
Reimbursable Expenses (10/93 to 9/95)	\$14,796	\$2,554	\$10,818	\$1,424	
Lease of Ticket Machines	\$4,200		\$700	\$2,800	\$700
One Year Contract Extension	\$13,176			\$9,882	\$3,294
Total	\$47,124	\$8,161	\$18,994	\$15,975	\$3,994
Amount of Contract Increase	\$32,172	\$2,554	\$11,518	\$14,106	\$3,994

The Building Management Fund containing the budgeted amount for the Facilities Services Division contains adequate funds for the present fiscal year (FY 1994-95), and for proposed FY 1995-96 to cover the cost of the increase in the contract amount.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 95-2127, authorizing execution of Contract Amendment #1 with City Center Parking Inc..

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING) RESOLUTION NO. 95-2127
CONTRACT AMENDMENT NO. 1 TO)
CONTRACT NO. 903228 WITH CITY)
CENTER PARKING FOR)
MANAGEMENT SERVICES OF THE) Introduced by
METRO PARKING STRUCTURE) Mike Burton, Executive Officer

WHEREAS, City Center Parking has contracted with Metro to provide management services for the Metro Parking Structure under contract # 903228 since October 1993; and

WHEREAS, Metro shall have recommended that Contract Amendment No. 1 (attached as Exhibit A) be executed which would extend the contract term by one year, provide for the installation of an automated ticket dispensing machine, and increase the contract amount to correct a previous accounting oversight; and

WHEREAS, Metro will benefit from the addition of automated parking ticket machines to the Parking Structure in the areas of improved customer service, control and elimination of illegal parking, and increased collection of revenues; and

WHEREAS, The contract extension is justified by the contract performance of City Center Parking over the past two years and is necessary to fully benefit from the installation of the automated ticket dispensing machines; and

WHEREAS, the Building Fund budget for FY 1994-95 and proposed FY 1995-96 contains sufficient budgeted funds for the contract amendment; now, therefore,

BE IT RESOLVED,

That the Metro Council authorizes the Executive Officer to execute Contract Amendment No. 1 to the City Center Parking, Inc. contract No. 903228 for management of the Metro Parking Structure.

ADOPTED by the Metro Council this _____ day of April, 1995.

J. Ruth McFarland, Presiding Officer

**AMENDMENT NO. 1
CONTRACT NO. 903228**

This Agreement hereby amends the above titled contract between Metro, a metropolitan service district and City Center Parking, hereinafter referred to as "Contractor."


This amendment is a change order to the original Scope of Work and Terms of Payment as follows:

Contract Termination date is amended from September 30, 1995 to be September 30, 1996.

Section 2.0 Specific Contractor's Tasks and Responsibilities

Add Section 2.12 :

- a) Contractor shall remove all daily "pay for park" cash boxes within the Metro Parking Garage located at Irving and 7th Avenue (City Center designated parking lot #76).
- b) Contractor shall replace the cash boxes with self-contained, automated parking ticket dispensing machines which take coin, or process Visa and Mastercard credit cards as payment for daily parking privileges.
- c) One automated parking ticket machine will be installed initially, with options for one additional machine to be installed as needed and at the written request of Metro.
- d) Contractor shall pay all costs associated with removal of existing cash boxes, including repairs to the Metro Parking Garage caused by that removal, and all costs associated with the installation of the new automated parking ticket dispensing machines. These costs are considered reimbursable and Contractor shall submit these expenses on the monthly statement for payment by Metro.
- e) Contractor shall be responsible for all costs associated with the initial purchase, and installation of the automated parking ticket dispensing machine and the optional dispenser if necessary. These costs are considered reimbursable and Contractor shall submit these expenses on the monthly statement for payment by Metro.
- f) Contractor shall keep in constant good repair and provide all on-going preventative maintenance and repair as necessary of the automated parking ticket machine(s).
- g) All costs associated with the preventative maintenance and repair of the automated parking ticket dispensing machine(s) shall be itemized and shall be considered reimbursable expenses payable by Metro. Contractor shall submit these expenses on the monthly statement for payment by Metro.


The CSI
4000 single
rate payma
Station.

- h) For periods when the automated parking ticket dispensing machines are inoperable and/or under repair Contractor shall provide if requested by Metro, an attendant to collect fees and charges for those hours that Metro deems necessary. All personnel cost of the attendant shall be considered a reimbursable charge and passed onto Metro in the monthly statement as long as the parking ticket dispensing machine(s) are inoperable.
- i) The automated parking ticket dispensing machines are and shall remain the property of the Contractor.
- j) All coins and net credit card charges received by Contractor from the automated parking ticket dispensing machines shall be included as gross revenue, and shall be accounted for and included on monthly reports as obligated by Contractor in sections 2.7 and 2.8 of this contract.
- k) Any credit card fees, or banking fees associated with the collection of the parking charges are considered a reimbursable charge as defined in section 3.4 that can be passed on to Metro in the monthly statement.
- l) Any personnel costs associated with the routine removal of the coins and credit card charges from the automated parking ticket dispensing machines are considered a reimbursable charge as defined in section 3.4 that can be passed onto Metro in the monthly statement.
- m) A monthly rental charge payable in equal monthly installments for the term of this contract shall be payable to Contractor by Metro for each automated parking ticket dispensing machine installed, not to total more than \$4,200 per machine by the termination of this contract on September 30, 1996. All subsequent monthly rental for each automated parking ticket dispensing machine after payment of \$4,200 shall be at the rate of \$25.00 per month for as long as City Center Parking operates the Metro Parking Structure under this or any subsequent contracts. Contractor shall submit monthly rental expenses on the monthly statement for payment by Metro.
- n) Sufficient information and documentation shall be provided on Metro's monthly statement to correctly indicate the payment rate and status of each machine rented.
- o) As contract operator of Metro's Parking Structure, City Center Parking has the right to remove and retain any and all automated parking ticket dispensing machine(s) upon termination of City Center Parking contract.

Section 3.0 Metro's Obligations

Section 3.2 is amended to exclude ticket dispensers and coin boxes defined as capital improvements which Metro will provide and pay for.

Add Section 3.8

- a) Metro will pay a rental in equal monthly installments not to total more than \$4,200 to Contractor for each automated parking ticket dispensing machine installed and in use at the Metro Parking Structure.

- b) After payment of the \$4,200 per machine, Metro will pay a reduced rental rate of \$25.00 per month to Contractor for each automated parking ticket dispensing machine in use for all subsequent months that City Center operates the Parking Structure.

Except for the above, all other conditions and covenants remain in full force and effect.

In Witness to the above, the following duly authorized representatives of the parties referenced have executed this agreement:

Contractor: CITY CENTER PARKING		METRO	
<u>[Signature]</u>	<u>3-14-95</u>	_____	_____
Signature	Date	Signature	Date
<u>Greg Goodman</u>	_____	_____	_____
Name		Name	
<u>President</u>	_____	_____	_____
Title	Title		

If for any reason this agreement is cancelled prior to City Center Parking collecting \$4,200.00 in rental (per payment device), Metro will pay the difference to City Center Parking between the rental amount previously collected and \$4,200.00 (per payment station).

[Signature]

AGENDA ITEM 7.3
Meeting Date: April 20, 1995

Resolution No. 95-2123

**For the Purpose of Endorsing the Citizens Advisory Committee For the Update of the 1996 Regional
Transportation Plan.**

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 95-2123 FOR THE PURPOSE OF ENDORING THE CITIZENS ADVISORY COMMITTEE FOR THE UPDATE OF THE 1996 REGIONAL TRANSPORTATION PLAN

Date: March 23, 1995

Presented by: Andrew Cotugno

PROPOSED ACTION

This resolution would endorse the Citizens Advisory Committee (CAC) for the update of the 1996 Regional Transportation Plan (RTP). The RTP CAC will provide a broad based, long-range and regional citizens perspective on regional transportation planning issues during the process of updating the RTP and will be advisory to the Metro Council and the Metro Joint Policy Advisory Committee on Transportation (JPACT).

TPAC reviewed composition of the Citizens Advisory Committee for the RTP Update at its March 31, 1995 meeting and unanimously endorsed Resolution 95-2123.

BACKGROUND AND FACTUAL ANALYSIS

Background

The RTP CAC is one component of a comprehensive public involvement strategy that includes a wide variety of techniques to inform, involve and receive input from the public during the process of updating the RTP. The CAC will also provide a broad based, long-range and regional citizens perspective on regional transportation planning issues during the update. The CAC will provide for continuing public involvement in key decisions related to the development of the RTP as required by the federal Intermodal Surface Transportation Efficiency Act (ISTEA). The RTP CAC will be advisory to the Metro Council and the Metro Joint Policy Advisory Committee on Transportation (JPACT) and will review recommendations made by the RTP work teams.

The public involvement strategy for the 1996 RTP update and the RTP CAC mission, charge, structure, and nominations and appointments process were reviewed by the Metro Committee for Citizen Involvement (MCCI) and the Metro Council. (See Attachment A for a full description of the committee and an application form.) The 21 member RTP CAC, as reviewed by the Metro Council and MCCI, included 12 community delegates and nine at-large delegates. The community delegates include resident delegates and business delegates from the Cities of Multnomah County, Multnomah County, the City of Portland, the Cities of Clackamas County, Clackamas County, the Cities of Washington County, Washington County, and Clark County. The at-large delegates include one Metro Committee for Citizen Involvement member, two alternative mode delegates, a high school/youth delegate, a freight delegate, a senior citizen,

a member of the academic community (This position was replaced by a motorist at-large delegate by the nominations committee; an explanation is included in the Nomination Process section of this report.), an environmental interest group delegate and a transit union delegate.

The CAC will meet monthly or at intervals as needed to adequately respond to the release of products and information. The committee will have full access to information related to the RTP update, including background materials, draft documents, informational briefings and presentations from technical staff.

The CAC will generally adhere to Robert's Rules of Order with the objective of creating a forum for open and free discussion. The CAC will select their own chair and vice-chair, set a regular monthly meeting time, and will develop appropriate administrative by-laws. CAC meetings will follow Oregon open meeting requirements and will provide time for public comment at every meeting. If a member of the CAC is unable to fulfill their term, JPACT and the Metro Council will appoint a replacement.

Nominations Process

Nominees were solicited through newspaper advertisements; notices to local governments and neighborhood, community, business, and modal interest groups; and at "The Choices We Make," a regional transportation fair and open house held in January 1995. RTP CAC community and at-large delegates were nominated through a joint effort of local jurisdictions and Metro. A nominations committee was formed which included members of the Metro Council, the Joint Policy Advisory Committee on Transportation (JPACT), the Transportation Policy Alternatives Committee (TPAC) and Metro staff. (Attachment B contains a roster of nominations committee members.) The nominations committee met three times to develop a recommended list of nominees for appointment and approval by JPACT and the Metro Council.

Consistent with ISTEA, the nominations committee made every effort to nominate a balanced slate of nominees offering a broad spectrum of perspectives on transportation issues, including those of groups traditionally underserved by the transportation system, such as low income and minority households, and persons unable to own or operate a car.

The following nomination criteria were used by the nominations committee:

1. Ability to develop and maintain two-way communication with a broad network of people within their community as well as the ability to communicate effectively in a group.
2. Experience serving on committees or advisory boards and/or working with neighborhood, business, community, or other civic organizations.

3. Leadership skills, which the nominations committee defined to mean some combination of the following: problem solving skills, the ability to take responsibility, ability to complete tasks, listening skills, negotiating skills, and consensus-building skills.
4. Knowledge of and experience with transportation issues and/or community issues.
5. Ability to provide the time needed to serve on the CAC and any subsequent subcommittees that are formed.
6. Fresh perspectives and new faces. The nominations committee developed this criteria to bring a number of people who have not previously participated in transportation planning into the process. This criteria also assists to meet the objective of having a wide spectrum of views and perspectives represented, including those of groups traditionally underserved by the existing transportation system.

The nominations committee clarified the difference between resident and business community delegates. Resident delegates were defined as individuals who have a knowledge of the concerns of neighborhoods, schools, commuters, and other related issues and knowledge of or ties to neighborhood and community organizations. Business delegates were defined as individuals who have a knowledge of the particular concerns of businesses in their community such as the movement of goods, access to services, parking, and other related issues as well as knowledge of or ties to business associations and chambers of commerce in their community.

The nominations committee created an at-large position for a motorist delegate to replace the academic community at-large position. Despite outreach to the academic community, there were no applicants for that at-large position. In addition, the committee felt that adding an at-large member with a specific knowledge of motorists' issues and concerns would create a more balanced committee.

There were no initial applicants for the high school student at-large position, with exception of one college graduate student. The nominations committee felt that a graduate student would not bring the specific issues and concerns of youth who are too young to operate a car to the committee. The nominations committee conducted additional outreach to area high schools and considered five students, one from Lincoln High School, one from Glencoe High School, and three from Sam Barlow High School.

A total of 58 individuals applied for a position on the RTP CAC. (See Attachment C for a list of applicants.) The screening process was extremely difficult as there were many highly

qualified applicants. The nominations committee concluded the nominations process at their March 22 meeting and is recommending a slate of 20 candidates for the RTP CAC with a final nominee for the high school at-large delegate to follow as soon as possible.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 95-2123.

ACC:PP:lmk
95-2123.RES
4-3-95



METRO

Regional Transportation Plan Citizens Advisory Committee

Introduction

The Regional Transportation Plan (RTP) is an umbrella document that identifies a long range transportation improvement strategy coordinated with growth predictions. The RTP identifies transportation needs related to highways, arterial streets, transit, bikes, pedestrians, and freight and supports alternative transportation programs. The current RTP will be updated in 1995 to meet current state and federal requirements.

Public involvement is critical to shaping a RTP that addresses regional transportation issues and concerns. A RTP Citizens Advisory Committee (CAC) is being formed to provide a forum for detailed public review and comment during the development of the RTP update. The RTP CAC is an important part of a comprehensive public involvement strategy that includes a wide variety of techniques to inform, involve, and receive input from the public during the process of updating the RTP.

Citizens Advisory Committee Mission

The Regional Transportation Plan Citizens Advisory Committee will provide a broad based, long range, and regional citizens perspective on regional transportation planning issues during the process of updating the Regional Transportation Plan (RTP). The RTP CAC will ensure full public access to and continuing public involvement in key decisions related to the development of the RTP as required by the Federal Intermodal Surface Transportation Efficiency Act (ISTEA).

Citizens Advisory Committee Charge

1. The RTP CAC will be advisory to the Metro Council and the Metro Joint Policy Advisory Committee on Transportation (JPACT) and will review policy recommendations made by the RTP work teams.
2. RTP CAC members will serve on RTP work teams and sub-committees as needed.
3. The RTP CAC will meet once a month and more if needed. The RTP CAC will receive reports from the RTP work teams, the project manager, and other technical staff.
4. RTP CAC members will be available to meet with neighborhood groups and other public organizations within their geographical area.
5. RTP CAC members will evaluate and participate in the project's public involvement process.
6. The RTP CAC will provide opportunity for public testimony at its regular meetings.
7. It is anticipated that RTP CAC members will serve through the completion of the RTP Update up to two years.

RTP Citizens Advisory Committee Structure -- 21 members:

Community delegates:

- 1 resident delegate from the City of Portland
- 1 business delegate from the City of Portland
- 1 business community delegate from the Cities of Multnomah County
- 1 resident delegate from the Cities of Multnomah County
- 1 resident delegate from Multnomah County
- 1 resident delegate from the Cities of Clackamas County
- 1 business community delegate from the Cities of Clackamas County
- 1 resident delegate from Clackamas County
- 1 resident delegate from the Cities of Washington County
- 1 business community delegate from the Cities of Washington County
- 1 resident delegate from Washington County
- 1 delegate from Clark County/City of Vancouver

At-large delegates:

- 1 Metro Committee for Citizen Involvement member
- 2 alternative mode delegates
- 1 student/high school age delegate
- 1 freight delegate
- 1 senior citizen delegate
- 1 academic community delegate
- 1 environmental interest group delegate
- 1 transit union delegate

Nominations/Appointments:

RTP CAC community and at-large members will be nominated through a joint effort of local jurisdictions and Metro, and appointed and approved by JPACT and the Metro Council. A selection committee composed of staff from local jurisdictions and Metro will review applications and recommend a slate of nominees to JPACT and the Metro Council. The MCCI delegate will be nominated by MCCI, and appointed and approved by JPACT and the Metro Council.

Every effort will be made to appoint a balanced slate offering a broad range of perspectives, including those of groups traditionally underserved by the existing transportation systems, such as low income and minority households which may face challenges accessing employment and other amenities. Nominees should have an understanding of the varied viewpoints that exist within the area they represent and should have access to a broad network of people. Nominees will be solicited through newspaper advertisements, notices, newsletter articles, and outreach to Chambers of Commerce, neighborhood and business associations, and environmental and modal interest groups.

Meetings:

It is anticipated that the RTP CAC will meet monthly or at intervals as needed to adequately respond to the release of products and information.



METRO

Regional Transportation Plan Citizens Advisory Committee Application Form

Name _____

Address _____

City/State/Zip _____

Phone _____

Fax _____

Employer _____

Work Address _____

Work Phone _____

Work Fax _____

Signature _____

1. Which delegate position are you applying for? (see list on page two of attached Citizens Advisory Committee description)

2. Why do you want to serve on the Regional Transportation Plan Update Citizens Advisory Committee?

3. List and describe prior and current experience in transportation related activities and issues. List the dates (month/year) served. (use additional paper if needed)

4. List and describe other civic, community and neighborhood activities that you have been involved in. Also list the advisory boards that you have served on as a volunteer. List the dates (month/year) served. (use additional paper if needed)

5. How do you hope the transportation system will change over the next twenty years?

6. a. Do you represent a particular interest group? If so, which one?

b. How will you maintain two-way communication between that group and the Citizens Advisory Committee throughout your involvement?

7. List two references who are familiar with your community and volunteer work.

Name _____
Address _____
Phone _____

Name _____
Address _____
Phone _____

8. Optional: Attach a resume.

Application Deadline: Monday, January 23, 5 p.m. (by mail or fax)

Thank you for your interest and time. We will notify you by mail of your status by February 22, 1995. The first meeting of the Citizens Advisory Committee is scheduled for March 1995. Please call Pamela Peck at (503) 797-1866 if you have questions.

**Return to: Pamela Peck
Metro Planning Department
600 NE Grand Ave.
Portland, OR 97232-2736
Fax: 797-1794**



**Regional Transportation Plan Citizens Advisory Committee
Nominations Committee**

Councilor Susan McLain, Metro, Committee Chair
Councilor Jon Kvistad, Metro
Councilor Claudiette LaVert, City of Gresham, JPACT
Kathy Busse, Multnomah County, TPAC
Rod Sandoz, Clackamas County, TPAC
Brent Curtis, Washington County, TPAC
Steve Dotterer, City of Portland, TPAC
Molly O'Reilly, TPAC Citizen Member
Mike Hogle, Metro, Transportation Planning Manager

Observers:

Gina Whitehill-Baziuk, Metro
Pamela Peck, Metro
Renee Cannon, Metro Councilor Morrisette's staff

Regional Transportation Plan Citizens Advisory Committee Applicants List

(Please note some applicants name appear more than once on this list because they applied for more than one position.)

Community delegates:

Resident delegate City of Portland

Barbara Scott-Brier
Dick Watson
Sam Bush
Kevin Kincaid
Marcia Cooperman
Gerri Sue Lent
Brian Chase
Eugene T Canty
Steve F. Cook
Lois Achenbach
Patricia B Lee
John F. Hamey
Mel Sears
Kerry Chipman
Terry Parker
Chris Eykamp

Business delegate City of Portland

Sam Bush
Seiji Shiratori
Anne O'Ryan
Steve F. Cook
Gregory Goodman
H. Richard Steinfeld
Stephen Abouaf
Peter Finley Fry

Business delegate Cities Multnomah Co.

Stephen Abouaf
Paul Spanauer

Resident delegate Cities Multnomah Co

Marcia Cooperman
Mel Sears
Chris Eykamp
Marjorie Schmunk
Charles Becker

Resident delegate Multnomah Co

Marjorie Schmunk
Charles Becker
Sam Bush
Barbara Scott-Brier
Marcia Cooperman
Steve F. Cook

Peter Finley Fry
Chris Eykamp

Business delegate Cities Clackamas Co.

Todd Chase
Don Weege
Paul Koch

Resident delegate Cities Clackamas Co

Paul Koch
Todd Chase
Don Weege
Robert Simon
Seth Shiratori
Karl W Rohde
Henry Germond

Resident delegate Clackamas Co

Robert Simon
Lynn White
Michael R Silvey
Henry Germond

Business delegate Cities Washington Co.

John Butler
Stephen Stolze
Charles Noble

Resident delegate Cities Washington Co

John Butler
Charles Noble
Jan Campbell
Stephen L Stolze
Dale C Chambers

Resident delegate Washington Co

John Porter
John Butler
Terry Moore
John J Breiling
Anne O'Ryan
Walter L Gorman
Dale C Chambers
Robert E Enninga

delegate from Clark Co./City of Vancouver

Mark Heintz

At-large delegates:

MCCI member – Don MacGillvray (nominated by MCCI)

2 alternative mode delegates

**Doug Strickler
Jim Howell
Graham Clark
Dick Watson
Gerri Sue Lent
John J Breiling
Rick Meyers
Jan Campbell
Chris Bernhardt
Rex Burkholder
Joe Walicki**

student/high school delegate

Graham Clark (college student)

freight delegate

**Peter Manson
Joseph Intile
H. Richard Steinfeld**

senior citizen delegate

**Eugene T Canty
Patricia B Lee**

academic community delegate (NO APPLICANTS)

environmental interest group delegate

**Lynn White
Chris Wrench
Joe Walicki**

transit union delegate

Kevin Kincaid

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENDORSING) RESOLUTION NO. 95-2123
THE CITIZENS ADVISORY COMMITTEE)
FOR THE UPDATE OF THE 1996) Introduced by
REGIONAL TRANSPORTATION PLAN) Rod Monroe, Chair
JPACT

WHEREAS, The federal Intermodal Surface Transportation and Efficiency Act (ISTEA) and the Oregon Transportation Planning Rule require early, continuing, and responsive public involvement for regional transportation planning; and

WHEREAS, A public involvement strategy for the 1996 Regional Transportation Plan (RTP) update has been developed by Metro staff and reviewed by the Metro Council and the Metro Committee for Citizen Involvement (MCCI); and

WHEREAS, The RTP public involvement strategy includes a Citizens Advisory Committee to provide a broad based, long-range and regional citizens' perspective on regional transportation planning issues during the process of updating the RTP; and

WHEREAS, The RTP Citizens Advisory Committee will be advisory to the Metro Council and the Metro Joint Policy Advisory Committee on Transportation (JPACT) during the update of the 1996 RTP; and

WHEREAS, A nominations committee consisting of members of the Metro Council, JPACT, TPAC, and Metro staff reviewed 58 applications and forwarded recommendations for the RTP Citizens Advisory Committee; now, therefore,

BE IT RESOLVED,

1. That the Metro Council hereby appoints the members of the Regional Transportation Plan Citizens Advisory Committee listed in Exhibit A, whose term shall last through the adoption of the 1996 Regional Transportation Plan.

2. If a member of the RTP CAC is unable to fulfill their term, JPACT and the Metro Council will appoint a replacement.

ADOPTED by the Metro Council this ____ day of _____, 1995.

J. Ruth McFarland, Presiding Officer

ACC:PP:lnk
95-2123.RES
3-23-95

EXHIBIT A

Regional Transportation Plan Citizens Advisory Committee

Lois Achenbach - Resident Delegate City of Portland
(resides in NE Portland)

Gregory Goodman - Business Delegate City of Portland
(business in downtown Portland)

Charles Becker - Resident Delegate Cities of Multnomah County
(resides in Gresham)

Paul Spanbauer - Business Delegate Cities of Multnomah County
(business in Gresham)

Marjorie Schmunk - Resident Delegate Multnomah County
(resides in Troutdale)

Karl Rohde - Resident Delegate Cities of Clackamas County
(resides in Lake Oswego)

Joseph Intile - Business Delegate Cities of Clackamas County
(business in Clackamas)

Paul Koch - Resident Delegate Clackamas County
(resides in Oregon City)

Jan Campbell - Resident Delegate Cities of Washington County
(resides in Garden Home)

Charles Noble - Business Delegate Cities of Washington County
(business in Hillsboro)

Robert Enninga - Resident Delegate Washington County
(resides in Beaverton)

Mark Heintz - Clark County/City of Vancouver Delegate
(business in Vancouver, WA)

Don MacGillvray - MCCI At-Large Delegate
(resides in SE Portland)

Gerri Sue Lent - Alternative Mode At-Large Delegate
(resides in Sellwood)

Joe Walicki - Alternative Mode At-Large Delegate
(resides in SW Portland)

H. Richard Steinfeld - Freight At-Large Delegate
(business in N. Portland)

Patricia Lee - Senior Citizen At-Large Delegate
(resides in SW Portland)

Anne O'Ryan - Motorist At-Large Delegate
(business in Portland)

Chris Wrench - Environmental Interest Group At-Large Delegate
(resides in NW Portland)

Kevin Kincaid - Transit Union At-Large Delegate
(resides in SE Portland)

David Randall Hurt - Youth/High School At-Large Delegate
(resides in Gresham)

PP:lnk
4-4-95
95-2123.RES

AGENDA ITEM 7.4
Meeting Date: April 20, 1995

Resolution No. 95-2126

**For the Purpose of 'Expressing council Intent to Amend Metro's Urban Growth Boundary for Contested
Case No. 94 - 1: Richards.**

STAFF REPORT

**CONSIDERATION OF RESOLUTION NO. 95-2126 FOR THE PURPOSE
OF EXPRESSING COUNCIL INTENT TO AMEND METRO'S URBAN
GROWTH BOUNDARY FOR CONTESTED CASE NO. 94-1:RICHARDS**

Date: April 3, 1995

Presented by: Stuart Todd

BACKGROUND

Metro accepts petitions for amendments to the boundary once a year on March 15. The Council can also waive the filing deadline (Metro Code 3.01.33(d); this action was taken by the Council in Resolution No. 94-2016 allowing the petitioner to file a complete application in September 1994 and to proceed to hearing in November. All non-legislative Urban Growth Boundary (UGB) amendments are considered contested cases and are heard first by an independent hearings officer before proceeding to Council for final action.

The Hearings Officer is required to prepare findings and a proposed order on the case and submit these to Metro. Parties of record who participated in the case either orally or in writing have the opportunity to take exception to the proposed order and findings, they must do this within 20 days of having the Hearings Officer proposed Findings, Conclusions and Final Order sent to them (exceptions are due April 11, 1995).

The Council may act to approve, remand or deny a petition in whole or in part. Comments before Council must refer specifically to any arguments presented in exceptions, if no party to the case has filed an exception, then Council shall decide whether to entertain public comment at the time that it takes final action on a petition.

UGB Case No. 94-1:Richards, involves the addition of 1.3 acres of land adjacent to the northeast corner of the I-5 interchange at Charbonneau. A parcel of land adjacent to this inside the UGB is owned by the petitioners who wish to develop both tax lots. They intend to construct professional offices on the properties. The Metro Code, Section 3.01.35(c), highlights the key criteria for a locational adjustment. The criteria place a burden of proof on the applicant to show there is a net improvement and efficiency accruing to existing urban land as defined by the existing comprehensive plans for land inside the boundary. The petitioner has satisfied this criteria according to the Hearings Officer who has recommended approval with conditions (see Findings, Conclusions and Final Order, Exhibit B). One of the key pieces of factual evidence cited in approving the case was the fact that gravity sewer to the commercially designated parcel inside the boundary could not be provided without crossing the rural tax lot outside the boundary. In this case urban services would have to cross rural property. The Hearings Officer findings address all the relevant criteria and can be found in Exhibit B, which document the recommendation for approving the amendment.

The approval is based on three conditions that reflect the evidence received in the hearing process from staff, petitioners and other parties - mostly neighbors in the adjacent Charbonneau

district. The conditions are: 1) the development be limited to professional offices or open space, 2) that any slopes over 20 percent be placed in open space designation, and 3) that the property be served by gravity sewer.

ACTION

This action is a resolution as opposed to an ordinance because the property is outside the Metro jurisdictional boundary. The Metro Code (3.01.65(f)(1)) expresses the action required of the Council as follows:

When the Council acts to approve in whole or in part a petition affecting land outside the District:

(1) Such action shall be by resolution expressing intent to amend the UGB if and when the affected property is annexed to the District within six months of the date of adoption of the Resolution

The Council is required to take final action by ordinance within thirty days of notice from the Boundary Commission that annexation to the District has been approved.

Resolution 95-2126 expresses the intent of the Council to amend the UGB for the petitioned property as shown in Exhibit C of the Resolution.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No.95-2126.

ST/erb

I:\gm\clerical\sherrie\res&ord\ugb94-1.res

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF EXPRESSING COUNCIL) RESOLUTION NO. 95-2126
INTENT TO AMEND METRO'S URBAN GROWTH)
BOUNDARY FOR CONTESTED CASE NO. 94-1:)
RICHARDS) Introduced by: Mike Burton, Executive Officer

WHEREAS, Contested Case No. 94-1:Richards is an urban growth boundary locational adjustment petition for inclusion of a 1.3 acre parcel adjacent to Charbonneau at the I-5 interchange; and

WHEREAS, A hearing on this petition was held before an independent Hearings Officer on November 16, 1994, and the record was held open until February 16, 1995 at the request of the applicant, to receive additional evidence; and

WHEREAS, The Hearings Officer has issued his Report and Recommendations, attached as Exhibit A, and has prepared Findings, Conclusions and Final Order attached as Exhibit B; and

WHEREAS, The property is currently outside but contiguous with the Metro jurisdictional boundary, and

WHEREAS, The Metro Code Chapter 3.01.65(f) provides that action to approve a petition including land outside Metro's jurisdiction shall be by resolution expressing intent to amend the Urban Growth Boundary after the property is annexed to Metro; now, therefore,

BE IT RESOLVED,

That Metro, based on the findings in Exhibit B, attached, and incorporated herein, expresses its intent to adopt an Ordinance amending the Urban Growth Boundary for the subject property shown as tax lot 16100 in Exhibit C within 30 days of receiving notification that the property has been annexed to Metro, provided such notification is received within six (6) months of the date on which this resolution is adopted.

ADOPTED by the Metro Council this ____ day of _____, 1995.

J. Ruth McFarland, Presiding Officer

BEFORE THE HEARINGS OFFICER OF THE
METROPOLITAN SERVICE DISTRICT

In the matter of the petition of Donald P. Richards) HEARINGS OFFICER
and Roger A. Starr for a locational adjustment to) REPORT AND
the Urban Growth Boundary east of Interstate-5) RECOMMENDATION
and north of Miley Road in the Wilsonville area) Contested Case No. 94-01

I. Summary of Basic Facts

1. On September 12, 1994, Donald Richards and Roger Starr ("petitioners") filed a petition for a locational adjustment to the Portland metropolitan area Urban Growth Boundary ("UGB") to add to the urban area a 1.3-acre parcel (the "subject property") which is identified as tax lot 16100.

a. The subject property is east of and abuts Interstate-5 and north of Miley Road in the Wilsonville area. Land already in the UGB (in Wilsonville) abuts three sides of the property, including a parcel owned by petitioners known as tax lot 15700.

b. The Clackamas County Comprehensive Plan designation and zoning for the subject property is Rural and RRF-5 (5 acre minimum lot size). The subject property is in an exception area to Statewide Goals 3 and 4. Adjoining land in Wilsonville is designated and zoned Planned Development Commercial, including tax lot 15700.

c. The south part of the subject property is relatively flat. The north part is steep. North and east of petitioners' two parcels are 4.5 acres of designated open space and wetlands. Storm water drains through the open space/wetland to a culvert under the freeway. The steep sides of the open space are heavily forested, and help provide a visual buffer between the freeway and single family homes in the Spring Ridge subdivision about 200 feet east of the subject property. South of Miley Road is a church that was included in the UGB pursuant to the Council order regarding Contested Case 88-02 (St. Francis).

d. The subject property and tax lot 15700 are not served by water or sanitary sewer or an engineered drainage system. Wilsonville testified it can provide water service by extending a line in Miley Road. ODOT testified it would allow the subject property and tax lot 15700 to be served by the sewer on the east side of the Interstate-5

1 right of way. A gravity flow sewer line can be used if the subject property is included in
2 the UGB. If it is not included, sewer service could be provided using a pump station.

3
4 e. The subject property does not have road frontage. But access to Miley
5 Road can be provided through tax lot 15700. ODOT and a traffic engineer testified the road
6 can accommodate traffic from the combined development on the properties.

7
8 f. Petitioners intend to develop the subject property and tax lot 15700
9 together for professional offices, and agreed to accept a condition of approval limiting the
10 use of the property for that purpose.

11
12 2. The petition was accompanied by comments from affected jurisdictions and
13 service providers. The Clackamas County Board adopted a resolution making no
14 recommendation on the merits of the petition. Wilsonville commented that approval of the
15 locational adjustment also would facilitate extension of water service to the St. Francis of
16 Assisi Church on the south side of Miley Road. The Tualatin Fire and Rescue District
17 commented that approval of the locational adjustment also would facilitate a more logical
18 boundary between the Tualatin and Aurora Districts. The Canby School District
19 commented with no recommendation, because approval of the petition will not generate
20 school age children.

21
22 3. Metro hearings officer Larry Epstein (the "hearings officer") held a duly noticed
23 public hearing on November 16, 1994 to receive testimony and evidence in the matter of
24 the petition. Six witnesses testified in person, including a staff member from Metro and
25 Wilsonville, the petitioners, and two residents of the Spring Ridge subdivision. At the
26 conclusion of that hearing, the hearings officer held open the public record regarding the
27 petition until December 16, 1994. At the petitioners' written request on December 2, 1994,
28 the hearings officer issued an order dated December 6, 1994, in which he held open the
29 record until February 16, 1995. Notice of that order was mailed to parties of record.

30
31 **II. Summary of applicable standards and responsive findings**

32
33 1. A locational adjustment to add land to the UGB must comply with the relevant
34 provisions of Metro Code ("MC") sections 3.01.035(c) and (f). Compliance with two of
35 these standards was not disputed (MC §§ 3.01.035(c)(5) and (f)(3)). The following
36 highlights the principal policy issues disputed in the case.

1
2 2. MC § 3.01.035(c)(1) requires the petitioner to show public facilities can serve
3 the area to be added and that the adjustment results in a net improvement in the efficiency of
4 public facilities and services for land already in the UGB. Petitioners showed that the
5 subject property can be served by the relevant public facilities. A significant issue in this
6 case is whether the petitioners complied with the second part of that standard.

7
8 3. Metro rules do not define how to calculate net efficiency of urban services.
9 Relying on past Council actions, the hearings officer found that merely using available
10 capacity does not constitute a net improvement in service efficiency. If use of available
11 capacity alone is enough to comply with MC § 3.01.035(c)(1), then the standard will not
12 achieve the purpose for which it was adopted.

13
14 4. The hearings officer found that the adjustment resulted in a net improvement in
15 the efficiency of sewer service, because it allows the subject property and tax lot 15700 to
16 be served by a gravity flow line. The hearings officer also relied on the un rebutted
17 statement of the Tualatin Fire and Rescue District that approving the locational adjustment
18 results in a more logical boundary between service districts.

19
20 a. If the petition is not approved, tax lot 15700 can be served by a pump
21 station. Relying on past Council actions, the hearings officer concluded that a locational
22 adjustment that allows use of a gravity flow line instead of a pump station constituted a net
23 improvement in sewer service efficiency and was enough to show the petition complies
24 with the second part of MC § 3.01.035(c)(1).

25
26 b. Because of the importance of this service efficiency to the whole
27 application, the hearings officer recommended a condition of approval requiring the subject
28 property and tax lot 15700 to be served by a gravity flow sewer line. Such conditions can
29 be imposed under MC § 3.01.40(a). Council has imposed a condition once before in
30 Contested Case 91-01 (Dammach State Hospital).

31
32 5. MC § 3.01.035(c)(2) requires the amendment to facilitate permitted development
33 of adjacent land already in the UGB. The hearings officer found the petition complied with
34 this standard, because including the subject property in the UGB facilitates sewer service to
35 tax lot 15700 necessary for permitted development of that parcel.

1 6. MC 3.01.035(c)(3) requires consideration of environmental, energy, social and
2 economic consequences of the petition. It also requires hazards to be addressed.

3
4 a. The hearings officer found that the steep slopes on the subject property
5 constitute a hazard, and recommended a condition of approval to address it. That condition
6 would require the portion of the subject property with slopes of 20 percent or more to be
7 used for open space purposes, except for the sewer line and drainage facilities that comply
8 with city standards.

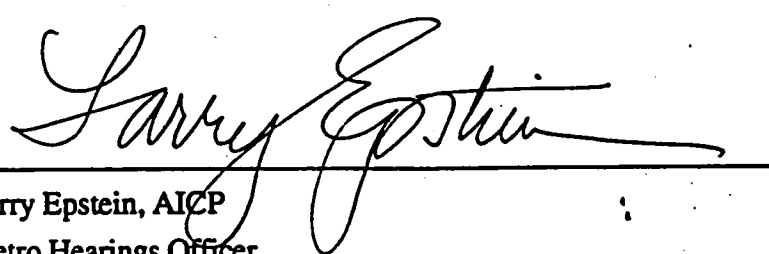
9
10 b. The hearings officer also found that some uses on the subject property
11 could cause significant adverse environmental, energy and social effects, but that use of the
12 property for open space and professional office purposes would not have those effects.
13 Therefore the hearings officer recommended a condition of approval allowing the subject
14 property to be used only for open space and professional office purposes.

15
16 7. MC § 3.01.035(f)(2) requires the proposed UGB to be superior to the existing
17 UGB, but does not define what is superior. The hearings officer found the proposed UGB
18 is superior, because it achieves service efficiencies, helps reinforce Interstate-5 as a logical
19 boundary for the UGB in this area, and makes what is now an essentially inaccessible and
20 useless residual parcel developable with adjoining land already in the UGB.

21
22 **III. Ultimate Conclusion and Recommendation**

23
24 For the foregoing reasons, the hearings officer concludes the petition complies with the
25 relevant approval standards in Metro Code sections 3.01.035(c) and (f) for a locational
26 adjustment adding land to the UGB. Therefore the hearings officer recommends the Metro
27 Council grant the petition, based on this Report and Recommendation and the Findings,
28 Conclusions and Final Order attached hereto, subject to the conditions of approval therein.

29
30 Respectfully submitted this 16th day of March, 1995.

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Larry Epstein, AICP
Metro Hearings Officer

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

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In the matter of the petition of Donald P. Richards)
and Roger A. Starr for a locational adjustment to)
the Urban Growth Boundary east of Interstate-5)
and north of Miley Road in the Wilsonville area) **FINDINGS,
CONCLUSIONS &
FINAL ORDER
Contested Case No. 94-01**

I. Basic Facts

1. On September 12, 1994, Donald P. Richards and Roger A. Starr ("petitioners") completed filing a petition for a locational adjustment to the Urban Growth Boundary ("UGB"), including exhibits required by Metro rules for locational adjustments. See Exhibit 5 for the original petition for locational adjustment (the "petition"). Basic facts about the petition include the following:

a. The land to be added to the UGB is described as Tax Lot 16100, Section 25, T3S-R1W, WM, Clackamas County (the "subject property"). It is east of and adjoins the Interstate-5 freeway, which isolates the subject property from other land outside the UGB. The UGB forms the north and east edge of the subject property. Land to the north, east and south is inside the UGB and the City of Wilsonville. The subject property is about 30 feet north of the Miley Road right of way, but does not have frontage on that road. See Exhibits 1 and 40 for maps showing the subject property.

b. The subject property is an irregularly-shaped parcel about 575 feet north-south and about 100 feet wide, narrowing to a point at the south end. It contains 1.3 acres. It is in an exception area to Statewide Planning Goals 3 and 4. It is designated "Rural" on the acknowledged Clackamas County Comprehensive Plan Map and is zoned RRFF-5 (Rural Residential Farm and Forest, 5 acre minimum lot size).

c. The subject property slopes down to the north from a high of about 121 feet above mean sea level ("msl") at the south edge to a low of about 85 feet msl at the north edge. The south portion of the subject property contains slopes of 5 to 10 percent. The north portion of the site contains slopes of up to 50 percent.

1 d. Most of the land immediately north and east of the site is in one of three
2 open space tracts totaling 4.5 acres. It is designated and zoned PDC (Planned Development
3 Commercial). Homes in the Spring Ridge subdivision are about 200 feet east of the subject
4 property measured "as the crow flies." But between the subject property and those homes
5 and north of the subject property, the land slopes down to a drainageway and associated
6 wetlands in the open space tracts. Storm water runoff from the subject property now
7 drains into the wetland and drainageway. Land to the west is designated "Rural" and zoned
8 RRFF-5 and is used for the Interstate-5 freeway. Land to the south (across Miley Road)
9 was included in the UGB after approval of a locational adjustment in Contested Case 88-03
10 and annexed to Wilsonville. It is zoned PF (Public Facility). It is developed with the St.
11 Francis of Assisi Church. Further southeast are rural residences and a golf course.

12
13 e. East of the south half of the site is a roughly 1-acre parcel in the City of
14 Wilsonville identified as tax lot 15700. It is designated and zoned PDC. The petitioners
15 own that tax lot. They want to build a 40,000 square foot building for professional offices
16 on that tax lot and the south portion of the subject property. The petitioners testified that
17 they would accept conditions of approval of the petition limiting the use of the south
18 portion of the subject property to professional offices, and limiting the use of the north
19 portion of the subject property for open space, provided necessary storm water drainage
20 and sanitary sewer infrastructure can be installed in the open space area.

21
22 f. The subject property is not served by a sanitary waste system or water.

23
24 (1) The City of Wilsonville testified in writing it can provide water
25 service to the subject property, tax lot 15700 and the church on the south side of Miley
26 Road if the petitioners extend an 8-inch line from the existing main at Miley Road and
27 French Prairie Road. That line can serve tax lot 15700 and the church whether or not the
28 petition is approved; the line can serve the subject property with little or no additional cost.

29
30 (2) ODOT testified it can serve the subject property and tax lot
31 15700 with the sanitary sewer from a connection to a manhole at station 596+25 in the
32 Interstate-5 right of way west of the site. The ODOT line already serves the church across
33 Miley Road and the Baldock rest area. A gravity flow sewer line can be installed across the
34 subject property if the petition is approved and ODOT approves a connection north of the
35 subject property. If the petition is not approved, tax lot 15700 could be served by the city

1 or ODOT sewer system, but it would cost more to install and maintain, because a pump
2 station would be needed that will not be needed if the line can cross the subject property.
3

4 g. The subject property does not have access to a road except through tax
5 lot 15700. Tax lot 15700 has about 200 feet of frontage along Miley Road, a rural public
6 street with a 20-foot wide paved surface between gravel shoulders. The subject property is
7 not within 1/4-mile of a regional transit corridor, although the church property on the south
8 side of Miley Road contains a designated park and ride lot.
9

10 h. The petition was accompanied by comments from affected jurisdictions
11 and service providers. See Exhibits 6 through 10 and 16 through 18.
12

13 (1) The Clackamas County Board of Commissioners adopted a
14 board order in which it made no recommendation on the merits of the petition.
15

16 (2) Wilsonville commented that the city could serve the subject
17 property with sanitary sewer and water, but that approval of the petition would not improve
18 efficiency of service delivery in the UGB. The City Council adoption a motion to support
19 the petition, provided that the property is used only for offices, and that trees, wetlands and
20 stream corridors on the property be protected.
21

22 (3) The subject property is in the Aurora Rural Fire Protection
23 District. If the property is annexed following approval of the UGB petition, then it will be
24 served by the Tualatin District. The subject property is roughly equidistant between the
25 nearest stations of the two districts, and either district is likely to provide roughly the same
26 degree of protection and about the same response time to the subject property, although
27 response time for the Tualatin District may be somewhat quicker via Interstate-5. The
28 District commented that approval of the petition would improve service efficiency.
29

30 (4) The Subject Property is in Canby High School District #1 and
31 Elementary School District #86. Granting the petition would not affect school services,
32 because the site is not used for a residential purpose. No change in school district
33 boundaries are planned or reasonably expected as a result of granting the petition.
34

35 2. On October 25, 1994, Metro staff mailed notices of a hearing to consider the
36 petition by certified mail to the owners of property within 250 feet of the subject property,

1 to the petitioner, to Clackamas County, and to the City of Wilsonville. The notice and
2 certificate of mailing are included as Exhibit 20. A notice of the hearing also was published
3 in *The Oregonian* at least 10 days before the hearing.

4
5 3. On November 16, 1994, Metro hearings officer Larry Epstein (the "hearings
6 officer") held a public hearing at the Wilsonville Community Development Annex to
7 consider the petition. After the hearings officer described the rules for the hearing and the
8 relevant standards for the petition, six witnesses testified in person.

9
10 a. Metro planner Stuart Todd verified the contents of the record and
11 introduced certain exhibits into the record. He summarized the staff report, (Exhibit 21),
12 including basic facts about the site, the UGB and urban services, and comments from
13 Wilsonville and Clackamas County. He testified that the petitioners failed to show that the
14 proposed amendment would increase the efficiency of urban service delivery to or facilitate
15 development of land already in the UGB; failed to introduce substantial evidence to support
16 conclusions that the amendment would not have adverse environmental impacts or would
17 have a positive social impact; and, failed to show why the amended UGB is better than the
18 existing UGB based on the locational adjustment approval standards.

19
20 b. The petitioners testified on their own behalf. Mr. Richards argued that
21 the subject property should have been included in the UGB when it was adopted in 1979,
22 but the owner at that time wanted it to be outside the UGB; that the property is situated in a
23 location convenient to city residents south of the Willamette River (the "river"); that there is
24 a need for the amendment; and that the amendment is consistent with the locational
25 adjustment for St. Francis of Assisi Church (Contested Case 88-03). He also introduced
26 certain exhibits. Mr. Starr argued that the amended UGB is better, because it facilitates
27 more development when combined with petitioners' land already inside the UGB
28 (adjoining the subject property) in a manner that reduces vehicle miles traveled for city
29 residents south of the river and reduces the impact of that traffic on the Interstate-
30 5/Wilsonville Road interchange.

31
32 c. Peter E. Morgan and Max Paschall opposed the petition, because the
33 property could be used for a highway commercial purpose with high light and noise levels
34 or for a land extensive commercial use that requires extensive grading and tree removal and
35 would not reduce noise levels to the east. Mr. Morgan also expressed concern that the
36 amendment would increase development that could adversely affect wildlife habitat and

1 wetlands in the canyon area on and adjoining the site. He also expressed concern about
2 water service.

3
4 d. Wilsonville Councilman Dean Sempert characterized his testimony as
5 neutral. He argued that, if the amendment results in the subject property and the adjoining
6 property already in the UGB being developed for uses that serve principally the city
7 residents south of the river, then it could reduce vehicle miles traveled and enhance access
8 by foot and bicycle. If it developed for uses that serve principally highway traffic or for
9 certain other uses, such as auto sales or auto-oriented uses, he argued there would be no
10 such benefits from the amendment. He argued that it would reduce the cost of water
11 service to the church south of Miley Road if the applicant extends it through the subject
12 property and/or their adjoining property already in the UGB. He argued a suitably oriented
13 building could have a positive environmental impact by blocking highway noise. He
14 expressed concern about preservation of trees on the subject property if the amendment is
15 approved. In response to Mr. Morgan's concern about water service, Mr. Sempert testified
16 there are six wells that serve Wilsonville, including two in Charbonneau. A pipeline carries
17 water from the area north of the river to the Charbonneau area when the city has to
18 supplement water from the two wells south of the river to serve Charbonneau.

19
20 e. Mr. Todd responded that the amendment is not necessary to enhance
21 urban services by extending the water line to Miley Road, because the water line will have
22 to be extended to Miley Road before the petitioner's parcel adjoining the subject site and
23 already inside the UGB can be developed. He conceded it may be more economical to the
24 petitioners, because they could spread the cost of the water line extension over a larger
25 development, but that is not more efficient. He argued the petitioners failed to show there
26 is a market demand for a given use or uses in the area of the city south of the river, or that
27 there is an insufficient supply of vacant land for any use in the city generally or south of the
28 river. He recommended limiting use of the property if the amendment is approved.

29
30 f. In their closing statement, petitioners argued the commercial area of
31 Charbonneau is developed; none of it has been used for professional offices except in the
32 Towncenter area of Charbonneau. They agreed to accept a condition limiting use of the
33 property to professional offices. They also agreed to identify the steeply sloped area on the
34 property and to accept an open space designation for that land.

1 4. At the close of the November 16 hearing, the hearings officer left the record
2 open until December 16 to receive additional written evidence and testimony. By letter
3 dated December 2, 1994, petitioners requested that the hearings officer hold open the public
4 record regarding the petition until February 16, 1995. Metro staff concur with the
5 petitioners' request. By written order dated December 6, 1994, incorporated herein by
6 reference, the hearings officer held open the record until February 16, 1995.

7
8 5. Between November 16 and February 16, 1995, the hearings officer received
9 other written evidence and testimony including the following:

10
11 a. Carol and John Kincaid testified in favor of the petition only if the use of
12 the subject property is limited to a professional office. See Exhibit 27.

13
14 b. Max Paschall testified that the petition should be approved if the subject
15 property and the adjoining land owned by the petitioners is developed for a multi-story
16 professional office building oriented to block noise from the highway. He also reported
17 noise levels along lots east of the subject property. See Exhibit 28.

18
19 c. Marshall and Linda Watkins testified against the petition, arguing there is
20 no need for more commercial land in Wilsonville generally or in Charbonneau specifically;
21 the subject property is environmentally sensitive; development on the subject property will
22 increase noise levels from the highway and other nonresidential uses. See Exhibit 32.

23
24 d. The petitioners submitted a letter and five attachments, much of which
25 repeat information and conclusions in the petition and petitioners' oral testimony. See
26 Exhibits 33 through 38. In terms of new information, the petitioners include the following:

27
28 (1) A report by a professional engineer that sewer service can be
29 provided to the petitioners' property already inside the UGB in three ways. Two of those
30 alternatives require use of a pump station and installation costs of \$63,000 to \$67,000.
31 The third alternative involves extending a gravity sewer north across the subject property to
32 a connection with the ODOT sanitary sewer line in the Interstate-5 right of way at a cost of
33 \$18,000. This alternative also could serve the subject property. The petitioners argue that
34 approving the petition so that the sewer line can cross the subject property is the most
35 efficient means of providing service to their land already inside the UGB, because the

1 installation costs can be spread over a larger development reducing per unit costs, and
2 because a gravity system requires less maintenance than a system with a pump station.
3

4 (2) Information about population and commercial zoning and land
5 uses in Wilsonville south of the river. About one-third of the population of Wilsonville
6 lives south of the river (3384 out of a population of 9680). About 40 acres of land in
7 Wilsonville south of the river is zoned Planned Development Commercial ("PDC"), but
8 about half that area is developed or approved for housing and most of the other half is
9 developed with commercial or office uses. Existing commercial and office structures are
10 fully leased. Only one 9500 square foot pad is available for commercial development in the
11 area south of the river, and it is constrained by limited parking. The petitioners argue this
12 shows there is a need for more commercial land in the city south of the river, and granting
13 the petition would help fulfill that need by allowing petitioners to build about twice as large
14 a professional office building as they can build if the subject property is outside the UGB.
15

16 (3) A traffic study describing the impact on area roads of a 40,000
17 square foot office use on the subject property and the adjoining land owned by petitioners.
18 The study notes that the Wilsonville Road/Interstate-5 interchange operates at a Level of
19 Service "F". The petitioner argue that by increasing the availability of professional offices
20 in the city south of the river, the petition will reduce the volume of traffic traveling from the
21 area south of the river to the area north of the river to receive office and commercial
22 services, and, therefore will reduce existing road service inefficiencies.
23

24 (4) A written statement from the Tualatin Fire and Rescue District in
25 which the District states that approval of the petition would make service delivery more
26 efficient, because it would be less expensive on a per unit basis, and because it would
27 establish a more logical boundary between the Tualatin and Aurora Districts.
28

29 6. On March 16, 1995, the hearings officer filed with the Council a report,
30 recommendation, and draft final order granting the petition for the reasons provided
31 therein. Copies of the report and recommendation were timely mailed to parties of record
32 together with an explanation of rights to file exceptions thereto and notice of the Council
33 hearing to consider the matter. Timely exceptions were filed with the Council by _____.
34

35 7. On April ____, 1995, the Council held a duly noticed public hearing to consider
36 testimony and timely exceptions to the report and recommendation. After considering the

1 testimony and discussion, the Council voted to grant the petition for Contested Case No.
2 94-01 (Starr/Richards), based on the findings in this final order, the report and
3 recommendation of the hearings officer in this matter, and the public record in this matter.
4 The record includes an audio tape of the public hearing on November 16, 1994 and the
5 exhibits on the list attached to the final order.

6
7 **II. Applicable Approval Standards and Responsive Findings**

8
9 1. Metro Code section 3.01.035(c) contains approval criteria for all locational
10 adjustments. Metro Code section 3.01.035(f) contains additional approval criteria for
11 locational adjustments to add land to the UGB. The relevant criteria from those sections are
12 reprinted below in italic font. Following each criterion are findings explaining how the
13 petition does or does not comply with that criterion.

14
15 *Orderly and economic provisions of public facilities and*
16 *services. A locational adjustment shall result in a net improvement in the*
17 *efficiency of public facilities and services, including but not limited to,*
18 *water, sewerage, storm drainage, transportation, parks and open space in*
19 *the adjoining areas within the UGB; and any area to be added must be*
20 *capable of being served in an orderly and economical fashion.*

21 Metro Code section 3.01.035(c)(1)

22
23 2. The subject property can be served by public water, based on the comment from
24 the City of Wilsonville. The subject property can be served by sanitary sewer and roads,
25 based on the comment from ODOT. Based on the Wilsonville City Code, storm drainage
26 plans must be approved before the city will approve permits for development on the subject
27 property. The proximity of the drainageway east and north of the subject property and the
28 slopes on the property make it feasible for development to comply with city drainage
29 regulations, including water quality enhancement regulations, by discharging storm water
30 into the drainageway. Because of the relatively small size of the subject property, the
31 proposed restriction on use, and the relatively large open space tracts adjoining the
32 property, approval of the amendment does not create a need for more parks and open
33 space. Therefore, the area to be added is capable of being served in an orderly and
34 economical fashion.

1 3. Metro rules do not define how to calculate net efficiency of urban services. In
2 the absence of such rules, the Council must construe the words in practice. It does so
3 consistent with the manner in which it has construed those words in past locational
4 adjustments, Particularly contested case . The Council concludes that the locational
5 adjustment results in a net improvement in the efficiency of sewer services sufficient to
6 comply with Metro Code section 3.01.035(c)(1), based on the following findings:

7
8 a. Including the subject property in the UGB does not increase the net
9 efficiency of transportation services, because it does not result in any road improvements or
10 dedications, necessary connections or realignment of existing roads, or other direct benefit
11 to roads, such as was found to occur in the locational adjustment approved in Contested
12 Case 90-01 (Wagner).

13
14 (1) The Council has found in past locational adjustment cases that
15 the benefit to the petitioner of being able to amortize the cost of required road improvements
16 over a larger development area does not constitute an improvement in efficiency. See
17 Contested Case 88-02 (Mt. Tahoma).

18
19 (2) Based on the traffic study in the record, the traffic from a
20 development on the subject property and tax lot 15700 will not reduce the level of service
21 of affected intersections or cause affected streets to exceed their engineered capacity.
22 Therefore, the Council finds that the locational adjustment has no net effect on the
23 efficiency of roads.

24
25 b. Including the subject property in the UGB does not increase the net
26 efficiency of water service, because it does not result in any water facilities or substantially
27 greater water system efficiencies that could not otherwise be provided. See the Council
28 Final Order in the matter of Contested Case 88-04 (Bean) for an example of where a
29 locational adjustment improves the efficiency of water services (in that case, by creating a
30 looped water system and providing water to land already in the UGB).

31
32 (1) The petitioners would have to extend the same size line in the
33 same location to serve tax lot 15700 as it will have to extend to serve the subject property
34 and tax lot 15700. It could be argued that including the subject property increases the
35 economic feasibility of extending the water line to serve tax lot 15700, and to the church,

1 because installation costs can be spread over a larger development, but that is not relevant
2 to efficiency.¹

3
4 (2) Based on the written comment from Wilsonville and the
5 testimony by Compass Engineering, including the subject property in the UGB does not
6 have an adverse impact on the efficiency of water services. Therefore, the Council finds
7 that the locational adjustment has no net effect on the efficiency of water service.

8
9 c. Including the subject property in the UGB increases the net efficiency of
10 sewer service, because it enables the petitioners to serve tax lot 15700 and the subject
11 property with a gravity flow sewer line. If the subject property is not included in the UGB,
12 then tax lot 15700 would have to be served with a pump station. That is inherently less
13 efficient than a gravity flow line, because a pump station contains mechanical and hydraulic
14 parts that require maintenance and repair and relies on electricity to operate instead of
15 gravity. This finding is consistent with the Council action in Contested Case 8-04 (Bean)
16 where a locational adjustment allowed a gravity flow system instead of pump stations.
17 Because of the importance of this service efficiency to the petition, Council finds that a
18 condition of approval is warranted requiring the subject property and tax lot 15700 to be
19 served by a gravity flow sewer system.

20
21 d. The petitioners failed to show that the locational adjustment results in a
22 net improvement in the efficiency of storm drainage. Based on the topographic map in the
23 record, storm water from the subject property will drain to the north and to the east across
24 tax lot 15700. The natural grade of tax lot 15700 is to the east, so it will drain into the
25 existing urban area. It is not necessary to include the subject property in the UGB to
26 provide storm drainage to land already in the UGB.

¹ In a number of cases in the past, the Council has recognized that a locational adjustment that allows a public water or sewer system with excess capacity to serve the property in question results in a very small incremental increase in system efficiency, because the system is used more to its capacity. See, e.g., Contested Case 88-03 (St. Francis of Assisi) and Contested Case 87-04 (Brennt). However, such recognition often has been dicta, because the locational adjustment in question clearly achieved other, more significant efficiencies. Council also has recognized that the incremental increase in system efficiency achieved simply as a result of using available capacity is not sufficient by itself to warrant a conclusion that a locational adjustment results in a net increase in system efficiency. See, e.g., Contested Case 88-02 (Mt. Tahoma) and Contested Case 90-01 (Wagner). Council finds the latter is the better rule. To hold otherwise would mean that every locational adjustment would comply with Section 3.01.035(1) if the property could be served with water or sewer by a system with more capacity. That would render the rule meaningless and would be inconsistent with the policy and legislative history regarding the rules for locational adjustments, incorporated herein. See, e.g., the discussion at pp. 7-9 of the Council Final Order in the matter of Contested Case 88-02. Council construes Section 3.01.035(1) to require more than the incremental increase in efficiency that could be construed to result from any use of excess system capacity.

1
2 e. The subject property can be served by Tualatin Valley Fire and Rescue
3 District, and including the subject property in the UGB increases the net efficiency of fire
4 protection services, based on the written statement from the District (Exhibit 9). The
5 efficiency results from a more logical division between the Tualatin and Aurora Districts.
6 The subject property is the only property served by the Aurora District north of Miley Road
7 east of the freeway. The church south of Miley Road is served by Tualatin. This
8 circumstance was identified as a system inefficiency by the Aurora District in the matter of
9 Contested Case 88-03 (St. Francis).

10
11 f. If conditioned, including the subject property in the UGB can increase
12 the area designated "open space" on a comprehensive plan or zoning map, because the
13 petitioners agreed to accept such a designation on the steeply sloped portion of the subject
14 property, and such a designation is consistent with Wilsonville regulations. Increasing the
15 area of open space increases the efficiency of open space services for purposes of this
16 section. However the Council also recognizes that, under existing zoning, use of the
17 subject property is so constrained that it is reasonably likely to remain open space if it is not
18 included in the UGB. Therefore, including the subject property in the UGB actually may
19 reduce the area of open space in fact if not in designation. Given these facts, the Council
20 concludes including the subject property has no net effect on open space efficiency.

21
22 *Maximum efficiency of land uses. The amendment shall facilitate*
23 *needed development on adjacent existing urban land. Needed development,*
24 *for the purposes of this section, shall mean consistent with the local*
25 *comprehensive plan and/or applicable regional plans.*

26 Metro Code section 3.01.035(c)(2)

27
28 4. Including the subject property in the UGB facilitates needed development on
29 adjacent existing urban land, (i.e., tax lot 15700), because it makes it possible to serve that
30 property with a gravity flow sewer. Any use of the adjoining land in the UGB requires
31 sewer service, including uses permitted in Wilsonville's PDC zone.

32
33 a. The Council acknowledges that it is not necessary to include the subject
34 property in the UGB to provide any form of sewer service to tax lot 15700. It could be
35 served by extending a sewer line east or west along Miley Road, but sewage would have to
36 be pumped.

1
2 b. Given the importance of the efficiency of service delivery in section
3 3.01.035(c)(1), the Council finds that the availability of a less efficient means of sewer
4 service, (i.e., a system that relies on a pump station), does not preclude and is not
5 inconsistent with a finding that the locational adjustment in this case facilitates development
6 on tax lot 15700 by enabling it to be served with a more efficient sewer system. This is
7 consistent with and similar to the Council's action in the matter of Contested Case 88-04
8 (Bean).

9
10 5. This section introduces the concept of the need for a given kind of development
11 into the analysis of the locational adjustment.

12
13 a. The petitioners have asserted that there is a need for professional offices
14 to serve the portion of the City south of the river, and have introduced substantial evidence
15 in support of that assertion.

16
17 b. Citizens of the adjoining area have testified that a professional office
18 building could have positive social and environmental impacts by reducing noise levels
19 from the highway among other things.

20
21 c. Council finds that, although need for more land in the UGB is not a
22 relevant criterion for a locational adjustment, it is not inconsistent with Metro Code section
23 3.01.035(c)(2) to limit uses permitted on the subject to a subset of the uses permitted by the
24 anticipated urban plan map designation for the property. In fact, Metro Code section
25 3.01.40(a) expressly authorizes it.²

26

² Metro Code section 3.01.40(a) provides:

The District may attach conditions of approval which may be needed to assure compliance of the developed use with statewide planning goals and regional land use planning, including but not limited to the following:

(1) Conditions which may relate to findings of need for a particular type of use and for which the District finds a need to protect the opportunity for development of this type of use at the proposed site...

Council first applied this provision to a locational adjustment in the matter of Contested Case 91-01 (Dammasch State Hospital) when it required public sewer to be extended to serve that property along a particular route.

1 d. Therefore, Council finds that the approval of the locational adjustment in
2 this case should be subject to a condition that prohibits the subject property from being
3 used for any purpose except open space and professional offices, because such a condition
4 is needed to assure compliance of the developed use with the statewide planning goals and
5 regional land use plans as implemented by the rules for locational adjustments. See
6 additional discussion in the ESEE analysis following.

7
8 *Environmental, energy, social & economic consequences. Any*
9 *impact on regional transit corridor development must be positive and any*
10 *limitations imposed by the presence of hazard or resource lands must be*
11 *addressed. Metro Code section 3.01.035(c)(3)*

12
13 6. Council finds the subject property is not in a regional transit corridor and,
14 because of its location at the extreme south end of the urban area of the metropolitan region,
15 it is unlikely to be included in such a corridor in the future. Therefore the locational
16 adjustment does not have an impact on regional transit corridor development.

17
18 7. Council further finds that the plan amendment could result in development that
19 would cause significant adverse energy, social and environmental impacts.

20
21 a. Adverse energy, social and environmental effects could result if the
22 amendment allows the property to be used for highway commercial purposes or for land
23 extensive commercial purposes. Social impacts would be reasonably likely to include high
24 noise levels that would adversely affect dwellings in the adjoining subdivision.
25 Environmental impacts would be likely to include higher storm water runoff volumes and
26 less landscaping and preservation of trees. Energy effects would include the potential for
27 increasing vehicle miles traveled, rather than serving principally City residents south of the
28 river. To address these potential effects, the Council finds that a condition of approval
29 should be imposed limiting use of the property to professional offices and open space as
30 defined by the City of Wilsonville land use regulations.

31
32 b. Adverse environmental effects could result if hazards affect development
33 of the subject property. Council finds the subject property is affected by hazards, including
34 steep slopes. To address that hazard, Council finds that a condition of approval should be
35 imposed limiting use of the portion of the property with slopes of twenty percent or more to
36 open space; provided, that such a limitation does not preclude sanitary sewer and storm

1 drainage facilities in that area if approved by the City of Wilsonville consistent with
2 applicable City standards.

3
4 *Compatibility of proposed urban uses with nearby agricultural*
5 *activities. When a proposed adjustment would allow an urban use in*
6 *proximity to existing agricultural activities, the justification in terms of this*
7 *subsection must clearly outweigh the adverse impact of any incompatibility.*
8 Metro Code section 3.01.035(c)(5)

9
10 8. Council finds there are no agricultural activities in proximity to the subject
11 property, based on the findings regarding surrounding uses in this Final Order.

12
13 *Superiority. [T]he proposed UGB must be superior to the UGB as*
14 *presently located based on a consideration of the factors in subsection (c) of*
15 *this section. Metro Code section 3.01.035(f)(2)*

16
17 9. Council finds that the proposed UGB would be superior to the UGB as
18 presently located, because:

19
20 a. Public sanitary sewer could be provided to the subject site and land
21 already within the UGB more efficiently by a gravity flow system.

22
23 b. The amended UGB creates a more logical and consistent boundary
24 between the Tualatin and Aurora Fire Districts.

25
26 c. The amended UGB helps reinforce the Interstate-5 freeway as the edge
27 of the urban area.

28
29 d. The subject property is an essentially inaccessible and useless residual
30 parcel under the existing UGB. It cannot be used practicably for a resource purpose other
31 than passive open space and does not buffer resource lands from urban lands. The
32 amended UGB allows this residual piece to be put to a productive use without adverse
33 impacts on or loss of resource lands in a manner that increases the efficiency of urban
34 services and provides those services to land already in the UGB in a manner in which they
35 could not be provided.

1 *Similarly situated land. The proposed UGB amendment must include*
2 *all similarly situated contiguous land which could also be appropriately*
3 *included within the UGB as an addition based on the factors above. Metro*
4 *Code section 3.01.035(f)(3)*
5

6 10. The subject property is isolated from other land outside the UGB by the
7 Interstate-5 freeway. Therefore there is no similarly situated property which could also be
8 appropriately included within the UGB based on the factors above.
9

10 III. Conclusions and Decision.

11

12 1. Public services and facilities, including water, sewer, storm drainage,
13 transportation, schools, and police and fire protection, can be provided to the site in an
14 orderly and economical fashion.
15

16 2. Addition of the site would result in a slight improvement in the efficiency of
17 public sewer and fire protection services, because the public sewer system can be extended
18 to serve the subject property and adjoining land already in the UGB using a gravity system
19 instead of using a pump stations, and because the amendment results in a more logical
20 boundary between fire protection districts. Because of the importance of this service
21 efficiency to the petition, Council further concludes that a condition of approval is
22 warranted requiring that the subject property and tax lot 15700 be served by a gravity flow
23 sewer line.
24

25 3. The locational adjustment facilitates development of land within the UGB
26 consistent with the Wilsonville Comprehensive Plan and land use regulations by providing
27 more efficient sewer service to that property.
28

29 4. The locational adjustment will not have an impact on regional transit corridor
30 development. The subject property contains potential hazardous steep slopes. Council
31 concludes a condition is warranted requiring the portion of the subject property within
32 slopes of twenty (20) percent or more to be used only for open space purposes and sewer
33 and storm drainage features. Including the subject property in the UGB could cause
34 significant adverse energy, social and environmental consequences if the property is
35 developed for certain uses. Council concludes a condition of approval is warranted limiting
36 use of the subject property to professional offices.

1
2 5. The subject property does not include agricultural land, and is not in proximity
3 to existing agricultural activities. Therefore, the location adjustment will not remove
4 agricultural land or conflict with agricultural activities on nearby land.
5

6 6. The locational adjustment will result in a superior UGB, because it results in the
7 service efficiencies noted herein, reinforces a major physical features (Interstate-5) as the
8 edge of the UGB, and allows the subject property to be used productively.
9

10 7. The petition includes all similarly situated contiguous land outside the UGB.
11

12 8. For the foregoing reasons, the petition in Contested Case 94-01 is approved,
13 subject to the following conditions:
14

15 a. The subject property may be used only for open space and professional
16 office purposes as defined by the City of Wilsonville land use regulations.
17

18 b. The portion of the subject property with slopes of twenty (20) percent or
19 more may be used only for open space purposes; provided, a sanitary sewer line may cross
20 the sloped area, and storm drainage facilities may be established in the sloped area if
21 approved by the City of Wilsonville.
22

23 c. The subject property and tax lot 15700 shall be served by a gravity flow
24 sewer line.
25

26 DATED: _____
27

28 By Order of the Metropolitan
29 Service District Council
30

31 By
32 _____

ATTACHMENT "A" TO THE FINAL ORDER
IN THE MATTER OF CONTESTED CASE 94-01:
EXHIBITS

<u>Exhibit No.</u>	<u>Subject matter</u>
1	Tax Assessor Map, Sec. 26, T3S, R1W, WM, Clackamas County
2	Notice of public hearing and attached maps
3	Certificates of mailing of public notices
4	List of property owners within 500 feet
5	Petition for locational adjustment dated March 14, 1994
6	Clackamas County Board of Commissioners Order No. 94-287
7	Comment from Wayne Sorenson (Wilsonville) dated June 24, 1994
8	Comment from B. Applegarth (Canby Elem Sch Dist) dated March 9, 1994
9	Comment from Tualatin Rural Fire Protection District dated March 8, 1994
10	Letter from John Grassman (ODOT) dated June 11, 1993
11	Statement of intent to file annexation petition dated June 29, 1994
12	Memorandum from Denise Won (PMALGBC) dated March 4, 1994
13	PMALGBC petition and forms #1, #1a, #3, #4, #5 and #6
14	Affidavit of Donald Richards dated June 17, 1994 (re: notice list)
15	Letter from Vera Rojas (Wilsonville) dated June 17, 1994
16	Minutes of April 11, 1994 Wilsonville Planning Commission hearing
17	Wilsonville Staff Report dated May 16, 1994 with attachments
18	Minutes of May 16, 1994 Wilsonville City Council hearing
19	Metro Council Resolution 94-2016 with attachments
20	Hearing notice and certification of mailing
21	Metro Staff Report dated November 1, 1994 with attachments
22	<i>Wilsonville Spokesman</i> dated November 8, 1994
23	Response dated November 15, 1994 by Donald Richards to staff report
24	Site access analysis by DKS Associates dated October 20, 1993
25	Letter from Debra Iguchi (Friends of Goal 5) dated November 1, 1994 with handwritten note dated November 16, 1994
26	Memorandum from Stuart Todd dated November 22, 1995 with copy of Clackamas County tax assessor map 86-12 and UGB map
27	Letter from Carol and John Kincaid dated November 25, 1994
28	Letter from Max Paschall dated November 28, 1994
29	Letter from Donald Richards dated December 2, 1994
30	Order to Hold Record Open dated December 6, 1994
31	Memorandum from Stuart Todd dated December 12, 1994
32	Letter from Marshall and Linda Watkins dated December 14, 1994
33	Traffic data and analysis by DKS Associates (various dates)
34	Supplemental analysis of locational adjustment criteria by applicant
35	Evidence regarding Wilsonville population with certificate from Susan Johnson dated January 27, 1994
36	Letter from Bruce Goldson (Compass Engineering) dated February 3, 1995
37	Letter from Donald Richards and Mike Rumpakis dated February 3, 1995
38	Letter from Donald Richards dated February 15, 1995
39	Letter from Stuart Todd dated February 15, 1995
40	Map showing topography and property lines

UGB Contested Case 94-1:Richards Zoning

- General Agricultural District
- Planned Development Commercial
- Planned Development Residential
- Public Facility
- Rural Residential Farm Forest 5
- Urban Growth Boundary



AGENDA ITEM 8.1
Meeting Date: April 20, 1995

Resolution No. 95-2131

CONTRACT REVIEW BOARD

**For the Purpose of Authorizing the Executive Officer to Enter Into an Agreement With Norseman Plastics
to Manufacture and Distribute Home Compost Bins.**

134A

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 95-2131, FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO ENTER INTO AN AGREEMENT WITH NORSEMAN PLASTICS TO MANUFACTURE AND DISTRIBUTE HOME COMPOST BINS

Date: April 20, 1995

Presented by: Executive Officer Mike Burton

PROPOSED ACTION

Approve Resolution No. 95-2131 to authorize the Executive Officer to enter into a Public Contract with Norseman Plastics to manufacture, promote, and distribute 7,407 home compost bins in East Multnomah and Clackamas Counties.

BACKGROUND

The Waste Reduction budget for FY-94-95 includes \$80,000 for a home compost bin distribution program. In February 1995 the Contract Review Board approved an exemption from competitive bidding, the release of a Request for Proposal (RFP) for this project and authorized the use of a multi-year contract. (Resolution No. 95-2084). The proposed contract extends through November 30, 1995 to allow time to complete an evaluation report and to be sure all bins are sold prior to termination of the contract.

Eight proposals were received in response to Metro's RFP. An evaluation committee made up of Metro staff, local governments and a Master Gardener reviewed the proposals against the criteria in the RFP, which were: 1) bin design, 2) workplan and approach, 3) experience, and 4) budget/cost. A field test for each compost bin was also conducted.

Norseman Plastics, Ontario, Canada was selected as the vendor for this project. This company has extensive experience in conducting home compost bin distribution events, often called truck sales. They have been involved in over 600 municipal programs in the United States and Canada, including programs in California and Eugene, Oregon. This vendor proposed the largest number of bins (more than twice the minimum required) for the lowest price. They also offered the most extensive staffing and promotional materials.

The contract, Exhibit A to Resolution No. 95-2131 includes four distribution events to be held on June 3, 1995. Three of these will be held in Clackamas County and one in the city of Gresham to serve the East Multnomah County area. Prior to the events, the proposed contractor will print approximately 100,000 four color flyers announcing the event and insert them into the East and South Metro editions of the *Oregonian*. They will also manage all aspects of the sale, including providing tractor trailers, forklifts, banners, signs, and staff to collect money and direct traffic.

Each bin will have Metro's logo hot-stamped on the lid. They will be sold to residents attending the distribution events for a discounted price of \$20. Metro will pay the contractor \$10.80 for each bin sold for a total of \$30.80 a bin. If all the home compost bins are not sold on June 3, 1995, the contractor will arrange to have the remaining bins sold at one or more retail outlets at the discounted price. At the completion of the project the names and addresses of all participants will be provided to Metro for follow-up evaluation.

BUDGET IMPACT

The FY 94-95 Solid Waste budget has appropriated \$80,000 for this home compost bin program. Expenditures for the program shall not exceed that amount.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 95-2131.

LZ:ay

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BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING THE)
EXECUTIVE OFFICER TO ENTER INTO AN)
AGREEMENT WITH NORSEMAN PLASTICS)
TO MANUFACTURE AND DISTRIBUTE)
HOME COMPOST BINS)

RESOLUTION NO. 95-2131

Introduced by Mike Burton
Executive Officer

WHEREAS, On February 2, 1995, the Metro Contract Review Board authorized an exemption from competitive bidding and approved the issuance of a Request for Proposal (RFP #95-2-SW) for a home compost distribution and education program, and authorized the use of a multi-year contract; and

WHEREAS, An evaluation committee including representatives from Metro, local governments, and a Master Gardener, evaluated eight proposals for a home compost bin distribution program using the criteria established in the Request for Proposal; and

WHEREAS, The evaluation committee selected Norseman Plastics, Rexdale, Canada as the most responsive proposer to the Request for Proposal; and

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

BE IT RESOLVED,

That the Metro Contract Review Board authorizes the Executive Officer to enter into a multi-year Public Contract with Norseman Plastics under the terms and conditions specified in Exhibit A attached to this resolution.

ADOPTED by the Metro Contract Review Board this _____ day of _____, 1995.

J. Ruth McFarland, Presiding Officer

PUBLIC CONTRACT

THIS Contract is entered into between Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, whose address is 600 NE Grand Avenue, Portland, Oregon 97232, and NORSEMAN PLASTICS, whose address is 39 Westmore Drive, Rexdale, Ontario M9V 3Y6, Canada., hereinafter referred to as the "CONTRACTOR."

In exchange for the promises and other consideration set forth below, the parties agree as follows:

**ARTICLE I
SCOPE OF WORK**

CONTRACTOR shall perform the work and/or deliver to METRO the goods described in Attachment A, the Scope of Work, which is incorporated herein by this reference. All services and goods shall be of good quality and, otherwise, in accordance with the Scope of Work.

**ARTICLE II
TERM OF CONTRACT**

The term of this Contract shall be for the period commencing on the last signature date below and shall remain in effect until and including November 30, 1995.

**ARTICLE III
CONTRACT SUM AND TERMS OF PAYMENT**

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

**ARTICLE IV
LIABILITY AND INDEMNITY**

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

**ARTICLE V
TERMINATION**

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

**ARTICLE VI
INSURANCE**

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

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

B. Automobile bodily injury and property damage liability insurance.

Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an aggregate limit, the aggregate limit shall not be less than \$1,000,000. METRO, its elected officials, departments, employees, and agents shall be named as an ADDITIONAL INSURED. Notice of any material change or policy cancellation shall be provided to METRO thirty (30) days prior to the change.

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

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

**ARTICLE VII
PUBLIC CONTRACTS**

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

**ARTICLE VIII
ATTORNEY'S FEES**

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

**ARTICLE IX
QUALITY OF GOODS AND SERVICES**

Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of the highest quality. All workers and subcontractors shall be skilled in their trades.

CONTRACTOR guarantees all work against defects in material or workmanship for a period of one (1) year from the date of acceptance or final payment by METRO, whichever is later. All guarantees and warranties of goods furnished to CONTRACTOR or subcontractors by any manufacturer or supplier shall be deemed to run to the benefit of METRO.

**ARTICLE X
OWNERSHIP OF DOCUMENTS**

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

**ARTICLE XI
SUBCONTRACTORS**

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

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

**ARTICLE XII
RIGHT TO WITHHOLD PAYMENTS**

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

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

**ARTICLE XIII
SAFETY**

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

**ARTICLE XIV
INTEGRATION OF CONTRACT DOCUMENTS**

All of the provisions of any bidding documents including, but not limited to, the Advertisement for Bids, Request for Bids or Proposals, General and Special Instructions to Bidders, Proposal, Bid, Scope of Work, and Specifications which were utilized in conjunction with the bidding of this Contract are hereby expressly incorporated by reference. Otherwise, this Contract represents the entire and integrated agreement between METRO and CONTRACTOR and supersedes all prior negotiations, representations or agreements, either written or oral. This Contract may be amended only by written instrument signed by both METRO and CONTRACTOR. The law of the state of Oregon shall govern the construction and interpretation of this Contract.

**ARTICLE XV
ASSIGNMENT**

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

NORESMAN PLASTICS

METRO

Signature

Signature

Andy Williams, VP, Finance, Norseman Plastics

Mike Burton, Metro Executive Officer

Date

Date

SCOPE OF WORK

PROJECT SUMMARY: Manufacture and distribute home compost bins at distribution events in Clackamas County and the city of Gresham.

CONTRACTOR: Norseman Plastics

CONTRACT PERIOD: May 1 through November 30, 1995

STATEMENT OF WORK

Contractor's responsibilities:

1. Contractor shall provide 7,407 Earth Machine compost bins for distribution in the Metro area. The Earth Machine shall have a capacity of 10.5 cubic feet, be black in color and have a lid. The Metro logo will be hot-stamped on the lid of each Earth Machine. Each compost bin shall include a copy of the *User's Guide: The Earth Machine, 21st Century Home Composter*, and the book entitled *Backyard Composting: Your Complete Guide to Recycling Yard Clippings*.
2. Contractor shall work with Harmonious Technologies consulting firm to manage four distribution events on Saturday, June 3, 1995 from 9:00 to 5:00 p.m. The sites shall be mutually agreed upon by contractor, Metro's project manager, and the local government recycling coordinators from Clackamas County, the city of Milwaukie and the city of Gresham. Each compost bin shall be sold for \$20.00 to customers attending the distribution events. Each customer may purchase a maximum of two bins.
3. Contractor shall set up distribution equipment at each location and manage the sale of bins at each site. At least one supervisor and two clerks will manage each event and sell the bins. Contractor shall bear sole responsibility for paying and managing these workers. Contractor shall provide billboard tractor trailers to store the bins, shall be responsible for unloading the bins from the truck, and shall provide a trailer to move between sites and keep bins stocked, as necessary.
4. In addition to the tractor trailers described above, Contractor shall provide the following on-site equipment: 1) forklifts, 2) barricades, 3) pylons, 4) pallet jacks, 5) tables and chairs, 6) ropes, 7) signage and banners. Contractor shall deliver bins to each site and ensure that adequate bins are available during the day, based on the allocation for each location that is mutually agreed upon by Metro and local governments.
5. Contractor shall collect the \$20.00 from sale of bins directly from customers on the day of the events. Contractor shall maintain sales records for the Earth Machine compost bin, and provide individual forms for each transaction. A database which includes the name, address, and phone numbers of customers shall be submitted to Metro at the conclusion of

the distribution events. Other information may be included on the sales records if mutually agreed to by Metro and Contractor.

6. Contractor shall print approximately 100,000 copies of a four color cut-a-way flyer advertising the compost bin distribution events. Two separate flyers will be printed, one for the Gresham event and one for the Clackamas County events. This flyer shall be reviewed and approved by Metro prior to printing and distribution. Contractor shall be responsible for inserting the flyer into the zoned editions of the *Oregonian* newspaper serving the Gresham and Clackamas County areas approximately three days prior to the events. Contractor shall provide Metro with a media kit immediately upon execution of the contract.
7. Contractor shall supply each local government recycling coordinator with a minimum of one free point-of-purchase display immediately upon execution of the contract. They shall supply at least three free sample bins to Metro, should they be needed as part of Metro's promotion.
8. If all compost bins are not sold at the distribution events on June 3, 1995, Contractor shall arrange to have remaining bins sold through at least one retail outlet in the area served by this program. Contractor shall provide each retailer with free storage and inventory, advertising to promote the bins, point of purchase displays, receipts and other information mutually agreed upon by Metro, retailer and contractor. Contractor shall provide names, addresses and phone numbers of customers purchasing bins retail at the end of the contract period.
9. Prior to submitting the final invoice, Contractor shall provide a written report on the home compost bin program, including, but not limited to, the number of bins sold at each distribution event location and at retail stores, the strengths and weaknesses of the program, and recommendations on how to proceed in future compost bin programs.

Metro responsibilities:

1. Metro shall work with local government recycling coordinators to ensure that possible locations for the distribution events are identified and that four sites serving the targeted area are selected.
2. Metro, in cooperation with Clackamas County and Gresham, shall provide advertising of the compost bin distribution events. This will include, at a minimum, one print advertisement in the *Oregonian*, the *Gresham Outlook*, the *West Linn Tidings*, the *Lake Oswego Review*, and the *Clackamas County Review* prior to the distribution events.
3. Metro will prepare a press release and media advisory on the compost bin events, and will arrange for radio advertising of the events. Metro will also arrange for Contractor's Public Service Announcement to be shown on local cable access television.
4. Metro's Recycling Information hotline will answer inquiries about the bin distribution program and the Recycling Information phone number shall be listed on promotional materials developed by contractor and Metro.
5. Metro and local governments shall ensure that at least three volunteers are available to provide assistance at each distribution event.

6. At the termination of the contract, Metro shall take ownership of any unsold bins. At that time Metro shall determine whether to continue working with a retailer, whether to return bins to contractor, or to distribute in some other fashion.

Payment and Billing

1. Upon completion of the June 3, 1995 distribution events, Contractor shall submit an invoice to Metro for bins sold. The quantity will be calculated using the receipts filled out by residents purchasing bins at \$20.00 per bin.
2. If all the compost bins are not sold at the distribution events, Contractor shall submit monthly invoices to Metro based on proof of purchase receipts Contractor receives from the retail store(s) selling the remaining bins.
3. Prior to termination of the contract, Metro shall pay Contractor for any unsold bins, after receiving an invoice for outstanding costs.
4. Metro shall pay Contractor at the rate of \$10.80 per bin at the times specified above, for a maximum amount not to exceed EIGHTY THOUSAND DOLLARS (\$80,000.00). The per bin cost shall be Contractor's compensation for the above work.

The per bin cost and maximum not to exceed contract price includes all fees, costs and expenses of whatever nature. Contractor's billing statements will include an itemized statement of bins sold, location of each sale, other work done and expenses incurred during the billing period. Billing statements will not be submitted more frequently than once a month, and will be sent to Metro, Attention Solid Waste Department. Metro will pay Contractor within 30 days of receipt of an approved billing statement. Contractor shall maintain all records pertaining to its activities under this contract for the entire term of the contract.

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WESTERN ADVOCATES INCORPORATED

Legislative Update as of April 20, 1995

The 1995 Legislature shows signs of coming to an end. Bills have until the end of this month to pass in the House of their origination. Hearings will continue through the month of May and, unless significant disputes arise in the meantime, the session should end in June. What to do with the "kicker" funds - collections beyond statutory limits in both income and corporate taxes - is a crucial question because it makes short-term balancing of the budget that much easier or harder, depending on the answer. Either way, expect to see an Interim Session, or Sessions, before the 1997 Legislature convenes.

This is a summary of the current status of bills of interest to Metro:

Land Use

"Ecotake" - SB 600.

This bill providing compensation for "ecotakings" has passed out of Senator Rod Johnson's Water and Land Use Committee and has been sent to Ways and Means for fiscal review. Hearings are currently being held. Outcome is unsure although many believe that once the price tag is calculated, the bill will have a hard time getting to the Senate floor.

Washington State Legislature has just passed a fairly aggressive takings bill and that may provide some impetus to the proponents of this bill in Oregon. The Governor continues to threaten veto.

20 Year Supply of Land - HB 2079

This Home Builders bill has passed out of sub-committee and will probably get a hearing next week to send it to the House floor. Metro has participated in writing language that alleviates concerns for Metro or any of its functional planning authority. We are likely to see additional amendments relating to land owned by St. Marys in Washington County. Metro staff will be involved in reviewing those amendments when they are prepared.

Generally.

We have had numerous hearings on several bills ranging from changing the composition of LCDC to secondary lands. To date, none have developed serious momentum. During the next two weeks (House bills have to clear the House by early May) we can expect a flurry of activity. However there is no indication that a wholesale change to the land use system is in the works.

page two

Solid Waste

Flow Control - HB 3055

This bill would prohibit local or regional government flow control over any material that may be recycled or reused. Metro Solid Waste staff testified on the bill before a sub-committee of the House Natural Resources Committee and provided written testimony opposing the bill signed by the Chair and Executive Officer of Metro. Numerous other groups opposed the bill and it is not likely to get out of sub-committee.

Siting and Operating Non-Municipal Solid Waste Dump Sites - SB 1119

This bill would remove rules for siting and operating non-municipal solid waste dump sites. Metro Solid Waste staff supported DEQ which did an excellent job showing how they currently manage these sites. The bill is not likely to move.

Plastics Recycling - SB 949

This bill is the vehicle for the plastics industry to seek amendments to SB 66, the 1991 legislation establishing state recycling policy. Tuesday's The Oregonian had a feature story on this effort. There have been many amendments proposed and the bill has developed into a contest between Paul Cosgrove representing plastics manufacturers and DEQ which opposes any changes to SB 66 on recycling goals and targets. Metro Solid Waste staff testified against the bill at this week's hearings. No decisions have been made; the Senate would like to do "something" for the plastics industry, but want to avoid being critiqued for gutting SB 66. Committee Chair Bob Kintigh has asked Bob Danko of DEQ and Cosgrove to try once again to develop a compromise for Committee consideration.

Finance & Taxation

Pre-emption of Authority - SB 327, SB 329, SB 333, SB 461

SB 327 would pre-empt Metro and local governments ability to impose a hotel/motel tax. Councilor McLain testified early in the session against this bill. It has had public hearings and work sessions but has not moved out of the Senate Government Finance Committee.

SB 329 would pre-empt Metro and local governments from imposing a real estate transfer tax for the next seven years. The bill passed the Senate and has been sent to the House Floor by the House State School and Finance Committee.

SB 333 provisions which relate to freezing fees and charges has been amended to apply to state agencies only. Metro, along with local governments, would be required to propose fee increases in public meetings and provide the opportunity for public comment. Bill has passed the Senate and the House.

SB 461 would pre-empt Metro and local governments from imposing any industry-specific niche taxes. Bill has had one hearing in Senate Government Finance Committee and has not moved.

page three

Prohibiting the Use of Certificates of Participation and Lease Financing - HB 2752

Metro has, in the past, issued Certificates of Participation (COP's) to acquire computer equipment and saved the agency money in the process. This bill would require a public vote before COP's could be issued. Metro staff testified against this bill. It has had several hearings and is scheduled for a final vote this Friday in the House General Government Committee

Assessed Value Caps - Numerous Bills

Assessed value caps will not be considered by this year's Legislature. Bill Sizemore and Oregon Taxpayers United have filed their latest property tax limitation initiative in response to what they see as legislative foot dragging on this issue.

Transportation Financing

The Oregon Transportation Financing Package, a number of bills which propose increases in gasoline taxes, weight-mile taxes and vehicle registration fees received a lukewarm hearing last week by the House State School & Finance Committee. SB 626 which proposes toll roads in Oregon was passed out this week by the Senate Transportation Committee, but limited in its application to the Newberg/Dundee area.

Light-Rail Financing - SB 881, SB 882 and others

Discussions continue on several fronts. Hearings have been held and Tri-Met lobbyists anticipate that favorable action will be taken.

Economic Development Department Budget - HB 5001

EED has come under fire by House Speaker Clarno and is the subject of fairly massive cuts and restructuring. The Governor's proposed budget had cut about \$5 million from two infrastructure financing funds - the Special Public Works Fund and the Water/Wastewater Fund, which agencies in the Metro area have used to make infrastructure improvements to accommodate growth. Further cuts in these programs may be considered in order to reach the target of \$30 million in cuts within the department.

Generally.

The House proposal to fund schools at a level \$100 million higher than proposed by the Governor puts pressure on the Ways and Means Committee to make deeper cuts in all other areas, including distributions to other governments. Oregon voters will vote on the question of using lottery funds for education purposes when they go to the ballot this coming May.

General Government

Collective Bargaining - SB 750

This major re-write of collective bargaining statutes to place the public employer in a stronger position has passed the Senate.

page four

Workers Compensation - SB 369

A major revision in the delivery system for workers compensation benefits has passed both Houses. The Governor had threatened to veto the bill unless changes were made. Changes were made and it remains to be seen if they were enough to veto-proof the bill

Public Employees Retirement System (PERS) - Numerous bills

Most of the action on these bills is in Rep Bob Tiernan's House Committee on General Government and Regulatory Reform. An earlier compromise on a two tier retirement system, worked out among business and labor interests was rejected by Chair Tiernan as not meeting his objectives. A number of these bill come up for a vote in his Committee over the next few days and the outcome is uncertain.

Tort Liability Insurance Limits - HB 2993

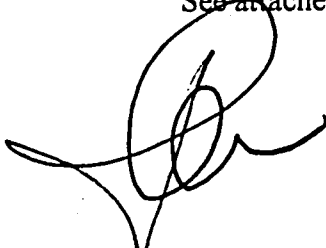
Today, amendments will be introduced to do away with the cap on the exposure of public bodies for tort liability claims. This would impose significant cost increases for all governments because of the increased exposure and the need to secure higher levels of insurance protection. Metro staff is providing background information to support our opposition to this bill.

Privatization. Prohibition on Intergovernmental Agreements - Various bills

We have fought a number of bills in various committees that would pre-empt a unit of government's ability to make decisions about how services are provided. These include SB 395, SB 1012, HB 3064, HB 3389 and HB 3097. These bills range from requiring an agency to contract services out if there is anyone in the private sector interested in doing the work to preventing government units from getting together to do things more efficiently. We have been successful so far in stalling action on these bills.

Water Issues

See attached sheet for major bills in this area.



Noe J. Klein

Water Issues for Metro Report

HB 3183 - Aquifer Storage and Recovery. Bill requested by Tualatin Valley Water District. Sets Water Resources Department as sole permitting authority. DEQ can recommend conditions. Establishes water quality standards to be met by injected water to protect groundwater supplies. Eliminates several permits, making it easier to take advantage of this technology. Passed out of House Water Policy Committee.

HB 3441 - Watershed Health. Transfers administration of watershed health program from SWMG to GWEB. Changes procedure for creation at local level of local watershed councils. Work session today in House Water Policy Committee. SDAO working to amend bill to assure that counties, who are being given authority to designate or certify the bodies, give adequate consideration to concerns of districts, cities and other local governments.

SB 674 - Water Rights and Permits Processing. This bill has passed out of the Senate. It significantly changes the process for review of water right applications to prevent the delays in the future that have led to the massive backlog of permits now facing the Water Resources Department. The bill sets a 180-day time limit within which permits must be issued. If the deadline is not met, the applicant can seek a writ of mandamus ordering the department to issue the permit. Applications will not be accepted or granted a priority date until they are complete. Opportunities for public comment on applications are more limited. Applications are presumed to pass the public interest review if water is available, no other water right is injured, the application complies with all Water Resources Commission rules, and the use is permitted in the basin program. The presumption can be overcome only by the preponderance of the evidence. Most applications will be handled by the department through a hearings officer. Few applications will be referred to the Commission. The bill is being reviewed to determine if amendments should be recommended.

EQC Three Basins Rule (Numerous bills). Several bills are under consideration which would reverse EQC's recent Three Basins rule regulating discharges in the Clackamas, Santiam and MacKenzie River basins, following the Kinross Mining company application in the upper Santiam. The bills range from a supersiting bill (similar to that used for Gov. Goldschmidt's prison construction program) to limitations on EQC rulemaking authority. We are working to kill the bills.


HB 2746 - Processing of Reservation Requests. A consensus bill to change how requests for reservations (such as the Willamette Basin municipal reservation request) are processed. The bill puts a moratorium on processing new requests until July, 1997. Requests will be reviewed in a rulemaking procedure, rather than as a contested case. This is essential in these large basin requests, where the potential number of participants is so large. Requests already submitted would have the option of being handled under current law. Bill has passed the House.



METRO

DATE: April 20, 1995

TO: Jon Kvistad, Metro Councilor

FROM:  Roosevelt Carter, Budget & Finance Manager

RE: FY 1995-96 Solid Waste Disposal Rates
Recommendation of the Rate Review Committee

At its March 7, 1995 meeting, the Rate Review Committee passed the following motion by a unanimous vote of the members present.

The Committee recommends that Metro maintain the \$75 per ton disposal rate for the next fiscal year with the proviso that consideration be given to reducing the rate to \$74 per ton through a reduction in the Rate Stabilization Account considering the impact on the Excise Tax. The Committee strongly recommends that some long-term planning be done not only for solid waste rate reduction but also for the goals of the different functions in the Solid Waste Department which would include all of the recycling and waste reduction efforts, tonnage forecasting, etc. so that the Committee can deal with rate decision matters in less of a vacuum in the future.

Reducing the FY 1995-96 rate to \$74 per ton would decrease Metro's disposal revenues by \$697,000. If the reduction is taken from the Rate Stabilization Account, the account total would change from \$2,921,930 to \$2,224,915.

The effect on the Excise Tax would mean approximately \$52,000 less revenue.

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cc: Terry Petersen, Acting Solid Waste Director
Mike Burton, Executive Director

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MINUTES OF METRO COUNCIL REGULAR MEETING

Council Chamber

April 13, 1995

Councilors Present: Ruth McFarland (Presiding Officer), Rod Monroe (Deputy Presiding Officer), Susan McLain, Don Morissette, Ed Washington

Councilors Absent: Patricia McCaig

Presiding Officer McFarland called the April 13, 1995 Metro Council Regular Meeting to order at 2:03 p.m.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATIONS

Karen Upton, citizen, referenced an article from the Oregonian, Thursday, April 13, 1995, in the Metro West Voices section regarding open spaces.

Councilor McLain commented regarding informational publications which Metro would make available and which Ms. Upton might be interested in obtaining to give to her fellow citizens.

3. EXECUTIVE OFFICER COMMUNICATIONS

None.

4. CONSENT AGENDA

4.1 Consideration of Minutes of the April 4, 1995 Work Session and the April 6, 1995 Council Meeting.

Motion: Councilor Monroe moved to adopt the Consent Agenda, the minutes of the April 4, 1995 Council Work Session and the April 6, 1995 Council Regular Meeting.
Councilor Morissette seconded the motion.

Vote: Councilors McLain, Morissette, Washington, Monroe and McFarland voted aye.

The vote was unanimous and the motion passed.

5. INFORMATIONAL ITEM

5.1 Review of MERC Resolutions

Councilor Washington introduced Pat LaCrosse, General Manager, MERC, who presented the report concerning MERC resolutions. These resolutions have been made part of the permanent meeting record. He noted action had been taken by the MERC on April 12 on Resolution No. 95-13, regarding the feasibility of Convention Center expansion; Resolution No. 95-14, for the purpose of approving a Personal Services Contract to produce the Oregon Convention Center Fifth Anniversary Celebration and allowing the MERC General Manager to negotiate a contract with Northwest Strategies; Resolution No. 95-15, for approval of an extension to the Fine Host Concessions/Catering agreement; and Resolution No. 95-16, for approval of FY 1995-96 facility, service and equipment rental rates for the Expo Center. Mr. LaCrosse mentioned there was discussion and testimony regarding parking services for the Expo Center. He noted the current contract was subject to sunset and discussion had occurred regarding seeking parking services competitively.

Mr. LaCrosse noted two resolutions were passed at the meeting held March 8, 1995, and he discussed Resolution No. 95-9, which approved a recommendation to select FASTIXX as the exclusive ticketing company for the Oregon Convention Center.

Jeff Blosser, Oregon Convention Center Director, discussed Resolution No. 95-10, which authorized a request to enter into an agreement between the MERC and Mr. Ken Wilson of Wilson Sports Marketing.

In response to Councilor Morissette, Mr. LaCrosse indicated extensive review of the financial structure and connected issues were an ongoing process, and that he would be able to provide Councilor Morissette with information if he desired.

Candy Cavanagh, Civic Stadium Manager, presented a status report concerning the Civic Stadium, and distributed a document entitled, "Civic Stadium Status Report," dated March, 1995. This document has been made part of the permanent meeting record.

In response to Councilor Washington, Ms. Cavanagh said a potential booking of the Grateful Dead was not possible due to parking problems in the neighborhood and their request for a capacity of 32,500. She noted the Civic Stadium could hold only 28,000.

Ms. Cavanagh noted an event, the Promise Keepers, had been so successful it had to move to the King Dome this year as there was no Portland facility that was large enough for the event. She said Triple A baseball was a strong candidate to fulfill a marketing strategy for a long term anchor tenant.

Ms. Cavanagh referenced Exhibit A, the Civic Stadium 5 Year Plan Financial Projections, dated February 27, 1995 in the document previously referenced. Councilor Morissette commented it appeared expenses had been reduced significantly.

5.2 MERC Consultant Presentation on Oregon Convention Center Expansion

Jeffrey Blosser, introduced Mitzi Scott, MERC Commissioner; said the Oregon Convention Center had been an economic bonanza for the State of Oregon. Ms. Scott distributed two documents to the Council; one entitled "Economic Impact of the Oregon Convention Center on the Tri-County Region of Clackamas, Multnomah, and Washington" prepared by CIC Research, Inc. and Dean Runyan Associates; and another fact sheet containing annual sales figures and other information. These documents have been included in the permanent meeting record. Ms. Scott said for the \$15 million investment in the Oregon Convention Center, tax revenue to the State of Oregon of over \$20 million in state taxes had been generated. She noted statistics showed that people coming to the Convention Center came early and stayed longer, leaving a revenue stream behind them. She said the projection for 3,300 annual jobs generated by the Convention Center were 6,500, with wages estimated projections of \$35 million were \$116 million in 1994. She said tax revenue projections of \$4.3 million were in 1994 \$21 million. Ms. Scott felt the figures enhanced consideration of the feasibility of expanding.

Skip Hall, CIC Research, and Sara Garrison, Dean Runyon Associates, who have been involved in economic impact and tourism studies addressed the Council and presented an overhead display. A hard copy of this display has been made part of the permanent meeting record.

In response to Councilor McLain, Mr. Blosser said this report constituted Phase I of the Expansion Feasibility Study. He indicated Phase II completion was slated for November, 1995. Mr. LaCrosse indicated he anticipated monthly reports to the Council would be made regarding the matter.

Councilor Kvistad commended a Convention Center employee, a Mr. Roderick, had been extremely helpful to a friend of his who was a vendor and an associate of his from out of town, another vendor, who were visiting the

facility. Councilor Kvistad noted that Mr. Roderick gave the parties a full tour and he complimented staff for that kind of positive impact which was helping make the Convention Center a success.

Councilor Monroe inquired about current facility capability and capability under the proposed expansion, Mr. Blosser said currently exhibit space could accommodate about 850 10x10 booths and as many as 10,000 people in the building. He said with the expansion the Convention Center could accommodate a number about 60% to 70% higher or about 1400 booths and 15,000 to 16,000 people.

6. TAX SUPERVISING AND CONSERVATION COMMISSION (TSCC)

6.1 TSCC Hearing On Open Spaces Bond Measure

Presiding Officer McFarland recessed the Metro Council regular meeting in order that the Tax Supervising and Conservation Commission hearing might convene.

Charles W. Rosenthal, Chair, TSCC, convened the TSCC hearing on Open Spaces Bond Measure at 3: 01 p.m.

TSCC Members present included: Ann Sherman, Courtney Wilton and Dick Anderson.

Metro Staff present included: Jennifer Sims, Director of the Finance and Management Information Department, and Charlie Ciecko, Director of Regional Parks and Open Spaces.

The TSCC hearing adjourned at 3: 50 p.m.

Presiding Officer McFarland reconvened the Metro Council meeting.

7. RESOLUTIONS

7.1 Resolution No. 2125 For The Purpose of Extending And Amending Eighteen (18) Restoration Grant Contracts And Authorizing The Executive Officer To Execute Those and Other Amendments As Necessary To Ensure Completion of These Projects.

Motion: Councilor Washington moved to adopt Resolution No. 95-2125 A.

Pat Lee, Planning and Capital Development Manager, presented the staff report, and said the governmental entities for 19 restoration and enhancement projects had requested time extensions from the original completion dates tentatively scheduled for March 1, 1995.

Councilor Morissette expressed interest in the reasons for extensions of time for completion of the projects specified and asked if a remedy could be applied to the process for more timely completion. Mr. Lee responded stating the projects involved non-profit organizations and were federally funded. He said the funds were disseminated on a reimbursement basis once the projects were completed, noting the experimental nature of the projects. Mr. Lee said a philosophy of flexibility and of accommodation had been generally applied for the furtherance of maintaining good working relationships as it was not felt there was a critical need to be otherwise. Mr. Lee said should the Council have concerns and gave direction to administer the program in a tighter manner, staff would be responsive, but, he added, he believed that would result in a less productive program in the end.

Councilor Morissette asked if others were waiting to get funding as well. Mr. Lee explained the funding was dispersed on an annual appropriation basis, and he indicated there was no backlog. He added that fact that projects were going over time was not hurting others' opportunity to participate.

Presiding Officer McFarland clarified the version the Council was about to vote on was the amended version, and she referenced a memorandum from Mr. Ciecko dated April 11, 1995 which addressed the matter of the amended version. This document has been made a part of the permanent meeting record.

Councilor McLain commented it was important to meet a standard of quality of work to assure the success of the program.

Vote: Councilors Kvistad, McLain, Monroe, Morissette, Washington and McFarland voted aye. Councilors McCaig and Monroe were absent.

The vote was unanimous and the motion passed.

8. COUNCILOR COMMUNICATIONS

Motion: Councilor Morissette moved to suspend the rules. Councilor Kvistad seconded the motion.

Vote: Councilors Kvistad, McLain, Monroe, Morissette, Washington and McFarland voted aye. Councilor McCaig was absent.

The vote was unanimous and the motion passed.

Motion: Councilor Morissette moved to adopt Resolution No. 95-2134, For the Purpose of Endorsing the Washington County Major Streets Transportation Improvement Program Serial Levy. Councilor Kvistad seconded the motion.

Councilor Morissette indicated Washington County was interested in having support from the Metro Council related to their May 16 ballot measure for MSTIP 3, a roads project for Washington County. He noted the proposed resolution had received unanimous approval in the April 13, 1995 morning meeting of JPACT, said it met many of the 2040 goals and he encouraged Council support.

Presiding Officer McFarland opened a public hearing. No citizens appeared before the Committee to testify. Presiding Officer McFarland closed the public hearing.

Councilor McLain noted she had received a FAX from Sensible Transportation Options for People (STOP) in which the group expressed concern that there be an understanding that the design of the projects received an time for public input.

Councilor Kvistad indicated he supported MSTIP and encouraged Council passage of the proposed resolution.

Vote: Councilors Kvistad, McLain, , Morissette, Washington and McFarland voted aye. Councilors McCaig and Monroe were absent.

The vote was unanimous and the motion passed.

Councilor McLain announced 2040 newsletters were available for Councilors to take out to meetings and speaking engagements.

Councilor Kvistad, noting this Metro Council meeting would be aired on Cable TV, announced that public hearing were set to start this evening for the Regional Transportation Plan in three places around the region. He said on Tuesday evening, April 18, he and Councilor McLain would be hosting meeting at Beaverton City Hall from approximately 5 p.m. to 9 p.m. He invited members of the Metro Council and the public to come to meetings and participate.

Metro Council Regular Meeting
April 13, 1995
Page 5

9. LEGISLATIVE ITEMS

None.

There being no further business, the meeting adjourned at 4:12 p.m.

Respectfully submitted,

Marilyn E. Geary-Symons
Council Assistant

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