

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING)	RESOLUTION NO. 82-322
THE EXECUTIVE OFFICER TO ENTER)	
INTO A CONTRACT WITH CLIFTON)	Introduced by the Executive
AND COMPANY FOR THEIR SERVICES)	Officer
AS AGENT OF RECORD FOR THE)	
ENERGY RECOVERY PROJECT TO)	
CONDUCT RISK ANALYSIS AND)	
INSURANCE NEEDS ASSESSMENT AND)	
PLACEMENT.)	

WHEREAS, the Metro Council has adopted Ordinance No. 82-130 which provides for Council review and approval of all contracts which may exceed \$50,000; and

WHEREAS, a request for qualifications was issued to select an agent of record to provide risk analysis and insurance services for the proposed energy recovery facility; and

WHEREAS, a Task Force was appointed to review those statements of qualifications; and

WHEREAS, the Task Force conducted personal interviews of three (3) companies submitting statements of qualifications; and

WHEREAS, the Task Force, following its deliberations, has recommended that the risk analysis and insurance needs contract be awarded to Clifton and Company; and

WHEREAS, the risk analysis to be performed during Phase I of Clifton and Company's proposal is particularly crucial to staff's effort to bring forth the documents and recommendations necessary for the Council to make a decision regarding whether to proceed with the energy recovery project; now, therefore,

BE IT RESOLVED,

That the Council authorizes the Executive Officer to enter

into the attached contract with Clifton and Company as insurance agent of record for the energy recovery facility.

ADOPTED by the Council of the Metropolitan Service District
this 1st day of April, 1982.



Presiding Officer

METRO INSURANCE TASK FORCE

REVISED MINUTES

MEETING OF 3/10/82

PRESENT: W. Bauman; D. Fleming; D. Gisvold; L. Rawls;
C. Jackson; R. Castagna

The Task Force met prior to starting the interviews, in METRO Conference Room A-1 to review the minutes of 2/24/82. The Task Force reviewed, amended and approved minutes of 2/24/82.

The Task Force interviewed the four firms in the following order: Alexander & Alexander; Clifton & Company; Marsh & McLennan and Rollins Burdick Hunter. The interviews lasted 45 minutes each (approximately).

Following the interviews, discussion ensued.

Bauman suggested the Task Force rank the firms on a scale from 1 to 4, highest firm being 1, in an attempt to eliminate 1 or 2 firms from additional consideration. By consensus the Task Force agreed to the procedure, and votes were cast.

Gisvold tallied the votes with the following results: Clifton, 8; Rollins Burdick Hunter, 13; Marsh & McLennan, 16; and Alexander & Alexander, 23. Gisvold asked if there were any objections to eliminating Alexander & Alexander. There being no objection, Alexander & Alexander was eliminated by consensus.

Fleming moved to strike Marsh & McLennan. He noted the local office, as contrasted with Clifton & Company and Rollins Burdick Hunter, did not make a commitment to get people to Portland from other offices around the country if needed. No specific people were named to be called to Portland from other offices, and the Task Force did not know the expertise of such people if they were to be called to Portland.

Bauman seconded the motion and agreed with Fleming. He noted that Rollins Burdick Hunter has a strong local presence and that Clifton & Company has complete backup 1-1/2 hours away with complete project orientation.

Jackson agreed with the motion and Rawls concurred. There was consensus to eliminate Marsh & McLennan.

Although both of the remaining firms have experience in large construction projects and in large power and energy facilities, it was noted that Clifton is the agent-of-record

for PGE's Boardman coal-fired plant and responsible for PGE's Boiler and Machinery coverage at Boardman and all of PGE's hydro facilities. It was also noted that Clifton has arranged all of the insurance written during both the construction phases and the operational phases for three large coal-fired electrical generating plants constructed by PP&L (Centralia Thermal Project, Jim Bridger Project and Wyodak Project) which range in size from \$275,000,000 to \$1,000,000,000 in value.

Fleming was impressed that Clifton & Company brought Jim Murphy, Risk Manager, from San Francisco to interview.

Gisvold added that he was impressed with Murphy's knowledge of the complicated legal and financial issues present in waste-to-energy projects like METRO's. He felt this was probably due to Murphy's involvement in the City of San Francisco's project. (Mr. Murphy is Clifton's principal representative working on the City of San Francisco waste-to-energy facility risk management study.) It was noted that the work Mr. Murphy is doing for San Francisco is very similar to the risk analysis work METRO is proposing for the Oregon City plant. It was also confirmed that Mr. Murphy would be the person doing the most, if not all, of the work for Portland's risk analysis study.

Bauman commented on Rollins Burdick Hunter's presentation that METRO place most of the insurance. It was noted by Gisvold and Jackson that it was highly unlikely that METRO would, or should, place most of the insurance in light of Wheelabrator's ownership and operation of the facility. They felt it more probable that METRO would place its own insurance to cover its limited exposure or, at most, cooperate with Wheelabrator to obtain a joint package placed essentially by Wheelabrator.

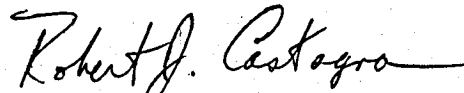
There was general discussion that Clifton & Company made the best presentation during the interviews. Comments were made about Clifton being most responsive to the questions posed by the Task Force regarding the risk analysis area. Several Task Force members also noted that Clifton's written proposal was the most responsive to the Chair's letter of March 2, 1982. It was noted that Clifton's fee proposal was more specific than Rollins Burdick and appeared to result in a lower cost to METRO.

Bauman suggested another vote on the two remaining firms before the Task Force. Voting followed with these results: Clifton & Company, 7; Rollins Burdick Hunter, 11. Clifton & Company received five first place votes and one second place vote; Rollins Burdick Hunter received one first place vote and five second place votes.

By consensus, the Task Force recommendation to METRO is to select Clifton & Company as its insurance agent-of-record for the Resource Recovery Facility.

The Task Force adjourned at 12:45 p.m.

Respectfully submitted,

A handwritten signature in cursive script, reading "Robert J. Castagna".

R. J. Castagna

Enclosure

A G E N D A M A N A G E M E N T S U M M A R Y

TO: Metro Council

FROM: Executive Officer

SUBJECT: Contract for Agent of Record for the Energy Recovery Facility to Conduct Risk Analysis and Insurance Needs Assessment and Placement

I. RECOMMENDATIONS:

- A. ACTION REQUESTED: Recommend Council adoption of the attached Resolution authorizing the Executive Officer to enter into a contract with Clifton and Company as Metro's Insurance Agent of Record for the Performance of risk analysis and insurance services related to the proposed energy recovery facility.
- B. POLICY IMPACT: The work to be performed under this contract will provide needed information to develop the contracts and other documents necessary for the Council to determine whether, and under what conditions, the energy recovery facility in Oregon City should be built. In particular, the risk analysis portion of this contract must be performed in a timely manner so that informed decisions can be made regarding appropriate contractual relations between Metro and the private parties that will construct and operate the facility. In addition, should Metro determine to proceed with the energy recovery facility, this contract provides for placement of appropriate insurance to protect Metro's interests.
- C. BUDGET IMPACT: None. This contract is an anticipated cost of preparing the energy recovery proposal and will be included in the supplemental budget.

II. ANALYSIS:

- A. BACKGROUND: In February, 1982, public notice and direct notices of requests for qualifications for insurance agent of record for the energy recovery project were issued. A five-member Task Force was appointed to evaluate the response to that request for qualifications.

The Task Force was composed of Walt Bauman, David Fleming, Dean Gisvold, Lester Rawls and Councilor Berkman. The Task Force deliberations are detailed in the attached minutes of the March 10, 1982, meeting.

The Task Force interviewed four firms who responded to the request for qualifications. The interviews lasted forty-five minutes each, and, based on the Task Force's

evaluation of those interviews, consideration was narrowed to two companies--Clifton and Company and Rollins Burdick Hunter.

The Task Force was impressed with Clifton and Company's presentation and knowledge of the complicated legal and financial issues present in waste-to-energy projects such as the one proposed for Metro. Clifton has specific experience as agent of record for PGE and PP&L for several large projects in the Northwest.

While Rollins Burdick and Hunter had the larger local presence, the Task Force felt that Clifton & Company's local office was entirely adequate and its large back-up staff is located only 1½ hours away in San Francisco.

Based on the lower cost of Clifton & Company's proposal and its superior presentation, responsiveness to questions and grasp of the issues, the Task Force, by consensus, recommended that Clifton & Company be appointed insurance agent of record.

The Council is requested to accept the recommendation of the Task Force at its April 1, 1982, meeting. While the contract would normally be referred to the Coordinating Committee for review prior to Council action, that would delay approval of this contract until April 22. Such a delay would likely prevent timely preparation of the necessary contracts and other documents that will be required for Council review and a decision on whether to proceed with construction of the energy recovery facility.

- B. ALTERNATIVES CONSIDERED: The possibility of contracting for only the risk analysis portion was considered, but rejected. The contract attached for Council is terminable at any point and expressly provides that Phases II and III are at Metro's option. The proposed contract provides the benefit of committing the services of Clifton and Company for all three phases at a determined price subject to Metro's option to terminate.
- C. CONCLUSION: The Executive Officer recommends approval of the attached Resolution.

GRANT/CONTRACT SUMMARY

Grant/Contract # _____
Budget Code # _____
Department _____

1. Purpose of Grant/Contract: Insurance Agent of Record for the Energy Recovery Facility to Conduct Risk Analysis and Insurance Needs Assessment and Placement
2. Type: ✓ Personal Services Materials and Services
 Grant Inter-Gov. Agreement
3. Extension Amendment X New
4. Parties: Metro And Clifton and Company
5. Effective Date/Termination Date: 4/5/82 / 4/5/83
6. Amount of Grant/Contract: Not to Exceed \$66,500 for one year
7. Summary of Bids or Quotes:
- | | | |
|---------------------------------|----------|--------------------------------|
| <u>Clifton and Company</u> | <u>/</u> | <u>66,500 for one year</u> |
| <u>Submitted by</u> | | <u>Amount</u> |
| <u>Alexander and Alexander</u> | <u>/</u> | <u>210,000 for three years</u> |
| <u>Submitted by</u> | | <u>Amount</u> |
| <u>Marsh McLennon</u> | <u>/</u> | <u>Indefinite</u> |
| <u>Submitted by</u> | | <u>Amount</u> |
| <u>Rollins, Burdick, Hunter</u> | | <u>Indefinite</u> |
8. Number and Location of Originals? one-Dept. of Management Services
9. Approved by State/Federal Agencies? N/A
10. Is Contract or Subcontract with a Minority Business? No
11. Will Insurance Certificate be Required? No
12. Bid and Performance Bonds Submitted? No /
No /
Amount (s)
13. List Known Subcontractors: None

Continued on other side

IF ACTION EXCEEDS \$50,000, COMPLETE 14-16


14. Policy Impact: See Agenda Management Summary

15. Budget Impact: See Agenda Management Summary

16. Consistency with Five Year Operational Plan: See
Agenda Management Summary

17. Comments:

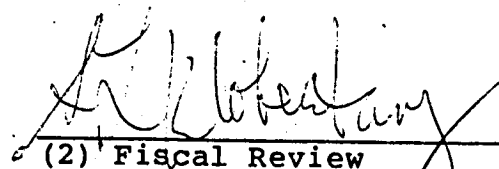
APPROVED:




(1) Department Director



(3) Legal Counsel



(2) Fiscal Review



(4) Director of Management
Services

Date of Council Approval _____

Date Executed _____

Rev. 7/1/81

MH/srb
1007B/173

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT dated this _____ day of _____, 19____, is between the METROPOLITAN SERVICE DISTRICT, a municipal corporation, hereinafter referred to as "METRO," whose address is 527 S. W. Hall Street, Portland, Oregon 97201, and Clifton and Company, 707 S.W. Washington, Portland OR 97205, hereinafter referred to as "CONTRACTOR," whose address is 707 S.W. Washington, Portland, OR 97205, for the period of April 5, _____, 1982, through April 5, _____, 1983, and for any extensions thereafter pursuant to written agreement of both parties and subject to continued performance pursuant to Phase III in the attached scope of work.

W I T N E S S E T H :

WHEREAS, This Agreement is exclusively for Personal Services;

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

CONTRACTOR AGREES:

1. To perform the services and deliver to METRO the materials described in the Scope of Work attached hereto;
2. To provide all services and materials in a competent and professional manner in accordance with the Scope of Work;
3. To comply with 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, as if such provisions were a part of this Agreement;
4. To maintain records relating to the Scope of Work on a generally recognized accounting basis and to make said records available to METRO at mutually convenient times;

5. To indemnify and hold METRO, its agents and employees harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Agreement, with any patent infringement arising out of the use of CONTRACTOR'S designs or other materials by METRO and for any claims or disputes involving subcontractors; and

6. To comply with any other "Contract Provisions" attached hereto as so labeled.

METRO AGREES:

1. To pay CONTRACTOR for services performed and materials delivered in the maximum sum of \$ 66,500 and in the manner and at the time designated in the Scope of Work; and

2. To provide full information regarding its requirements for the Scope of Work.

BOTH PARTIES AGREE:

1. That METRO may terminate this Agreement upon giving CONTRACTOR five (5) days written notice without waiving any claims or remedies it may have against CONTRACTOR;

2. That, in the event of termination, METRO shall pay CONTRACTOR for services performed and materials delivered prior to the date of termination; but shall not be liable for indirect or consequential damages;

3. That, in the event of any litigation concerning this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs, including fees and costs on appeal to an appellate court;

4. That this Agreement is binding on each party, its successors, assigns, and legal representatives and may not, under any condition, be assigned or transferred by either party;

5. That this Agreement may be amended only by the written agreement of both parties; and

6. That CONTRACTOR is an independent contractor and assumes sole responsibility for the performance of its services and assumes full responsibility for all liability for bodily injuries or physical damage to person or property arising out of or related to this Agreement.

CONTRACTOR

METROPOLITAN SERVICE DISTRICT

By: _____

By: _____

Date: _____

Date: _____

:gl
3365/40

Scope of Work

This Personal Services Agreement shall be divided into three (3) phases:

1. Phase I - Risk Analysis and Report
2. Phase II - Program Implementation
3. Phase III - Post-Implementation Program Management

Phase I - Risk Analysis and Report

During Phase I of this Agreement, Clifton & Company ("Clifton") shall act as a Risk Management Consultant to METRO. Clifton shall identify all risk exposures related to METRO's involvement in the Resource Recovery Facility proposed to be built in Oregon City, Oregon.

During Phase I of this Agreement, Clifton shall:

- A. Review and assimilate all written material pertinent to the project with special emphasis upon contract documentation.
- B. Conduct in-depth discussions with key project management personnel and outside resources, including:
 1. Internal METRO executive, legislative, financial and technical personnel;
 2. Cary Jackson & Associates personnel;
 3. Assigned legal counsel;
 4. Securities underwriting personnel;
 5. Wheelabrator-Frye, Inc.'s ("WFI") engineers, (previously having reviewed WFI's drawings, plans and specifications) and WFI's insurance agency personnel;
 6. Publishers Paper Co. technical personnel, (previously having reviewed pipeline drawings, plans and specifications).

C. Prepare a working report to:

1. Identify significant risk exposures and differentiate those borne contractually by METRO from those borne by WFI and those borne by Publishers.
2. Quantify all such exposures in dollar terms.
3. Identify their duration in time.
4. Propose appropriate risk treatment strategies (with particular emphasis upon the advantages and disadvantages of consolidating risks for insurance purposes through WFI as opposed to separate treatment by METRO).
5. Explore any risk retention possibilities for METRO.

D. Meet with key METRO personnel to finalize program strategy and format.

Cost for Phase I:

Clifton shall bill METRO at a uniform hourly fee of \$105 for professional services. Clifton shall provide clerical and support services at no additional cost to METRO. Clifton shall bill METRO for actual and necessary out-of-pocket travel expenses incurred on METRO's behalf only after having obtained METRO's prior approval for such travel expenses.

Maximum Fees and Expenses for Phase I:

Having performed all Phase I assignments, an amount calculated according to the uniform hourly fee of \$105, shall be paid to Clifton provided that such payment or payments shall not exceed \$15,000.00.

Having obtained METRO's prior approval for travel expenses, Clifton shall be paid for such expenses, provided that such payment or payments shall not exceed \$1,500. Clifton shall be entitled to additional reimbursement for travel expenses, if any, for travel at METRO's request outside Oregon and California. Upon Clifton's successful and complete performance of Phase I assignments, METRO, at its option, may notify Clifton in writing to proceed with Phase II of this Scope of Work.

Phase II - Program Implementation

Option A

(If METRO's Major Risk Exposures are Insured Through WFI's Insurance Program.)

During Phase II of this Agreement, Clifton & Company shall:

- A. Prepare specifications delineating METRO interests to be protected by WFI's insurance placement.
- B. Coordinate with WFI's insurance agent to assure that proposed insuring forms meet specifications.
- C. Review ultimate insurance placements for coverage adequacy, technical accuracy and appropriate pricing.
- D. Identify, obtain METRO's prior approval of and place for METRO all coverages not included in WFI's insurance placement.
- E. Consult as required in the areas of fire prevention, life safety or security engineering, or areas related to internal Risk Management procedures.

Cost for Phase II-A:

Clifton shall bill METRO at a uniform hourly fee of \$105 for professional services. Clifton shall provide clerical and support services at no additional cost to METRO. Clifton shall bill METRO for actual and necessary out-of-pocket travel expenses incurred on METRO's behalf only after having obtained METRO's prior approval for such travel expenses.

Maximum Fees and Expenses for Phase II-A:

Having performed all Phase II-A assignments, an amount calculated according to the uniform hourly fee of \$105, shall be paid to Clifton, provided that such payment or payments shall not exceed \$10,000.00.

Having obtained METRO's prior approval for travel expenses, Clifton shall be paid for such expenses, provided that such payment or payments shall not exceed \$2,000.00. Clifton shall be entitled to additional reimbursement for travel expenses, if any, for travel at METRO's request outside Oregon and California.

Option B

(If METRO's Major Risk Exposures Are Insured for METRO's Account, Separately from WFI's Insurance Program.)

During Phase II of this Agreement, Clifton shall:

- A. Prepare specifications delineating METRO interests to be insured.
- B. Prepare full underwriting exhibits and manuscripted insuring agreements for submission to underwriters.
- C. Conduct coverage and cost negotiations within the insurance marketplace for separate METRO placements.
- D. Coordinate with WFI's insurance agent to be certain those coverages arranged through WFI properly protect METRO's interests.
- E. Identify, obtain METRO's prior approval of, and place for METRO all coverages approved by METRO.
- F. Review METRO and WFI final insurance placements for coverage adequacy, technical accuracy and appropriate pricing.
- G. Consult as required in areas of fire prevention, life safety and security engineering, or areas related to internal Risk Management procedures.

Cost for Phase II-B:

Clifton shall bill METRO at a uniform hourly fee of \$105 for professional services. Clifton shall provide clerical and support services at no additional cost to METRO. Clifton shall bill METRO for actual and necessary out-of-pocket travel expenses incurred on METRO's behalf only after having obtained METRO's prior approval for such travel expenses.

Maximum Fees and Expenses for Phase II-B:

Having performed all Phase II-B assignments, an amount calculated according to the uniform hourly fee of \$105, shall be paid to Clifton, provided that such payment or payments shall not exceed \$25,000.

Having obtained METRO's prior approval for travel expenses, Clifton shall be paid for such expenses, provided that such payment or payments shall not exceed \$2,500. Clifton shall be entitled to additional reimbursement for travel expenses, if any, for travel at METRO's request outside Oregon and California.

Upon Clifton's successful and complete performance of Phase II, METRO, at its option, may notify Clifton in writing to proceed with Phase III of this agreement.

Phase III - Post-Implementation Program Management

During Phase III of this Scope of Work, Clifton shall:

- A. Continue Risk Identification and Quantification.
- B. Issue a regular update of risk exposure data.
- C. Renegotiate Insurance coverages as required and authorized by METRO within the insurance marketplace.
- D. Assist with the collection and management of claims as they occur.
- E. Consult as required in areas of fire prevention and life safety engineering and areas related to internal Risk Management procedures.

Cost for Phase III:

Clifton shall bill METRO at a uniform hourly fee of \$105 for professional services. Clifton shall provide clerical and support services at no additional cost to METRO. After the first anniversary of Phase III activity, the uniform hourly fee of \$105 shall be factored annually for inflation according to the Consumer Price Index for all urban consumers (all items) for the Portland, Oregon area as published by the United States Department of Labor, Bureau of Labor Statistics, or its successor index. Clifton shall bill METRO for actual and necessary out-of-pocket travel expenses incurred on METRO's behalf only after having obtained METRO's prior approval for such travel expenses.

Maximum Fees and Expenses for Phase III:

An amount calculated according to the uniform hourly fee of \$105, factored for inflation pursuant to this Scope of Work, shall be paid to Clifton, provided that such payment or payments shall not exceed \$20,000 per year. The maximum annual fee may be adjusted with METRO's prior approval only if a major, unanticipated time demand arises, e.g. a catastrophic loss requiring complex negotiations or program restructure, or a substantial change in the project itself.

Having obtained METRO's prior approval for travel expenses, Clifton shall be paid for such expenses, provided that such payment or payments shall not exceed \$2,500. Clifton shall be entitled to additional reimbursement for travel expenses, if any, for travel at METRO's request outside Oregon and California.

General Provisions:

Any insurance placed or arranged by Clifton for METRO or the Resource Recovery Facility, or both, shall be negotiated and delivered net of commission to Clifton.

Clifton may bill METRO monthly for services performed and expenses incurred, provided that such billing indicates the nature of the work performed, the number of hours involved, the individuals performing the work and an itemized breakdown of expenses.