

BEFORE THE COUNCIL
OF THE METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING AN)	RESOLUTION NO. 90-1229
INTERGOVERNMENTAL AGREEMENT WITH)	
THE DEPARTMENT OF ENVIRONMENTAL)	Introduced by Rena Cusma,
QUALITY FOR SHARED FUNDING OF THE)	Executive Officer
WASTE TIRE TECHNICAL ASSISTANCE)	
PROJECT ADOPTED BY THE CONTRACT)	
REVIEW BOARD FEBRUARY 20, 1990)	

WHEREAS, The Council of the Metropolitan Service District established the Institutional Purchasing Program of the Waste Reduction Plan to stimulate market development and procurement of recycled waste products;

WHEREAS, On February 20, 1990, pursuant to Metro Code Section 2.04.033, the Contract Review Board approved a Contract with TAK Associates Engineering Consultants for a Waste Tire Technical Assistance Project, to develop road construction specifications for application of rubber modified asphaltic concrete materials in road construction projects. Such approval committed the District to expenditure of appropriations in Fiscal Year 1990-91;

WHEREAS, an Intergovernmental agreement with the Oregon Department of Environmental Quality ("Exhibit A" attached hereto) provides funding support for approximately half the Waste Tire Technical Assistance Project; and

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

BE IT RESOLVED,

The Council of the Metropolitan Service District approves the Intergovernmental Agreement with the Oregon Department of Environmental Quality, wherein the Oregon Department of Environmental Quality agrees to provide revenue to Metro in co-sponsorship of the Waste Tire Technical Assistance Project.

ADOPTED by the Council of the Metropolitan Service District this 22nd day of March , 1990.



Tanya Collier, Presiding Officer

HSS:sg
DEQIG.res
March 20, 1990

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INTERGOVERNMENTAL COOPERATIVE AGREEMENT

This contract is between the State of Oregon acting by and through its Department of Environmental Quality hereafter called Department, and The Metropolitan Service District hereafter called Contractor.

1. Statement of Work

- a. Contractor agrees to accomplish the following work under this contract:

The statement of work is contained in Exhibit A attached hereto and by this reference made a part hereof.

- b. Contractor agrees to the following delivery schedule for the work mentioned in (1)(a):

Begin: Upon effective date of Agreement

Partial: Task I: June 1, 1990 (or 90 days after effective date of Agreement, whichever is later)

Task II: Outline of audio study:

April 15, 1990

Outline of slide show:

May 15, 1990

Slide show complete:

July 1, 1990

Task III: a & b: Seminars to be completed by August 1, 1990

End: December 1, 1990 .

2. Consideration

- a. Department agrees to pay Contractor not to exceed the sum of \$14,838 for accomplishment of the work (if one demonstration project is pursued in Task IIIc), or \$17,523 (if two demonstration projects are pursued in Task IIIc).

The budget for this agreement is contained in Exhibit B attached hereto and by this reference made a part hereof.

- b. Interim payments shall be made to Contractor. Interim payments that are included as part of this contract shall be made according to the following schedule:

At completion of Tasks I, II (July 1, 1990), and IIIb.

- c. Final payment will be made after final acceptance of all work.
- d. All requests for payment must include a breakdown of expenditures by budget category (per Exhibit B) and by any required reports as per section I, Statement of Work.

3. Travel

Travel expenses based upon appropriate state rates shall be reimbursed to the Contractor by the Department and are included in the amount of consideration listed in 3 above. Travel expenses are estimated in the amount of \$150. (Travel expense rates should not exceed state rates.)

4. Publicity

Any publicity or advertising regarding the work performed under this agreement must be approved by the Project Officer and must acknowledge the support of the Department.

5. Subcontracts

Contractor shall not enter into any subcontracts for any of the work scheduled under this contract without obtaining prior written approval from the Department. The Department approves a subcontract between Contractor and TAK Associates, Engineering Consultants, to provide the work outlined in the Statement of Work.

6. Dual Payment

Contractor shall not be compensated for work performed under this contract from any other Department of the State of Oregon.

7. Funds Available and Authorized

Department certifies at the time the contract is written that sufficient funds are available and authorized for expenditure to finance costs of this contract within the Department's current appropriation or limitation.

8. Amendments

The terms of this agreement shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written instrument signed by the parties.

9. Termination

This contract may be terminated by mutual consent of both parties, or by either party upon 30 days notice, in writing and delivered by certified mail or in person.

The Department may terminate this contract effective upon delivery of written notice to the Contractor, or at such later date as may be established by the Department, under any of the following conditions:

- a. If Department funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. The contract may be modified to accommodate a reduction in funds.
- b. If federal or state laws, rules, regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.
- c. If any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this contract is for any reason denied, revoked, or not renewed.

Any such termination of this contract shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

The Department by written notice of default (including breach of contract) to the Contractor may terminate the whole or any part of this agreement:

- a. If the Contractor fails to provide services called for by this contract within the time specified herein or any extension thereof; or

- b. If the Contractor fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from the Department, fails to correct such failures within 10 days or such longer period as the Department may authorize.

The rights and remedies of the Department provided in the above clause related to defaults (including breach of contract) by the Contractor shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

10. Captions

The captions or headings in this agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this agreement.

11. Access to Records

The Department, the Secretary of State's Office of the State of Oregon, the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts, and transcripts.

12. State Workers' Compensation Act

The contractor, its subcontractors, if any, and all employers working under this Contract are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers.

13. State Tort Claims Act

Contractor is not an officer, employee, or agent of the State as those terms are used in ORS 30.265.

14. Execution and Counterparts

This agreement may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

15. Compliance with Applicable Law

The Contractor shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this agreement.

16. Compliance Covenant

Contractor, on behalf of itself and any subcontractor, covenants and agrees not to attempt to infringe upon, or infringe upon any patent, trademark or copyright of any third party while performing work under this agreement.

Contractor, on behalf of itself and any subcontractor covenants and agrees to obtain such licenses and authorization which may be necessary and appropriate to prevent any infringement upon or potential infringement upon any patent, trademark and copyright of any third party.

17. Indemnity

a. The Contractor shall defend, save, and hold harmless the State of Oregon and the Department, the Environmental Quality Commission, its officers, agents, employees, and members, from all claims, suits, or actions of whatsoever nature resulting from or arising out of the activities of the Contractor or his/her subcontractors, agents, or employees under this agreement, including but not limited to any loss, damage, expense or liability resulting from any infringement or claim of infringement of any patent, trademark or copyright.

b. Contractor will provide certificates of insurance evidencing Contractor's existing insurance coverage for the benefit of the State and the Department.

18. Ownership of Work Product

All work products of the Contractor which result from tasks under this contract which are entirely paid for by the Department are the exclusive property of the Department. All work products of the Contractor which result from these tasks under this contract which are jointly paid for by the Department and by Contractor shall be the joint property of the Department and the Contractor.

All work products shall state that the work was partially funded by the Oregon Department of Environmental Quality, but the DEQ does not necessarily agree with the conclusions or recommendations of the materials, nor does it make any warrantee express or implied, or assume any legal liability

or responsibility for the accuracy of the information, or represent that its use would not infringe privately held rights.

19. Nondiscrimination

Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.

20. Successors in Interest

The provisions of this agreement shall be binding upon and shall insure to the benefit of the parties hereto, and their respective successors and assigns.

21. Force Majeure

Contractor shall not be held responsible for delay or default caused by fire, riot, acts of God and war which was beyond the Contractor's reasonable control.

22. Severability

If any provision of this agreement shall be held invalid or unenforceable by any court or competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

The parties agree that if any term or provision of this contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid.

23. Waiver

The failure of the State to enforce any provision of this contract shall not constitute a waiver by the State of that or any other provision.

24. Merger Clause

THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN

THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN, THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT. CONTRACTOR, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT HE/SHE HAS READ THIS AGREEMENT, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

25. Department Data

Department of Environmental Quality
811 S.W. Sixth Avenue
Portland, OR 97204-1390

Project Officer: Deanna Mueller-Crispin

Phone: 229-5808

26. Contractor Data

Metropolitan Service District
NAME

2000 SW First Avenue, Portland, OR 97201-5398
ADDRESS

221-1646
PHONE

SOCIAL SECURITY NO. (Individual only) _____

CONTRACTOR CODE Y9995 _____

CONTRACTOR'S FEDERAL I.D. NO. 093-0636-311

CONTRACTOR'S STATE I.D. NO. 192062631141

27. Signatures

CONTRACTOR

By _____

Title _____

Date _____

STATE OF OREGON by and through its DEPARTMENT OF
ENVIRONMENTAL QUALITY

By _____
Division Administrator

Date _____

By _____
(Director or Delegate)

Date _____

Stat. Auth.: ORS Ch. 184, 279, 291, and ORS 656.017
Hist.: BMD 2-1982, f. 6-23-82, ef. 7-1-82

SOLID WASTE COMMITTEE REPORT

RESOLUTION NO. 90-1229, FOR THE PURPOSE OF AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT WITH THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR SHARED FUNDING OF THE WASTE TIRE TECHNICAL ASSISTANCE PROJECT ADOPTED BY THE CONTRACT REVIEW BOARD FEBRUARY 20, 1990

Date: March 22, 1990

Presented by: Councilor
Gary Hansen

Committee Recommendations: The Solid Waste Committee voted unanimously to recommend Council adoption of Resolution No. 90-1229. Voting: Councilors Buchanan, DeJardin and Wyers. Absent: Councilors Hansen and Bauer. This action taken March 20, 1990.

Committee Discussion/Issues: On February 22, 1990, the Metro Contract Review Board approved Resolution No. 90-1222 authorizing a contract with TAK Associates Engineering Consultants for a waste tire recycling technical assistance project at a cost not to exceed \$33,060. Resolution No. 90-1229 approves an Intergovernmental Agreement with the Oregon Department of Environmental Quality (DEQ) wherein the DEQ will provide revenue to Metro in co-sponsorship of the Waste Tire Technical Assistance Project. In the event of one demonstration project, DEQ will pay \$14,838; \$17,523 if there are two projects.

Waste tires represent a significant solid waste problem. Approximately two million tires are discarded in Oregon each year. Less than half of the tires are reclaimed.

The purpose of the project is to demonstrate the feasibility of using rubber from waste tires in paving projects in Oregon. Modification of generic specifications for rubber-modified asphalt concrete, to make them specific to Oregon, is a key element of the contract and is necessary in order to successfully complete the project. The Oregon Highway Department does not plan to develop specifications due to other priorities and lack of expertise. They are interested in the project, however, and have indicated their willingness to cooperate.

The Solid Waste Committee did not raise any questions or issues regarding Resolution No. 90-1229 at their meeting of March 20, 1990. The Committee did, however, express concern at their meeting of February 20, 1990, that the proposed project not injure existing efforts to reclaim tires by such companies as Waste Recovery located in Portland. Staff stated at that time that this is a feasibility study and does not represent a present threat.

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 90-1229 FOR THE PURPOSE OF APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY FOR A WASTE TIRE RECYCLING TECHNICAL ASSISTANCE PROJECT

Date: March 20, 1990.

Presented by: Debbie Gorham
Heidi Sieberts

PROPOSED ACTION

To endorse a grant from the Department of Environmental Quality which will provide co-sponsorship funding of the Waste Tire Technical Assistance Project.

FACTUAL BACKGROUND AND ANALYSIS

On February 20, 1990 the Metro Contract Review Board approved a contract for a Waste Tire Recycling Technical Assistance Project with TAK Associates Engineering Consultants in the amount of \$33,060, committing Metro to expenditure of appropriations for Fiscal Year 1990-1991. The services to be provided by the consultant include development of road construction specifications for application of rubber modified asphaltic concrete materials in road construction projects, and will include at least one demonstration project; this project is budgeted at \$33,060. Resolution 90-1229 approves receipt of revenues from the Oregon Department of Environmental Quality to cover approximately half the project costs (\$14,838 including one demonstration project and \$17,523 in the event of two demonstration projects) through an intergovernmental agreement ("Exhibit A" attached).

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 90-1229.