

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF APPROVING A)	RESOLUTION NO. 90-1245
CONTRACT FOR PERSONAL SERVICES TO)	
ASSIST IN THE DRAFTING OF A MODEL)	Introduced by Gary Hansen
ZONING ORDINANCE)	Councilor

WHEREAS, Section 2.04.033(b) of the Metro Code requires that the Council must approve the proposal document for certain contracts, including multi-year contracts; and

WHEREAS, The Council in reviewing those contracts anticipated in the approved budget, specifically placed the Model Zoning Ordinance Contract on the "A" list, directing that the contract come before the Council; and

WHEREAS, the Council has reviewed the Request for Proposals and related documents; and

WHEREAS, proposals have been received, and an interview board has unanimously recommended the McKeever/Morris proposal; and

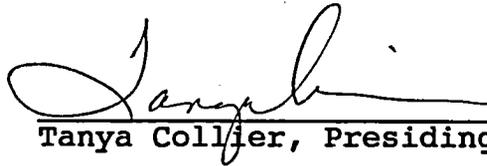
WHEREAS, the McKeever/Morris proposal exceeds the DBE and WBE goals for personal service contracts; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District approves Contract for Personal Services with McKeever/Morris for assistance in the drafting of a Model Zoning Ordinance for Siting Solid Waste Facilities, in an amount not to exceed \$24,995, according to the terms and conditions of the attached personal services contract,

Scope of Work and attachments thereto.

ADOPTED by the Council of the Metropolitan Service District
the 10th day of May, 1990.



Tanya Collier, Presiding Officer

PERSONAL SERVICES AGREEMENT

BETWEEN THE
METROPOLITAN SERVICE DISTRICT
AND

McKEEVER/MORRIS, INC

(in association, as subcontractors, with Larry Epstein,
P.C., R.A. Wright Engineers, Dorman, White & Co., and
Cross-Continent Engineers)

TO WRITE A MODEL ZONING ORDINANCE FOR SITING SOLID WASTE
FACILITIES

issued by:
Metropolitan Service District
Portland, OR
April, 1990

TABLE OF CONTENTS

SECTION

- I. GRANT-CONTRACT SUMMARY
- II. PERSONAL SERVICES AGREEMENT
- III. SCOPE OF WORK
- IV. BILLING PROCEDURE
- V. METRO INVOLVEMENT IN MODEL ZONING ORDINANCE
- VI. ATTACHMENTS
 - A - STRATEGY PAPER
 - B - PROJECT TIMELINE



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

RECEIVED IN ...
CONTRACTS DIV.

APR 9 1990

TO: Amha Hazen, Contract Administrator

FROM: Mark Turpel *Mark*

SUBJECT: Contract for Approval - Model Zoning Ordinance

DATE: April 9, 1990

DEPT. HEAD
CONTRACT ADM.

_____ ✓

Enclosed please find the following:

1. Draft Council Resolution
2. Staff Report
3. Personal Services Agreement Package, including:
 - a. Grant-Contract Summary
 - b. Personal Services Agreement (signed by vendor)
 - c. Scope of Work
 - d. Billing Procedure
 - e. Metro Involvement
 - f. Strategy Paper
 - g. Ordinance Outline
4. Request for Proposals
5. Affidavit of Publication from:
 - a. Portland Observer
 - b. The Oregonian
 - c. Daily Journal of Commerce
6. Copies of all proposals received, including:
 - a. Cogan Sharpe Cogan
 - b. McKeever/Morris
7. Copy of rejection/recommendation letters
8. Copy of Interview Scoring Sheets
9. Copy of Presolicitation Meeting Attendance Sheet

Please let me know as soon as possible if you need any additional materials.

The following is the schedule I would like to follow to insure the earliest possible approval:

	Received	To be Completed
- Contract Administrator approval	4/9/90	4/16/90
- General Counsel approval	4/16/90	4/23/90
- Executive Management approval	4/23/90	4/27/90
- Council Solid Waste approval	4/27/90	5/15/90
- Metro Council approval	4/27/90	5/24/90

Please let me know as soon as possible if there are any problems with this schedule. Thank you.

APR 09 1990

Contract No. _____

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT dated this 25th day of May 1990, is between the METROPOLITAN SERVICE DISTRICT, a municipal corporation, hereinafter referred to as "METRO," whose address is 2000 S.W. First Avenue, Portland, OR 97201-5398, and McKeever/Morris, Inc., hereinafter referred to as "CONTRACTOR," whose address is 812 SW Washington #1110, Portland, OR, for the period of May 25, 1990, through March 29 1991, and for any extensions thereafter pursuant to written agreement of both parties.

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. 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 this Agreement are subject employers that will comply with ORS 656.017 as required by 1989 Oregon Laws Chapter 684.

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;

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

7. CONTRACTOR shall be an independent contractor for all purposes, shall be entitled to no compensation other than the compensation provided for in the Agreement. CONTRACTOR hereby certifies that it is the direct responsibility employer as provided in ORS 656.407 or a contributing employer as provided in ORS 656.411.

In the event CONTRACTOR is to perform the services described in this Agreement without the assistance of others, CONTRACTOR hereby agrees to file a joint declaration with METRO to the effect that CONTRACTOR services are those of an independent contractor as provided under Chapter 864 Oregon Laws, 1979.

METRO AGREES:

1. To pay CONTRACTOR for services performed and materials delivered in the maximum sum of ^{Twenty-four thousand,} nine hundred ninety-five AND no /100THS (\$ 24,995) DOLLARS 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; and

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

CONTRACTOR NAME

METROPOLITAN SERVICE DISTRICT

By: Michael McLaw

By: _____

Date: Resident
4-6-90

Date: _____

APPROVED AS TO FORM:

By: _____

Date: _____

AMH:jp
CONTRACT.FOR
10/19/89

SECTION III. SCOPE OF WORK

Element 1 Research and preparation

This element is intended to provide an information base about siting solid waste facilities.

Task 1.1 Review approved objectives, facility definitions and strategy paper

A strategy paper was prepared by Metro staff and reviewed by the Land Use Subcommittee, the Solid Waste Technical Committee, Solid Waste Policy Committee, Council Solid Waste Committee and the Metro Council. This paper is intended to provide broad direction for the preparation of the model zoning ordinance. It includes a list of 15 solid waste facilities to be addressed, and working definitions of the facilities. Metro will also supply the consultant with a summary of the significant changes which have been made since the document was originally completed. The consultant needs to be familiar with these documents.

Task 1.2 Complete literature search

A literature search for techniques, standards and procedures for dealing with siting solid waste facilities is to be completed. An existing bibliography, compiled by Metro, will be the starting point for the consultant. Metro will also loan the consultant current copies of relevant local zoning ordinances.

Task 1.3 Attend project data coordination work session with staff

This meeting will be to review the local zoning ordinances, record relevant data and any other further direction with regard to the model ordinance.

Element 2 Ordinance Drafting and Review

This element includes the writing and evaluation of the model ordinance.

Task 2.1 Ordinance Drafting

(self explanatory - see below)

Task 2.1.1 Review Ordinance Outline approved by Metro Office of General Counsel and planning staff

An outline of the ordinance (attached) will be used as a starting point for ordinance drafting. This has been reviewed and approved by Metro's Office of General Counsel. The consultant is to review the document and become familiar with it.

Task 2.1.2 Consultant draft of clear and objective standards

For each of the 24 potential impacts listed in the Strategy Paper, clear and objective standards will be created. The consultant will use local standards as a guide for those issues (such as noise) which appear to be addressed in a means similar to non-solid waste facilities, referring to State standards for those issues or facilities that are already subject to State siting criteria (such as TSD's), and creating new standards where needed. In drafting the standards, the consultant will follow the following generalized guidelines:

A. Impacts which lend themselves to using existing local standards:

- landscaping/building/site design
- light/glare
- noise
- traffic/transportation
- vibration
- wetlands
- sewage
- signs
- storage (visual concerns)

B. Impacts for which standards should be cognizant and not conflict with State standards:

- air pollution
- ground water quality
- surface water quality and quantity

D. Impacts which need special attention as they tend to be unique or more critical to solid waste facilities:

- fire prevention/protection
- floodplains
- geology and soil characteristics

- litter
- methane gas control
- odor
- topography
- buffering, offsite impacts
- historic, archeological resources
- hours of operation
- separation from open space and parks

It should be assumed by the consultant that the enhancement fee mechanism shall constitute the economic impact standard.

Three scoping workshops will be held to identify the solid waste facilities and impacts for which it will be relatively simple to develop clear and objective standards and those combinations of facilities and impacts which will create more difficulty. The first workshop will be held for Metro Planning and Development staff, and engineering staff from Metro Solid Waste. The second workshop would be held with representative of local governments, primarily technical staffs, but, if possible, policy-makers as well. The third workshop would be held with representatives of the solid waste industry. Metro will take responsibility for contacting potential workshop attendees.

Task 2.1.3 Consultant draft of administrative procedures

The model ordinance will not be recommending a specific process for administration (eg Type I review, conditional use permit, etc.). However, the alternative administrative procedures should be described for local consideration.

Task 2.1.4 Review by Metro planning and Office of General Counsel

The draft document will be reviewed by Metro Planning and Development staff and Metro Office of General Counsel. A 360K (or 1.2MB) MS-DOS, WordPerfect floppy disk copy of the model ordinance, in addition to 10 hard copies of the document will be provided by the consultant to the Metro project manager. Presentation and discussion of the draft will occur at a meeting approximately one week after receipt of copies.

Task 2.1.5 Revise as appropriate

Revisions may need to be made by the consultant as a result of this review, as determined by Metro staff.

Task 2.2 Ordinance Review

Task 2.2.1 Present draft to Land Use Subcommittee

The consultant will make a presentation to the Land Use Subcommittee, answer questions, and confer with staff regarding possible revisions.

Task 2.2.2 Attend Second meeting with Land Use

The consultant will attend the second Land Use Subcommittee meeting (as necessary), be prepared to answer questions from previous meetings if left unresolved, confer with staff about possible revisions, prepare revisions, forward revisions to staff for review, and make further revisions as directed.

Task 2.2.3 Attend Third meeting with Land Use

The consultant will attend the third Land Use Subcommittee meeting, and be prepared to answer questions. After the Subcommittee meeting, the consultant will confer with staff about revisions.

Task 2.2.4 Review industry, local government comments, respond as appropriate

The consultant will meet with Metro staff and make revisions if directed.

Task 2.2.5 Attend Fourth meeting with Land Use

Attend meeting as needed.

Task 2.2.6 Review model language with Technical subcommittee, revise as necessary

The consultant will attend the meeting, be prepared to answer questions and confer with staff afterwards.

Task 2.2.7 Attend Second meeting with Technical subcommittee

The consultant will attend the meeting, be prepared to answer questions and confer with staff afterwards. Further revisions, as directed by Metro staff, may be required.

Task 2.2.8 Meet with Policy Committee, amend as appropriate

The consultant will attend the meeting, be prepared to answer questions and confer with staff afterwards. Further revisions, as directed by Metro staff, may be required.

Task 2.2.9 Attend Second Policy Committee meeting

The consultant will attend the meeting, be prepared to answer questions and confer with staff afterwards.

Task 2.2.10 Attend meeting with Council Solid Waste Committee

The consultant will attend the meeting, be prepared to answer questions and confer with staff afterwards.

Task 2.2.11 Attend second meeting with Council Solid Waste Committee

same as 2.2.8

Task 2.2.12 Attend Metro Council meeting

same as 2.2.8

Task 2.2.13 Attend second Metro Council meeting

same as 2.2.8

Task 2.2.14 Provide a training session for staff

The consultant will provide staff with the final version of the model zoning ordinance in both hard copy and floppy disk versions. A meeting with staff will be held to discuss the final product.

SECTION IV. BILLING PROCEDURE

On or prior to the fifteenth day of each month, the consultant will submit to Metro a billing, which shall also include a progress report. The progress report shall detail all billable work for the calendar month just ended. After approval by Metro, Metro will pay the consultant within 15 working days.

SECTION V. METRO INVOLVEMENT IN MODEL ZONING ORDINANCE

Four key Metro personnel will be involved in working with the consultant to develop the Model Zoning Ordinance; they are as follows: Mark Turpel - Senior Planner, and project manager, Becky Crockett - Senior Planner, Pat Lee - Regional Planning Supervisor, and Rich Carson, Planning and Development Director. In addition, Larry Shaw - Legal Counsel, Metro Office of Legal Counsel, will be working with the Planning and Development staff, providing legal review and advice.

As described in the scope of work and time line, five standing committees as well as local governments, interest groups and citizens will be commenting on the model zoning ordinance. The committees are the Land Use Subcommittee, Technical Committee, Policy Committee, Council Solid Waste Committee and Metro Council.



GRANT/CONTRACT SUMMARY

METRO METROPOLITAN SERVICE DISTRICT

GRANT/CONTRACT NO. 901238 (P1) BUDGET CODE NO. 140 115000 524190 75130
 FUND: Planning DEPARTMENT: Plng & Dev. (IF MORE THAN ONE) _____
 SOURCE CODE (IF REVENUE) N/A _____

INSTRUCTIONS

- OBTAIN GRANT/CONTRACT NUMBER FROM CONTRACTS MANAGER. CONTRACT NUMBER SHOULD APPEAR ON THE SUMMARY FORM AND ALL COPIES OF THE CONTRACT.
- COMPLETE SUMMARY FORM.
- IF CONTRACT IS —
 - SOLE SOURCE, ATTACH MEMO DETAILING JUSTIFICATION.
 - UNDER \$2,500, ATTACH MEMO DETAILING NEED FOR CONTRACT AND CONTRACTOR'S CAPABILITIES, BIDS, ETC.
 - OVER \$2,500, ATTACH QUOTES, EVAL FORM, NOTIFICATION OF REJECTION, ETC.
 - OVER \$50,000, ATTACH AGENDA MANAGEMENT SUMMARY FROM COUNCIL PACKET, BIDS, RFP, ETC.
- PROVIDE PACKET TO CONTRACTS MANAGER FOR PROCESSING

1. PURPOSE OF GRANT/CONTRACT To provide assistance to Metro in Drafting a Model Zoning Ordinance for siting Solid Waste Facilities

2. TYPE OF EXPENSE PERSONAL SERVICES LABOR AND MATERIALS PROCUREMENT
 PASS THROUGH AGREEMENT INTER-GOVERNMENTAL AGREEMENT CONSTRUCTION
 OTHER

OR

TYPE OF REVENUE GRANT CONTRACT OTHER

3. TYPE OF ACTION CHANGE IN COST CHANGE IN WORK SCOPE
 CHANGE IN TIMING NEW CONTRACT

4. PARTIES Metro & McKeever/Morris, Inc., with subcontractors

5. EFFECTIVE DATE May 25, 1990 TERMINATION DATE March 29, 1991
 (THIS IS A CHANGE FROM _____)

6. EXTENT OF TOTAL COMMITMENT:	ORIGINAL/NEW	\$ <u>24,995</u>
	PREV. AMEND	_____
	THIS AMEND	_____
	TOTAL	\$ <u>24,995</u>

7. BUDGET INFORMATION

A. AMOUNT OF GRANT/CONTRACT TO BE SPENT IN FISCAL YEAR 1989-890 up to: \$ 10,000

B. BUDGET LINE ITEM NAME Pro. Svcs. AMOUNT APPROPRIATED FOR CONTRACT \$ 24,995

C. ESTIMATED TOTAL LINE ITEM APPROPRIATION REMAINING AS OF April 11, 1990 \$ 25,000

8. SUMMARY OF BIDS OR QUOTES (PLEASE INDICATE IF A MINORITY BUSINESS ENTERPRISE)

McKeever/Morris, Inc	\$ <u>24,995</u>	<input type="checkbox"/> MBE
SUBMITTED BY _____	AMOUNT	
Cogan Sharpe Cogan	\$ <u>24,995</u>	<input type="checkbox"/> MBE
SUBMITTED BY _____	AMOUNT	
SUBMITTED BY _____	\$ _____	<input type="checkbox"/> MBE
	AMOUNT	

9. NUMBER AND LOCATION OF ORIGINALS 1. Contracts 2. Planning & Development

10. A. APPROVED BY STATE/FEDERAL AGENCIES? YES NO NOT APPLICABLE
 B. IS THIS A DOT/UMTA/FHWA ASSISTED CONTRACT YES NO

11. IS CONTRACT OR SUBCONTRACT WITH A MINORITY BUSINESS? YES NO
 IF YES, WHICH JURISDICTION HAS AWARDED CERTIFICATION State of Oregon

12. WILL INSURANCE CERTIFICATE BE REQUIRED? YES NO

13. WERE BID AND PERFORMANCE BONDS SUBMITTED? YES NOT APPLICABLE

TYPE OF BOND N/A AMOUNTS _____

TYPE OF BOND N/A AMOUNTS _____

14. LIST OF KNOWN SUBCONTRACTORS (IF APPLICABLE)

NAME Larry Epstein, PC SERVICE plng, ordinance drafting MBE

NAME R.A. Wright Engineers SERVICE engineering, solid waste MBE

NAME Cross-Continent Engineers SERVICE engineering, solid waste MBE

NAME Dorman, White & Co. SERVICE planning, solid waste MBE

15. IF THE CONTRACT IS OVER \$10,000
 A. IS THE CONTRACTOR DOMICILED IN OR REGISTERED TO DO BUSINESS IN THE STATE OF OREGON?
 YES NO

B. IF NO, HAS AN APPLICATION FOR FINAL PAYMENT RELEASE BEEN FORWARDED TO THE CONTRACTOR?
 YES DATE _____ INITIAL _____

16. COMMENTS:

GRANT/CONTRACT APPROVAL

INTERNAL REVIEW DEPARTMENT HEAD _____ FISCAL REVIEW <u>4/10/90</u> BUDGET REVIEW <u>4-12-90</u>	CONTRACT REVIEW BOARD (IF REQUIRED) DATE _____ 1. _____ COUNCILOR 2. _____ COUNCILOR 3. _____ COUNCILOR	COUNCIL REVIEW (IF REQUIRED) DATE _____
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LEGAL COUNSEL REVIEW AS NEEDED:

A. DEVIATION TO CONTRACT FORM _____

B. CONTRACTS OVER \$10,000 _____

C. CONTRACTS BETWEEN GOVERNMENT AGENCIES _____

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 90-1245, FOR THE PURPOSE OF APPROVING A CONTRACT FOR PERSONAL SERVICES TO ASSIST IN THE DRAFTING OF A MODEL ZONING ORDINANCE.

Date: May 15, 1990

Presented by: Rich Carson

FACTUAL BACKGROUND

Metro is charged by the State with the responsibility for planning the disposal of solid waste generated within the region. However, local jurisdictions have the permitting authority with regard to land use, including the siting of solid waste facilities.

In order to simplify the siting of needed facilities, the adopted FY 1989-90 budget includes the development of a model zoning ordinance which provides clear and objective standards upon which to judge the siting of solid waste facilities. A local jurisdiction could choose to utilize the model ordinance, modify it to meet local conditions, or write their own language. So long as the local outcome is clear and objective standards, which do not unreasonably exclude the siting of solid waste facilities, Metro's goals will be served.

A Strategy Paper (outlining 15 specific solid waste facilities, providing working definitions of the facilities, and suggesting the factors for which clear and objective standards shall be written) have been circulated, reviewed and revised by the Solid Waste Land Use Subcommittee, the Solid Waste Technical Committee and the Solid Waste Policy Committee.

The Request for Proposals were advertised in 3 different publications, including the Oregonian, Daily Journal of Commerce and the Portland Observer. Over 20 local business firms were notified of the request by Metro. A three week response time was provided. A presolicitation meeting was held to inform prospective respondents of WBE and DBE requirements.

Two proposals were received, one from Cogan Sharpe Cogan, and the other from McKeever/Morris. Both proposals exceeded WBE and DBE goals, and appeared to include credible proposals and logical team formulations. An interview panel, including 3 Metro staff members and James Rapp, City Manager of Sherwood (who serves as the Chairman of the Solid Waste Land Use Subcommittee) was organized. The interview panel heard the presentations of the two proposal respondents, and unanimously recommended the McKeever/ Morris team on the basis of stronger team track record and a very creative

STAFF REPORT
CONSIDERATION OF RESOLUTION No. 90-1245
MODEL ZONING ORDINANCE
page 2

approach to project completion.

A proposed contract and scope of work have been completed and are enclosed. The project is proposed to be initiated in June, 1990 and be completed by April, 1991. The budget is \$24,995.

EXECUTIVE OFFICER'S RECOMMENDATION:

The Executive Officer recommends the approval of Resolution No. 90-1245 approving a contract for personal services to assist in the drafting of a model zoning ordinance.

4-5-90
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SOLID WASTE COMMITTEE REPORT

RESOLUTION NO. 90-1245, FOR THE PURPOSE OF APPROVING A
CONTRACT FOR PERSONAL SERVICES TO ASSIST IN THE DRAFTING OF
A MODEL ZONING ORDINANCE

Date: May 2, 1990

Presented by: Councilor
Gary Hansen

Committee Recommendation: The Solid Waste Committee voted 4 to 0 to recommend Council adoption of Resolution No. 90-1245. Voting: Councilors Hansen, Bauer, Buchanan and DeJardin. Absent: Councilor Wyers. This action was taken May 1, 1990.

Committee Discussion/Issues: Richard Carson, Director of the Planning & Development Department, presented the staff report. While Metro has the responsibility for planning for the disposal of solid waste within the region, local jurisdictions have the permitting authority with regard to land use, including the siting of facilities.

To assist in the siting of solid waste facilities, the development of a model zoning ordinance is proposed. The ordinance would provide clear and objective standards upon which to judge the siting of solid waste facilities.

Two proposals were received for the drafting of a model zoning ordinance, one from Cogan, Sharpe, Cogan, and the other from McKeever/Morris. Both proposers submitted proposal costs of \$24,995. The budget provides \$25,000. A panel that interviewed both firms recommended McKeever/Morris.

The Committee commented that the model zoning ordinance was an essential step in the siting of solid waste facilities.

There were no further questions, comments or issues raised and the Committee voted unanimously to recommend Council adoption of Resolution No. 90-1245.

GH:RB:pa

RRB.178