

BEFORE THE CONTRACT REVIEW BOARD
OF METRO

FOR THE PURPOSE OF AUTHORIZING AN)	RESOLUTION NO. 93-1797
EXEMPTION TO METRO CODE CHAPTER)	
2.04.41(c), COMPETITIVE BIDDING)	Introduced by Rena Cusma
PROCEDURES, AND AUTHORIZING A)	Executive Officer
SOLE-SOURCE CONTRACT WITH)	
INFORMATION SYSTEMS, INC. FOR)	
CONSULTING SERVICES FOR WEIGHT)	
SYSTEMS SOFTWARE AT SOLID WASTE)	
DISPOSAL FACILITIES)	

WHEREAS, Information Services, Inc., under contract with Metro, designed, programmed, installed and currently services the programs and software used to weigh and record loads of solid waste at Metro disposal facilities; and

WHEREAS, Metro's contract with Information Services, Inc. for providing consulting services for weight system software at Metro's solid waste disposal facilities will expire June 30, 1993; and


WHEREAS, Metro has need of consulting services to install and service weight system software at existing and future solid waste disposal sites; and

WHEREAS, Information Services, Inc. is the only company that is qualified to perform the services as outlined in the contractual Scope of Work; and

WHEREAS, The Executive Officer has reviewed the contract with Information Services, Inc. to provide consulting services for weight system software at solid waste disposal facilities and hereby forwards the Agreement to the Council for approval; now, therefore,

BE IT RESOLVED, That the Contract Review Board of Metro hereby exempts the attached contract (Exhibit "A" hereto) with Information Services, Inc. from the competitive bidding requirement pursuant to Metro Code Chapter 2.04.060, because the board finds Information Services, Inc. is the sole provider of the required services.

ADOPTED by the Contract Review Board this 27th day of May, 1993.



Judy Wyers, Presiding Officer

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is between Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, located at 2000 S.W. First Avenue, Portland, OR 97201-5398, and Information Systems, Inc., referred to herein as "Contractor," located at Mill Centre, Suite 210, 3000 Chestnut Avenue, Baltimore, Maryland, 21211.

In exchange for the promises and other consideration set forth below, the parties agree as follows:

1. **Duration.** This personal services agreement shall be effective July 1, 1993, and shall remain in effect until and including June 30, 1995, unless terminated or extended as provided in this Agreement.
2. **Scope of Work.** Contractor shall provide all services and materials specified in the attached "Exhibit A -- Scope of Work," which is incorporated into this Agreement by reference. All services and materials shall be provided by Contractor in accordance with the Scope of Work, in a competent and professional manner. To the extent that the Scope of Work contains additional contract provisions or waives any provision in the body of this Agreement, the Scope of Work shall control.
3. **Payment.** Metro shall pay Contractor for services performed and materials delivered in the amount(s), manner and at the time(s) specified in the attached "Exhibit B - Schedule of Fees" for a maximum sum not to exceed FIFTY THOUSAND AND NO/100THS DOLLARS (\$50,000).
4. **Insurance.**
 - a. Contractor shall purchase and maintain at the Contractor's expense, the following types of insurance, covering the Contractor, its employees, and agents:
 - (1) Broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and
 - (2) Automobile bodily injury and property damage liability insurance.
 - b. Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
 - c. Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.
 - d. Contractor, its subcontractors, if any, and all employers working under this Agreement that are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017,

which requires them to provide Workers' Compensation coverage for all their subject workers. Contractor shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If Contractor has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached, as Exhibit B, in lieu of the certificate showing current Workers' Compensation.

e. If required by the Scope of Work, Contractor shall maintain for the duration of this Agreement professional liability insurance covering personal injury and property damage arising from errors, omissions, or malpractice. Coverage shall be in the minimum amount of \$500,000. Contractor shall provide to Metro a certificate of this insurance, and 30 days' advance notice of material change or cancellation.

5. Indemnification. Contractor shall indemnify and hold Metro, its agents, employees and elected officials 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, or with any patent infringement or copyright claims arising out of the use of Contractor's designs or other materials by Metro and for any claims or disputes involving subcontractors.

6. Maintenance of Records. Contractor shall maintain all of its records relating to the Scope of Work on a generally recognized accounting basis and allow Metro the opportunity to inspect and/or copy such records at a convenient place during normal business hours. All required records shall be maintained by Contractor for three years after Metro makes final payment and all other pending matters are closed.

7. 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 that such documents are works made for hire. Contractor hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such documents.

8. Project Information. Contractor shall share all project information and fully cooperate with Metro, informing Metro of all aspects of the project including actual or potential problems or defects. Contractor shall abstain from releasing any information or project news without the prior and specific written approval of Metro.

9. Independent Contractor Status. Contractor shall be an independent contractor for all purposes and shall be entitled only to the compensation provided for in this Agreement. Under no circumstances shall Contractor be considered an employee of Metro. Contractor shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified in the Scope of Work. Contractor is solely responsible for its performance under this Agreement and the quality of its work; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified in the Scope of Work; and for meeting all other requirements of law in carrying out this Agreement. Contractor shall identify and certify tax status and identification number through execution of IRS form W-9 prior to submitting any request for payment to Metro.

10. Right to Withhold Payments. Metro shall have the right to withhold from payments due to 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.

11. State and Federal Law Constraints. Both parties shall comply with the public contracting provisions of ORS chapter 279, and the recycling provisions of ORS 279.545 - 279.650, to the extent those provisions apply to this Agreement. All such provisions required to be included in this Agreement are incorporated herein by reference. Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations including those of the Americans with Disabilities Act.

12. Situs. The situs of this Agreement is Portland, Oregon. Any litigation over this agreement shall be governed by the laws of the state of Oregon and shall be conducted in the circuit court of the state of Oregon, for Multnomah County, or, if jurisdiction is proper, in the U.S. District Court for the District of Oregon.

13. Assignment. This Agreement is binding on each party, its successors, assigns, and legal representatives and may not, under any circumstance, be assigned or transferred by either party.

14. Termination. This Agreement may be terminated by mutual consent of the parties. In addition, Metro may terminate this Agreement by giving Contractor five days prior written notice of intent to terminate, without waiving any claims or remedies it may have against Contractor. Termination shall not excuse payment for expenses properly incurred prior to notice of termination, but neither party shall be liable for indirect or consequential damages arising from termination under this section.

15. No Waiver of Claims. The failure to enforce any provision of this Agreement shall not constitute a waiver by Metro of that or any other provision.

16. Modification. Notwithstanding and succeeding any and all prior agreement(s) or practice(s), this Agreement constitutes the entire Agreement between the parties, and may only be expressly modified in writing(s), signed by both parties.

INFORMATION SYSTEMS, INC.

METRO

By: _____

By: _____

Print name and title

Print name and title

Date: _____

Date: _____

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EXHIBIT "A"
SCOPE OF WORK

1. Contractor shall provide computer consulting services for the Weigh Master computer system at the following Metro solid waste disposal sites:

Metro South Station
Washington Street
Oregon City, OR 97045

Metro Central Station
NW 61st
Portland, OR 97219

Willsonville Station
(estimated date of opening is mid-1994)

2. Contractor shall provide unlimited telephone support for Metro's questions concerning the Weigh Master computer system.
3. Contractor shall provide programming and training support for the term of the Contract.
4. Contractor shall provide access to routine enhancements to the Weigh Master system at no charge.
5. Contractor shall provide access to major improvements, additions or other custom programming to the Weigh Master system at or below the then-current price of such improvements, additions, or custom programming.
6. Contractor shall provide additional consulting services, including on-site services, if necessary, not within the scope of service described above, upon written request from Metro at current rate sheet prices.
7. Contractor shall maintain in concert with Metro, the confidentiality of the program and software systems, and to not knowingly or negligently sell, grant, convey, make available, or in any other manner disclose the software or programs provided to a third party.

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**EXHIBIT "B"
SCHEDULE OF FEES**

Site Licenses - Computer Software (Weigh Master System)

Wilsonville Station (transfer site license from compost facility)	\$	-0-
Additional sites		5,000

Support Plan - Weigh Master System Computer Software 3,000/year

Metro South Station		
Metro Central Station		
Wilsonville Station (when on-line)		
Additional Sites		500/year

Data Processing Services

Data processing services for computer software shall be on a time and materials basis as follows:

Systems Analyst		95/hour
Programmer/Analyst		75/hour
Clerical		35/hour

NOTE: Hours are calculated at the next nearest tenth of an hour.

Travel Costs (coach class) Actual cost

Travel Time

For on-site visits, travel time will be billed as eight hours (one way), unless advance arrangements are made expressly in writing.

<u>Per Diem Charges - (\$185)</u>		Actual cost
Meals (per diem \$25)		Actual cost
Auto Rental (per diem \$60)		Actual cost
Lodging (per diem \$100)		Actual cost

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METRO

2000 SW First Ave.
Portland, OR 97201-5398
(503) 221-1646

Procurement Review Summary

To: Procurement and Contracts Division

Vendor

From

Date April 12, 1993

Information Systems, Inc.

Department Solid Waste

Mill Centre, Suite 210
3000 Chestnut Ave.
Baltimore, MD. 21211

Division Operations

Subject

Name Ray Barker

Bid Contract

Vendor no. 828

Title Asst. Oper. Mgr.

RFP Other

Contract no. 903017

Extension 285

Purpose Computer Software Services for Transfer Station Scalehouses

Expense

Procurement Personal/professional services Services (LM) Construction IGA

Revenue

Budget code(s)
531-310274-524210-75000

Price basis

Term

Contract

531-310275-524210-75000

Unit

Completion

Grant

Total

Annual

Other

Other

Multi-year**

This project is listed in the
1993-1994 budget.

Payment required

July 1, 1993

Yes

Type A

(Type
Not
yet
designated)

Lump sum

Beginning date

No

Type B

Progress payments

June 30, 1995

Ending date

Total commitment

Original amount

\$ 50,000.00

Previous amendments

\$ ---

This transaction

\$ 50,000.00

Total

\$ 50,000.00

A. Amount of contract to be spent fiscal year 1993 - 1994

\$ 20,000.00

B. Amount budgeted for contract Data Process Service

\$ 20,000.00

C. Uncommitted/discretionary funds remaining as of 7/1/93

\$ 20,000.00

Approval

Division manager

Department director

Labor

Cost

Budget

Risk

at

Competitive quotes, bids or proposals:

Information Systems, Inc.	\$50,000.00		Foreign
Submitted by	\$Amount	MW/DBE	Foreign or Oregon Contractor
Submitted by	\$Amount	MW/DBE	Foreign or Oregon Contractor
Submitted by	\$Amount	MW/DBE	Foreign or Oregon Contractor

Comments: Sole Source; Weighmaster System is copyrighted and cannot be used or serviced by other vendors

- Attachments:
- Ad for bid
 - Plans and specifications
 - Bidders list (MW/DBEs included)

Instructions:

1. Obtain contract number from procurement division.
Contract number should appear on the summary form and all copies of the contract.
2. Complete summary form.
3. If contract is:
 - A. Sole source, attach memo detailing justification.
 - B. Less than \$2,500, attach memo detailing need for contract and contractor's capabilities, bids, etc.
 - C. More than \$2,500, attach quotes, evaluation form, notification of rejection, etc.
 - D. More than \$10,000 or \$15,000 attach RFP or RFB respectively.
 - E. More than \$50,000, attach agenda management summary from council packet, bids, RFP, etc.
4. Provide packet to procurement for processing.

Special program requirements:

- General liability: _____ / _____ / _____
- Liquidated damages \$ _____ day
- Workers comp
 - Prevailing wages
 - Auto
 - Non-standard contract
 - Professional liability
 - Davis/Bacon

Dates:

- Ads _____ (Publication) _____
- Pre-bid meeting _____ Bid opening** _____
- Filed with council _____ For action _____
- Filed with council committee _____ For hearing _____

Project estimate: _____

Funding:

- Local/state
- Federal
- Other

Bond requirements:

- _____ % Bid \$ _____
- _____ % Performance \$ _____
- _____ % Performance/payment* \$ _____
- _____ % L/M \$ _____

Separate bonds required if more than \$50,000.

** Minimum period: two weeks from last day advertised.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 93-1797 FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO METRO CODE CHAPTER 2.04.041(c), COMPETITIVE BIDDING PROCEDURES, AND AUTHORIZING A SOLE-SOURCE CONTRACT WITH INFORMATION SYSTEMS, INC., FOR CONSULTING SERVICES FOR WEIGHT SYSTEMS SOFTWARE AT SOLID WASTE DISPOSAL FACILITIES

Date: April 13, 1993

Presented by: Sam Chandler
Ray Barker

PROPOSED ACTION

Adoption of Resolution No. 93-1797, authorizing an exemption to competitive bidding procedures, and authorizing the execution of a personal services contract for computer software services at solid waste disposal facilities.

FACTUAL BACKGROUND AND ANALYSIS

Metro implemented a new policy in February 1991 of weighing all vehicles at all Metro Solid Waste disposal facilities. Computer software for the weight system was designed, installed and is being serviced by Information Systems, Inc. (ISI). The personal services contract between Metro and ISI expires June 30, 1993.

It is proposed that Metro enter into a new computer software services contract with ISI for the weighing systems at the scalehouses at Metro South, Metro Central, and Wilsonville transfer stations. The length of the proposed contract is two years. The total cost of the contract is \$50,000. Metro has found ISI to be experienced, competent and very responsive. Their services have been excellent.

SOLE-SOURCE JUSTIFICATION

ISI designed the programs and software for the computer weight systems currently in use at Metro's solid waste disposal facilities. ISI has been under contract since early 1986, and originally "computerized" Metro's scalehouses. The ISI WeightMaster Computer System is copyrighted and cannot be used or serviced by other vendors. To contract with another vendor to design, install and service a new system would cost substantially more than the proposed contract with ISI.

BUDGET IMPACT

A total of \$20,000 is budgeted for the proposed contract in FY 1993-94. Estimated costs for FY 1993-94 are summarized as follows:

Software Support Plan	\$ 2,000
▲ Metro South Station	
▲ Metro Central Station	
Data Processing Services	18,000
▲ Systems Analyst	
▲ Programmer/Analyst	
▲ Travel Costs	
▲ Per Diem Charges	
	TOTAL \$20,000

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 93-1797.

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SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 93-1797, FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO METRO CODE CHAPTER 2.04.41(C), COMPETITIVE BIDDING PROCEDURES, AND AUTHORIZING A SOLE-SOURCE CONTRACT WITH INFORMATION SYSTEMS, INC. FOR CONSULTING SERVICES FOR WEIGHT SYSTEMS SOFTWARE

Date: May 19, 1993

Presented by: Councilor McLain

Committee Recommendation: At the May 18 meeting, the Committee voted unanimously to recommend Council adoption of Resolution No. 93-1797. Voting in favor: Councilors Buchanan, McFarland, McLain, Washington and Wyers.

Committee Issues/Discussion: Ray Barker, Solid Waste Staff, explained that the proposed contract with Information Systems Inc. (ISI) is to provide and maintain the certain computer software used in the scalehouses at the transfer stations. The software allows scalehouse personnel to produce computerized tickets for customers and haulers and summary reports of scalehouse activity.

Barker noted that ISI provided the original scalehouse software in 1986 and Metro has contracted with them for additional equipment and software since then. Barker explained that the reason for the sole-source contract is that the current software is a proprietary product of ISI and changing to a different vendor would require the acquisition of new software and related installation and maintenance costs. He noted that Metro has been very happy with the performance of the ISI software. The contract is for a two-year period.

Councilor McFarland expressed concern about the use of sole-source contracts, noting that once many vendors obtain work from Metro they appear to have a lifetime contract. Barker noted that, if Metro chose another vendor to provide this software, we would be starting from scratch and incur significantly costs to install a different type of software. Sam Chandler, Solid Waste Operations Manager, noted that ISI is getting an increasing share of this software market and that they have a good reputation.

Councilor McLain noted that the Hillsboro Landfill has installed an ISI system and that the Forest Grove Station has expressed interest in such a system. She questioned whether all facilities should not have the same software. Bob Martin commented that this and other scalehouse issues would be addressed when the Forest Grove franchise is reviewed for renewal.