

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING AN)	RESOLUTION NO. 93-1857
EXEMPTION TO METRO CODE CHAPTER)	
2.04.041 (C), COMPETITIVE BIDDING)	Introduced by Rena Cusma,
PROCEDURES, AND AUTHORIZING A SOLE)	Executive Officer
SOURCE CONTRACT WITH EASTMAN)	
KODAK COMPANY TO PROVIDE)	
MAINTENANCE AND REPAIR SERVICE)	
ON THE KODAK 300 DUPLICATOR)	

WHEREAS, Metro owns and utilizes a Kodak 300 duplicator in its Print Shop operations; and

WHEREAS, Eastman Kodak Company is the sole source for the Kodak 300's maintenance and replacement parts; and

WHEREAS, there are no alternative or generic replacement parts for the Kodak 300 duplicator; and

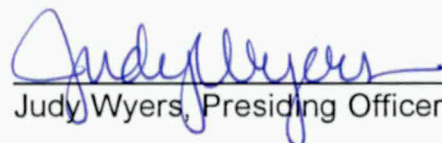
WHEREAS, responsive service is critical to the effectiveness, efficiency and cost savings of the Print Shop; and

WHEREAS, it is unlikely that such exemption will encourage favoritism in the awarding of public contracts of substantially diminish competition for public contract, and will positively impact Print Shop operations; now, therefore,

BE IT RESOLVED THAT

The Metro Contract Review Board hereby exempts the attached contract (Exhibit A attached hereto) with Eastman Kodak Company from the competitive bidding procedures pursuant to Metro Code Chapter 2.04.041 (c) since the Board finds Eastman Kodak Company to be the sole provider of maintenance and repair services for the Kodak 300 duplicator.

ADOPTED by the Metro Contract Review Board this 28th day of October, 1993.



Judy Wyers, Presiding Officer

Contract No. 903348

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 N.E. Grand Avenue, Portland, Oregon 97232-2736, and EASTMAN KODAK COMPANY, whose address is 4380 SW Macadam Avenue, Portland, OR 97201, hereinafter referred to as the "CONTRACTOR."

THE PARTIES AGREE AS FOLLOWS:

ARTICLE I

SCOPE OF WORK

CONTRACTOR shall perform the work and/or deliver to METRO the goods described in the Scope of Work attached hereto as Attachment A. 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 November 1, 1993 through and including June 30, 1996.

ARTICLE III

CONTRACT SUM AND TERMS OF PAYMENT

METRO shall compensate the CONTRACTOR for work performed and/or goods supplied as described in Attachment B. METRO shall not be responsible for payment of any materials, expenses or costs other than those which are specifically included in Attachment B.

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.

CONTRACTOR shall not be required to provide the liability insurance described in this Article only if an express exclusion relieving CONTRACTOR of this requirement is contained in the Scope of Work.

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, General and Special Instructions to Bidders, Proposal, 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.

EASTMAN KODAK

METRO

By: _____

By: _____

Date: _____

Date: _____

PUBLIC.FOR
9/22/92



September 13, 1993

Pam Juett
Metro Service District
600 N.E. Grand Avenue
Portland, OR 9232

Dear Pam:

This letter will confirm the special service agreement rates for the Kodak Model 300AFB, effective November 1, 1993 through June 30, 1996.

Monthly base charge \$559
All images billed @ .0038 each

Standard Terms, Conditions and Prices of Kodak Equipment Maintenance Agreements under SLG 18293-94 as of July 1, 1993 are attached for your files.

Please call me if there are any questions.

Sincerely,

A handwritten signature in cursive script that reads "George W. Norman".

George W. Norman
Senior Marketing Representative
Office Imaging Division

*Equipment Reprographic Services,
Sale, and Supplies
(State and Local Government)*

*July 1, 1993
Schedule SLG #18293-94*

OFFICE IMAGING PRICE SCHEDULE



OFFICE IMAGING

A decorative horizontal bar consisting of three parallel lines with a halftone or dot pattern.

General Equipment Maintenance Agreement (EMA) Terms

OFFICE IMAGING/COPY PRODUCTS

At its discretion, Kodak will make Equipment Maintenance Agreements (EMAs) available for Kodak and IBM Copier equipment purchased from Kodak and from IBM. Under terms of this EMA, Kodak agrees to provide the following services for copiers located within its established marketing areas:

- On-site repair service (parts and labor), when required;
- Preventive maintenance as part of on-site repair service;
- Training for key operators and on-going support of the copier.

At its discretion, Kodak will make Equipment Maintenance Agreements (EMAs) available for Kodak and IBM Series III Copier equipment not purchased from Kodak or from IBM. Under the terms of this EMA, Kodak agrees to provide the following services for copiers located within its established marketing areas:

- On-site repair service (parts and labor), when required;
- Preventive maintenance as part of on-site repair service;
- Availability of a Customer Support Representative to provide training and copier support at the following rates:

Training/Support at a Kodak Facility	
– Minimum charge (includes two hours)	\$240
– Charge per hour for additional training	85
Training/Support at a customer location	
– Minimum charge (includes two hours)	\$300
– Charge per hour for additional training	110

Training/Support Services will be invoiced for a minimum of two hours. Additional hours of service will be billed as whole hours and are not subject to proration.

1. **Availability** -- EMAs are initially available for seven years from the installation date (five years for KODAK COLOREDGE 1525/1550 Models, EKTAPRINT 95/90/90E/85 Copiers, and IBM Model 50 Copier) for units purchased from Kodak or IBM as new installations (e.g., not units converted to sale from Reprographic Services Agreements). For units which were converted to sale from Reprographic Services Agreements, the initial EMA availability period is five years from the conversion-to-sale date or seven years minus the time on Reprographic Services Agreement, whichever is greater (three years from the conversion-to-sale date or five years minus the time on Reprographic Services Agreement, whichever is greater for EKTAPRINT 85/90/90E/95 Copiers and IBM Model 50 Copier.)

Unless the customer notifies Kodak one month before the end of the EMA period, Equipment Maintenance Agreements will be automatically renewed during the initial period of availability for the succeeding EMA period at the prices, terms, and conditions, in effect on the first day of the new fiscal year. The initial availability period applies only to machines that were purchased directly from Kodak or from IBM. Additionally, at Kodak's sole discretion, the initial availability period may be terminated prior to the above-

stated periods due to a lapse in Kodak equipment maintenance coverage from a Kodak Equipment Maintenance Agreement.

After the expiration or termination of the initial availability period, EMA extensions may be offered; however, if deemed necessary by Kodak, an annual inspection of the equipment at the then-current inspection fee and/or remanufacturing of the equipment at customer expense may be required. After inspection and/or remanufacturing, if required, EMA coverage may be continued.

2. **Items Covered by an Equipment Maintenance Agreement (EMA)** -- During the working hours of the EMA, a Kodak Field Engineer (FE) will perform the following services at no additional charge to the customer:
 - A. Perform any machine adjustment and/or replacement of parts necessary to repair equipment.
 - B. Perform any necessary periodic maintenance that is required.

During the hours of the EMA, there is no charge for travel. Parts removed from equipment (and replaced at no charge) become the property of Kodak.

3. **Items Not Covered By An EMA** -- The following services and circumstances are not covered by an EMA and, if available, will be charged at Kodak's Per-Call Equipment Service Rates (other premium rates may apply):
 - A. Maintenance and parts requirements caused by misuse, neglect, use for purposes other than for which specifically designed, installation or attachment of non-Kodak or IBM authorized equipment modifications, use of supplies (including toner and developer) that are not recommended, service performed by other than Kodak personnel, natural disasters and other damage not caused through normal equipment use, wear, and tear.
 - B. Time spent in locating equipment not at the specified location, or waiting for equipment availability will be charged at Kodak's Per-Call Equipment Service Rates and Terms.
 - C. Time spent, at the customer's request, observing a fully functional piece of equipment will be charged at Kodak's Per-Call Equipment Service Rates and Terms.
 - D. Installations, Relocations, and Removals of customer equipment, attachments or removals of modifications to equipment and any electrical work required which is external to the machine.
 - E. Model conversions, including upgrades and downgrades between models and machine types, or installation or removal of a Kodak feature.
 - F. Installation and support of any software drivers, analog input devices, or their interconnection being utilized with the KODAK COLOREdge 1500 Series digital processors.

General Equipment Maintenance Agreement (EMA) Terms (continued)

4. **On-Site Service Availability/Response Time** -- It is Kodak's practice to give priority service to EMA (and RSA) customers. Kodak's objective, during normal working hours, is to respond to requests for repair service from its EMA and RSA customers within three hours on average. On-site service, when required, will be provided Monday through Friday during Kodak's normal working hours excluding locally celebrated holidays.

Normal working hours are as follows:

All Models except EKTAPRINT 250/300 Duplicators:

8:00 a.m. to 5:00 p.m.

EKTAPRINT 250/300 Duplicators only:

8:00 a.m. to 10:00 p.m.

On-site equipment service is available for EMA customers outside normal working hours at the current Overtime rates and terms.

Additional Terms and Conditions (which may include, but are not limited to, additional charges and longer response time goals) may apply to Equipment Maintenance Agreements which are offered to customers physically located beyond Kodak's normal service areas. Any additional terms that are required due to the location of these customers will be provided by the servicing district.

5. **Customer Responsibilities** -- The customer agrees to:

- A. Purchase, stock, and replace all items identified in the current price list as supply items (Note: Kodak developer used in EKTAPRINT equipment, KODAK 1570/1575/2085 Copier-Duplicators and KODAK 2110/2120/3100 Duplicators, and KODAK COLOREDGE Models furnished by the customer, will be replaced at no charge if less than 80,000 images have been made since last developer change, with the exception of the COLOREDGE Copier-Duplicator which will be replaced if less than 20,000 images and the COLOREDGE 1500 Series Models which will be replaced if less than 7,000 images have been made since the last developer change).
- B. Provide the Field Engineer with access to a telephone. If the customer subscribes to Product Initiated Remote Diagnostics (PIRD) or Remote Diagnostics (RD), it will be the customer's responsibility to supply and maintain a dedicated phone line.
- C. Provide suitable storage space for a minimum stock of Kodak owned parts and supplies.
- D. When price plans include an image charge for usage or the Toner-Included Option, the customer will supply a meter reading to Kodak on the last working day of each month. This can be done by promptly mailing a meter reading card, by phoning TeleMeter, by faxing, or by permitting Kodak to collect it remotely via an electronic device. If such a reading is not received, Kodak will attempt to use service meter readings. If unavailable, usage from previous months will be averaged to estimate the current usage. If unavailable, a standard minimum amount of usage will be applied. When an estimated reading is used, any variations from the actual

reading will be reconciled in the succeeding invoicing month following receipt of customer-supplied meter reading.

- E. The customer agrees not to interfere with the proper operation of the machine's meter.
- F. Provide adequate working space for the FE.
- G. Designate a key operator for training in the use of equipment and inform Kodak immediately of any operator changes.
- H. The customer is responsible for removing, controlling and replacing or reloading funds contained in a device attached to the machine. Kodak will service machines containing funds only when the cash container cannot be opened prior to repair by Kodak, in which case the customer will remove the funds as soon as the container is or can be opened.
6. **Relocation of Equipment Covered by Warranty or Equipment Maintenance Agreement** -- Customer must obtain Kodak's permission prior to movement or relocation of installed equipment. Kodak should be notified fifteen days prior to equipment relocation. At its discretion, Kodak may bill a premium charge for relocations requested by customers with less than fifteen days notice.

Relocation of equipment includes the movement of equipment to a different location at the same address (internal relocation) and movement of equipment to a new address (standard relocation).

The customer is responsible for charges related to any preparation of the equipment for the move, transportation, and/or the set-up of the equipment at the new location.

Internal Relocation -- billed to a customer when equipment is moved to a different location at the same address, no pack-up kit is required and the CES Field Engineer's total involvement is 1.5 hours or less.

Standard Relocation -- will apply in all other equipment relocations involving a CES Field Engineer.

In addition, the customer is responsible for the movement of the equipment and associated costs and accepts responsibility for any personal injury or damage caused to or loss of the equipment or property resulting from the move. Transportation-related charges are billed separately. (Refer to Section IV, Miscellaneous Charges, in the Office Imaging/Copy Products Price Schedule.)

7. **Replacement** -- If Kodak, in its sole judgment, cannot maintain the equipment to Kodak's specifications, Kodak will replace the equipment with another unit of the same or, in the case of unavailable models due to product discontinuance, a similarly featured model. The following points apply:
- A. Kodak's decision to replace an accessory will not obligate Kodak to replace the mainframe.

General Equipment Maintenance Agreement (EMA) Terms (continued)

- B. Replacement of a unit will not extend the period of EMA availability.
 - C. Replacement applies only during the initial period of EMA availability.
 - D. Replacement applies only to equipment purchased initially and directly from Kodak or IBM.
8. **Accessories** -- Generally, all items of equipment that are mechanically or electronically interconnected must be inspected, tested, and adjusted as one operating unit to diagnose and correct malfunctions effectively. Therefore, if any item of equipment is covered by an EMA, all other interconnected equipment must also be covered by RSA or an EMA. To provide for uninterrupted service, equipment and accessories which are interconnected to equipment currently covered by an EMA will be automatically placed under an EMA, if an EMA is available.
9. **Termination** -- EMAs may be cancelled by either the customer or Kodak upon 30 days written notice. Customer termination of an EMA prior to the expiration of the contract period will be billed in accordance with the Terms in effect on the termination date and subject to the monthly minimum charge through the last day of the termination month and the following early termination charges based on the number of full months remaining to contract expiration.

Full Months Remaining to Contract Expiration	Multiple Times Full Monthly Minimum
24 or more	10
18-23	9
12-17	8
7-11	7
0-6	Balance of contract

There will be a charge according to Per-Call Equipment Service Rates and Terms for any parts and service labor provided on or after the expiration date of the EMA.

Customers who cancel their EMA contract, then decide to reinstate within 30 days, will have the Pre-Installation Inspection Fee waived. The effective date of the EMA reinstatement would be retroactive to the expiration date of the old EMA, and the new agreement must be annual or three-year in length.

Termination of the EMA without penalty is permitted if written notification is received 30 days in advance. This cancellation notification must be signed by the official responsible for the installation and by a fiscal or financial official. The written notification must certify that funds will not be appropriated for continued installation, and that the Government will not replace the cancelled equipment for the same organizational entity in the succeeding fiscal year. This will only apply to multiple year contracts at the end of the fiscal year. Removal charges apply.

Termination without penalty is permitted when the same organizational entity has maintained an EMA contract on the unit for a continual seven (7)-year period.

10. **Consumables** -- Copy quality, reliability and uptime are functions of optimum relationship between equipment design and toner/developer formulation. Use of Kodak consumables assures maximum equipment performance and copy quality.
11. **Continuation of EMA Coverage or Availability of Per-Call Service on Used Kodak or IBM Copier Equipment Acquired From Other Than Eastman Kodak Company** -- Equipment which was covered by an EMA or was serviced on a per-call basis at a previous Kodak customer's site and has been purchased from a vendor other than Eastman Kodak Company requires a pre-installation inspection. When requested to make such an inspection, Kodak will advise the potential customer if the location in which the equipment is to be placed is within present Kodak service capability. If service capability exists and the site where the equipment is to be installed meets Kodak's published site specifications, Kodak will inspect the copier to determine if it meets Kodak's standards. The price of the inspection includes replacement of the image loop (supply item) if deemed necessary by the Field Engineer (this inspection does not include parts replacement). This inspection will be billed to the customer at the applicable inspection rate. If the copier is found to meet Kodak's standards, an EMA or service on a per-call basis will be offered at current prices. If work is required to return the copier to proper operating standards, parts and labor required to make EMA coverage or per-call service feasible will be billed to the customer at the current per-call hourly labor rates and applicable parts prices. Kodak will provide a rough estimate of costs, with the understanding that the customer will be charged for labor and parts required even though the total price may exceed the estimate. These charges would be in addition to the pre-installation inspection charge.

Note that renewals of EMAs for equipment purchased from other than Kodak or from IBM may require an annual renewal inspection, since an initial EMA availability period applies only to pieces of equipment purchased directly from Kodak or IBM.

At Kodak's discretion, EMA renewal may be contingent upon actual field performance when non-Kodak toner and developer is being utilized.

12. **Conversion from Per-Call Service to EMA** -- Equipment currently serviced by Eastman Kodak Company on a per-call basis may require inspection to determine the amount of parts and labor required to make EMA coverage feasible. This inspection will be billed to the customer and calculated using the current Per-Call Labor Rates and Terms.

After completion of the inspection, Kodak will make an initial determination if it is feasible to add, at the customer's location, the necessary mandatory modifications, as well as other components required to bring the product up to current operating specifications. If Kodak determines that necessary on-site

General Equipment Maintenance Agreement (EMA) Terms (continued)

changes and modifications are feasible, Kodak will provide a rough estimate of costs, with the understanding that the total price may exceed the estimate. The customer would be billed on a time and materials basis (current per-call hourly service rates and applicable parts prices) which would be in addition to the reinstallation inspection charge.

If Kodak determines it is not feasible to attempt to make the necessary changes to the product due to the extent and involved nature of the repair, remanufacturing of the machine at current rates would be required.

After necessary repairs or remanufacturing, an EMA would be made available. Note that EMA renewals for such equipment may require an annual inspection since the EMA availability period may have been terminated when the equipment had not continuously been serviced on a Kodak Equipment Maintenance Agreement.

13. **Acceptance of Orders, Billing and Terms of Payment** – All orders are subject to acceptance by Kodak at one of its District or Regional Marketing Centers and are subject to intervening announcements of product discontinuance, price changes, and revision to these terms and conditions. In addition, Credit Department approval must be obtained before shipment and delivery to the customer. For orders requesting performance on other than an immediate basis, prices will be held firm only for two calendar months from the date the order is accepted by Kodak. The monthly minimum amount will be billed monthly in arrears. Payment terms are net 30 days. Usage charges for images made will be billed post monthly. A monthly minimum amount is prorated for the first calendar month based on the number of installed days using a 30-day month. The prorated monthly minimum includes one full month's image allowance, if applicable. Usage above the allowance, if any, will be charged at the applicable rates.

Quarterly Billing Option – A quarterly billing option is available for new and existing installations at an individual agreement level for all annual and three-year plans available in this Schedule with the exception of the Utility EMA (12UA/12UH) and School K-16 Plans when a no-bill period is selected. Quarterly billing allows advance billing of three months of monthly minimum charges and post-monthly billing of three months of usage charges on one invoice. The quarterly cycles are defined as follows:

Billing Frequency	Monthly Charges Included in Quarter	
Q1	Jan. - Mar. July - Sept.	Apr. - June Oct. - Dec.
Q2	Feb. - Apr. Aug. - Oct.	May - July Nov. - Jan.
Q3	Mar. - May Sept. - Nov.	June - Aug. Dec. - Feb.

A signed Customer Agreement which indicates the Billing Frequency and effective date of quarterly billing is required. For initial installations, billing for the partial month will be prorated based on the number of days installed using a 30-day month, and

will be included as part of a quarter. Quarterly billing for existing installations may only be effective the first day of a calendar month and cannot be retroactive. There are no charges or penalties associated with changing billing frequency and the billing cycle will not alter the prices, terms or conditions of the agreement.

14. **Other Terms** -- In the situation where a Kodak copier is being leased from a company other than Kodak, the EMA will be issued to the individual or firm using the equipment, not to the leasing company. The Customer represents that the customer is either the owner of each machine under this Agreement or is authorized to use each machine under a lease from a company other than Kodak.

Maintenance service or services for additional charge do not assure that the operation of the machines will be uninterrupted or error-free.

15. **Assignment** -- Without the prior written consent of Kodak, the customer shall not assign its rights under this agreement.

16. **Length of Program** -- For Kodak and IBM installations, the EMA shall expire at the end of the fiscal year (annual) or the next two succeeding fiscal years (three-year) following the installation date, conversion-to-sale date, conversion from per-call date or expiration of the previous EMA period. The EMA charges will not be increased during the agreement period.

17. **Automatic Renewal of EMA Agreements** -- Unless the customer notifies Kodak *one month* before the end of the EMA period, the EMA agreement will be renewed automatically for the succeeding EMA period on an equivalent plan at the prices, terms, and conditions of the Price Schedule in effect on the first day of the new fiscal year.

18. **Equipment Maintenance Agreement Plan Changes** -- The customer may choose to change to another currently available EMA plan of equal or longer duration than the remainder of the existing contract. Such conversions may not be made retroactive and may only be effective on the first day of the calendar month. Such conversions for a KODAK 1570/1575 Copier-Duplicator will only be allowed at contract expiration date for units on an annual Standard or High Volume Plan (Plan Code "ST" or "SU"). The prices applicable to the new plan will be the prices in effect on the conversion order-received date. The customer must notify Kodak by the 15th of the month in order for the change to be effective by the first of the next month. Changes received after the 15th of the month will be effective on the first day of the month two months after receipt of the plan change. A plan change which results in an EMA plan of shorter duration than the remainder of the previous plan length (e.g., three-year to annual) will be considered as an EMA termination and will be subject to early termination charges as defined in Section 9 of these General Equipment Maintenance Agreement Terms. The expiration date from the original contract may not be transferred to the new contract.

19. **KODAK 1570/1575 Copier-Duplicator EMA Prices** -- At any time during the contract period of a Standard or High Volume Plan

General Equipment Maintenance Agreement (EMA) Terms (continued)

(Plan Code "ST" or "SU") with written notice and a minimum of four months of actual image volume data, Kodak reserves the right to adjust the monthly flat rate price if there is a 20% discrepancy or greater between the customer's actual image volume and the image volume included in the monthly minimum charge.

Upon expiration of a Standard or High Volume Plan (Plan Code "ST" or "SU"), units will automatically renew to a Standard Copy Plan (Plan Code "EA"). Refer to Section 17 for additional automatic renewal terms and Section 18 for terms on Equipment Maintenance Agreement Plan Changes.

20. **Prices** -- All prices are firm throughout the Fiscal Year covered by this catalog.

For installed units, the monthly Equipment Maintenance Agreement prices will not be increased during the annual or three-year agreement period. The monthly charges for IBM equipment under the monthly plan are subject to change without notice.

- A. **Written Bids and Proposals** -- Prices contained in written bids and proposals will be quoted as follows:

- 1) Products for which there is an unannounced change in available plans -- prices may be quoted as firm for orders received within 30 days from the date of quotation.
- 2) Products for which a change in available plans has been announced -- both old and new prices, as well as the effective date of the new price, should be quoted. Orders received on or after the effective date of the price increase will be billed at the new price.

- B. **Alaska Surcharge** -- All Kodak equipment installed in Alaska will receive a 10% surcharge and all IBM equipment installed in Alaska will receive a 25% surcharge on EMA prices listed in the schedule.

21. **Taxes** -- Please note that sales, use or other taxes measured by sales or receipts are not included in the prices listed but, where applicable, will be added to the invoice if a valid certificate is not furnished.

22. **Default** -- If the customer fails to pay any invoice for equipment, chargeable service or supplies, or if the customer fails to perform any of its other obligations under the agreement, or if the customer ceases doing business as a going concern, or if a case in Bankruptcy or any proceeding under another insolvency law is commenced by or against the customer as debtor, or if the customer attempts to remove or sell or transfer or encumber the equipment, Kodak, at its option, and without prior written notice may terminate the agreement, and may immediately repossess all items of Kodak owned equipment and Kodak owned supplies. On termination for customer's default, the customer shall permit Kodak's representative to enter its premises to remove the

equipment and shall pay all outstanding invoices, and all accrued payments, the removal charge and the termination charge and any reasonable attorneys fees and court costs incurred by Kodak to enforce the provisions of this default clause.

23. **Casualty Loss or Damage** -- Except for damage or loss caused by the sole negligence or other fault of Kodak, Kodak is not responsible for loss or damage to copier equipment owned by other than Kodak. This includes, but is not limited to, the perils of fire, theft, sprinkler leakage, electrical power surges, natural disasters, and vandalism.

24. **Toner-Included Option** -- An optional black only toner-included plan is available for KODAK mid-volume copier equipment. A per-image charge is billed for all images per month in addition to EMA charges. If exercised, all mid-volume copier units at one "ship-to" location must utilize the plan. No other consumables are included in this plan. Prices will be guaranteed for the length of the mainframe's contract.

25. **Image Credits** -- For Kodak and IBM units on an EMA; image credits will be given for images made during installation, customer training, or equipment servicing. The number of images for which the customer and Kodak agree a credit is due reduces the total number of images to be billed for the calendar month in which these image credits were recorded. For Run Length Pricing, image credits are applied to the A meter. For all other EMA plans image credits are applied against the meter which records the monthly usage--A, J, or K depending on the model designation.

26. **Utility EMA Billing** -- Utility EMA Billing allows a fixed monthly EMA price for monthly in advance billing of both minimum and usage charges at Standard and High Volume EMA rates. At contract expiration, actual usage will be compared with billed usage and a reconciliation to adjust usage charges will occur.

- A. **Eligibility** -- All customers are eligible excluding customers with Standard Industrial Classification Codes of 270, 275, 733 and 730. All model designations are eligible excluding KODAK IM 40 and COLOREdge models.

- B. To commence Utility EMA Billing the customer must write a new annual agreement at the then-current Standard (12EA) or High Volume (12EH) EMA rates using a Price Plan Code of Standard (12UA) or High Volume (12UH) Utility EMA. For existing installations the effective date may not be retroactive and must be the first day of a calendar month. A plan change which results in an EMA plan of shorter duration than the remainder of the previous plan length will be considered as an EMA termination and will be subject to early termination charges.

- C. For new installations the estimated average monthly image volume will be agreed upon by the customer and Kodak and used to determine the fixed monthly usage charge. The fixed monthly usage charge for plan changes, automatic renewals and units converted from RSA to sale will be

General Equipment Maintenance Agreement (EMA) Terms (continued)

determined by Kodak in advance of the new contract effective date based on the actual average monthly image volume of the previous contract, provided the contract was in effect a minimum of four months.

At any time during the contract period, with a minimum of four months of actual image volume data, Kodak reserves the right to adjust the fixed monthly charge if there is a 20% discrepancy or greater between the customer's actual image volume and the image volume used for the fixed monthly charge. If an adjustment is necessary, there are two options:

1. Continue the existing agreement and adjust the fixed monthly charge to be invoiced to correspond with the actual image volume. The customer must revise their agreement to reflect the new fixed monthly charge.
 2. Write a new agreement at the then-current prices using the actual image volume to determine the fixed monthly charge.
- D. Utility Standard EMA (12UA) will be invoiced a minimum of 10,000 images per month. Utility High Volume EMA (12UH) will be invoiced a minimum of 150,000 images per month with the exception of KODAK EKTAPRINT 250 and 300 Duplicators and KODAK 3100 Duplicators, which will be invoiced a minimum of 250,000 images per month.
- E. The customer is responsible for promptly providing Kodak with meter readings at the beginning of the Utility EMA Billing, on the contract expiration date of the agreements and at other times that Kodak deems appropriate. Eastman Kodak Company reserves the right to estimate meter readings based upon service readings when meter readings are not received from the customer on a timely basis.
- F. Following the expiration date of the Utility EMA Billing, Kodak will calculate the customer's actual image volume during the contract period. If the actual image volume exceeds the average image volume invoiced during the contract period, the customer will be invoiced for the total images at the image charge rate of the customer's plan. If the actual image volume is less than the average image volume invoiced during the contract period, the customer will receive a credit for the difference in total images at the image charge rate of the customer's plan. Image credits for the entire contract period will be applied at the time of reconciliation.

G. Except where noted, all other terms and conditions in this Price Schedule will apply.

27. **Limitations -- THE SERVICES OUTLINED IN THESE TERMS ARE KODAK'S ONLY OBLIGATIONS UNDER THE EMA. KODAK WILL NOT BE RESPONSIBLE FOR ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES RESULTING FROM THE USE OR SERVICE OF THE SOFTWARE OR EQUIPMENT, EVEN IF LOSS OR DAMAGE IS CAUSED BY THE NEGLIGENCE OR OTHER FAULT OF KODAK.** Such damages, for which Kodak will not be responsible, include but are not limited to, loss of revenue or profit, downtime costs, loss of use of equipment, cost of any substitute equipment, facilities, or services, or claims of your customers for such damages. This limitation of liability will not apply to claims for injury to persons or damage to property caused by the sole negligence or fault of Kodak or by persons under its direction or control.
28. **Breach -- If the customer fails to pay in a timely manner for the Equipment for which Maintenance Services are being provided, Kodak can withhold Maintenance Services from the Equipment, even if an Equipment Maintenance Agreement is in effect.**
29. **The terms and conditions outlined above may not be applicable if equipment is not purchased directly from Kodak.**
30. **Controlling Terms -- The terms and conditions of this price schedule shall govern despite additional or inconsistent terms or conditions included in customers' purchase orders or other documents.**
31. **Changes to Equipment Maintenance Agreement Terms and Conditions -- These terms may change without prior notice.**

**KODAK 300 Duplicator
Equipment Sales**

	<u>CAT No.</u>	<u>Selling Price</u>	<u>Conversion-to-Sale Price</u>
KODAK EKTAPRINT 300F Duplicator	125 0927	N/A	\$ 58,200
KODAK EKTAPRINT 300 Finisher Accessory	178 1343	N/A	3,540
KODAK EKTAPRINT 300 Finisher/Binder	144 8927	N/A	7,100
KODAK EKTAPRINT Continuous Forms Feeder ¹	123 5985	\$5,000	3,750

**KODAK 300 Duplicator
Equipment Maintenance Agreements**

Standard EMA	<u>Price Plan Code:</u>	Three-Year	Annual
		<u>[36 EA]</u>	<u>[12EA or 12UA]¹</u>
KODAK EKTAPRINT 300F Duplicator		\$400	\$400
KODAK EKTAPRINT 300AF Duplicator		523	523
KODAK EKTAPRINT 300AFB Duplicator		559	559
Image Charge0059	.0059

High-Volume EMA	<u>Price Plan Code:</u>	Three-Year	Annual
		<u>[36 EH]</u>	<u>[12EH or 12UH]¹</u>
KODAK EKTAPRINT 300F Duplicator		\$698	\$698
KODAK EKTAPRINT 300AF Duplicator		821	821
KODAK EKTAPRINT 300AFB Duplicator		857	857
Image Charge0048	.0048

Availability Run Length EMA	<u>Price Plan Code:</u>	Three-Year	Annual
		<u>[36 ER]</u>	<u>[12ER]</u>
KODAK EKTAPRINT 300F Duplicator		\$855	\$855
KODAK EKTAPRINT 300AF Duplicator		910	910
KODAK EKTAPRINT 300AFB Duplicator		940	940
All Meter B Images (Meter B counts 1st 10 images of each original)0087	.0087
All Meter A Images0016	.0016

Non-Model Accessories/EMA	<u>Price Plan Code:</u>	Three-Year and Annual
		<u>[36/12EA/EH/ER or 12UA/UH]¹</u>
KODAK EKTAPRINT Continuous Forms Feeder		\$31

Accessories/RSA (Installed on Purchased Equipment Under EMA)	<u>Price Plan Code:</u>	Monthly Minimum Annual Term
		<u>[12CA]</u>
KODAK EKTAPRINT 300 Finisher		\$210
KODAK EKTAPRINT 300 Finisher/Binder		436
KODAK EKTAPRINT Continuous Forms Feeder		142

	<u>Installation** Charges</u>	<u>Removal** Charges</u>	<u>Standard Relocation*** Charges</u>	<u>Internal Relocation Charges*</u>
KODAK EKTAPRINT 300F Duplicator	\$620	\$705	\$450	\$100
KODAK EKTAPRINT 300 Finisher	160	175	130	
KODAK EKTAPRINT 300 Finisher/Binder	160	175	130	
KODAK EKTAPRINT Continuous Forms Feeder	260	260	200	

NA — Not Applicable
^{*}Per equipment configuration (see Item 6 of EMA Terms).
^{**}Any additional handling (special rigging, forklift trucks, etc.) which may be required for installation or removal is not included and will be at the customer's expense.
^{***}The customer is responsible for all moving costs associated with the relocation of equipment. The Relocation Charge is applicable whenever a service representative participates in any standard relocation, including re-installation.
¹At Kodak's discretion, New Equipment or Remanufactured Equipment (as defined in Item 7 of General Purchase Terms).
²UAUH price plan refers to the Utility Plan (see Item 26 of EMA Terms for details including minimum image requirements).

**KODAK EKTAPRINT 300 Duplicator
Reprographic Services Agreements**

Available for Renewals and Plan Changes

Monthly Copy Plans

	<u>Price Plan Code:</u>	<u>Monthly</u>
KODAK EKTAPRINT 300F Duplicator		[01CA]
KODAK EKTAPRINT 300AF Duplicator		\$2,795
KODAK EKTAPRINT 300AFB Duplicator		2,975
Each Image		3,160
		.0091

Standard Copy Plans

	<u>Price Plan Code:</u>	<u>3-Year</u>	<u>2-Year</u>	<u>Annual</u>
KODAK EKTAPRINT 300F Duplicator	[36CA]	[24CA]	[12CA]	
KODAK EKTAPRINT 300AF Duplicator		\$2,045	\$2,230	\$2,385
KODAK EKTAPRINT 300AFB Duplicator		2,225	2,410	2,565
KODAK EKTAPRINT 300AFB Duplicator		2,410	2,595	2,750
Each Image0091	.0091	.0091

Availability Run Length Pricing

	<u>Price Plan Code:</u>	<u>3-Year</u>	<u>2-Year</u>	<u>Annual</u>
KODAK EKTAPRINT 300F/AF Duplicator	[36AR]	[24AR]	[12AR]	
KODAK EKTAPRINT 300AFB Duplicator		\$2,145	\$2,205	\$2,290
KODAK EKTAPRINT 300AFB Duplicator		2,245	2,315	2,405
All Meter B Images (Meter B counts 1st 10 images of each original)0282	.0293	.0303
All Meter A Images0018	.0019	.0020

Job Size Pricing

	<u>Price Plan Code:</u>	<u>3-Year</u>	<u>2-Year</u>	<u>Annual</u>
KODAK EKTAPRINT 300F Duplicator	[36JS]	[24JS]	[12JS]	
KODAK EKTAPRINT 300AF Duplicator		3,155	\$3,295	\$3,375
KODAK EKTAPRINT 300AF Duplicator		3,310	3,450	3,525
KODAK EKTAPRINT 300AFB Duplicator		3,470	3,610	3,685
Total Image Allowance (Apply Meter B before A-B)		150,000	150,000	150,000
150,001 + Meter B Images (Meter B counts 1st 150 images of each job)0098	.0103	.0107
150,001 + (Meter A-B)0049	.0051	.0053

Non-Model Accessories/RSA

	<u>Monthly Charge</u>
KODAK EKTAPRINT Continuous Forms Feeder	[CA/AR/JS]
	\$115



METRO

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

Procurement Review Summary

SEP 21 1993

To: Procurement and Contracts Division

Vendor

From

Date 9-21-93

EASIMAN Kodak Company

Department FMT

4380 SW MACADAM Ave

Division Office Services

Subject

Portland OR 97201

Name Pam Hunt

Bid

Contract

Vendor no. 2075

Title Office Services Manager

RFP

Other

Contract no. 903348

Extension 1613

Purpose Maintenance & repair on Kodak 300 duplicator

Expense

Procurement Personal/professional services Services (LM) Construction IGA

Revenue

Contract

Grant

Other

Budget code(s)

610 041210 525640

Price basis

Unit

Total

Other

Term

Completion

Annual

Multi-year**

This project is listed in the
1993 -1994 budget.

Yes

Type A

No

Type B

Payment required

Lump sum

Progress payments

November, 1993
Beginning date

June 30, 1996
Ending date

Total commitment Original amount \$ 78,688

Previous amendments \$ -

This transaction \$ 78,688

RECEIVED Total \$ 78,688

SEP 25 1993 A. Amount of contract to be spent fiscal year 1993-94 \$ 19,672

B. Amount budgeted for contract M+R \$ 22,000

C. Uncommitted/discretionary funds remaining as of 9-21-93 \$ 64,896 ***

Approvals

Pam Hunt
Division manager

[Signature]
Department director

Fiscal [Signature]

Budget [Signature]

Legal [Signature]

Risk [Signature]

Did Contract (P&A) forms USE REVISED
+ ADD INSURANCE PROVISION

* See instructions on reverse. ** If multi-year, attach schedule of expenditures. *** If A or B is less than C, and other line item(s) utilized, attach explanation/justification.

Competitive quotes, bids or proposals: Sole source

Submitted by _____	\$Amount _____	M/W/DBE _____	Foreign or Oregon Contractor _____
Submitted by _____	\$Amount _____	M/W/DBE _____	Foreign or Oregon Contractor _____
Submitted by _____	\$Amount _____	M/W/DBE _____	Foreign or Oregon Contractor _____

Comments: _____

- Attachments:
- Ad for bid
 - Plans and specifications
 - Bidders list (M/W/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

<input type="checkbox"/> Workers comp	<input type="checkbox"/> Prevailing wages
<input type="checkbox"/> Auto	<input type="checkbox"/> Non-standard contract
<input type="checkbox"/> Professional liability	<input type="checkbox"/> 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.

	FY93-94	FY 94-95	FY 95-96
Contract Term	11/1/93 - 6/30/94	7/1/94 - 6/30/95	7/1/95 - 6/30/96
# monthly payments	8	12	12
Total copies per year	4,000,000	6,000,000	6,000,000
Monthly Charge	\$559	\$6,708	\$6,708
Cost Per Copy	0.0038	\$22,800	\$22,800
Estimated copies per month	500000		
Total per Fiscal Year	\$19,672	\$29,508	\$29,508

Total amount for contract Term \$78,688

STAFF REPORT

CONSIDERATION OF RESOLUTION 93-1857 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 EASTMAN KODAK COMPANY TO PROVIDE MAINTENANCE AND REPAIR SERVICE ON THE KODAK 300 DUPLICATOR.

Date: September 21, 1993

Presented by Pam Juett

FACTUAL BACKGROUND AND ANALYSIS

Metro currently is in the 15th month of a 3 year (36 month) contract with Eastman Kodak Company for the maintenance and repair of the Kodak 300 duplicator located in the Print Shop at Metro Regional Center. This contract (902521) was a sole source contract authorized by the Council through resolution 92-1634. Eastman Kodak is now offering a special three year maintenance and repair rate on the Kodak 300 duplicator that would allow Metro to save approximately 25% of its yearly cost of the maintenance and repair on the Kodak 300 duplicator. The offer being made is a limited time offer because of Metro's recent purchase of a Kodak 2085 duplicator.

Under the provisions of ORS 279.015 (2)(a)(b), a new sole source contract is sought with Eastman Kodak Company. The exemption from competitive bidding is sought on the basis that it is unlikely that the exemption will encourage favoritism or substantially diminish competition, and that Eastman Kodak Company is the only provider of the service and would be the only available bidder for the reasons stated below.

1. The Kodak 300 duplicator involves use of patented technology in the sole control of Eastman Kodak.
2. Eastman Kodak is the sole purveyor of sales and replacement parts for the Kodak 300 duplicator. They do not sell replacement parts on the open market, therefore no Kodak parts are available from non-Kodak suppliers.
3. There is no market availability of non-Kodak replacement parts from independent suppliers for the Kodak 300.
4. It is critical to the high volume production in the Print Shop to provide the minimal service response time that Eastman Kodak can provide with its available stock of replacement parts.

BUDGET IMPACT

The new contract on the Kodak 300 would reduce the monthly maintenance charge from \$857 to \$559, and reduce the per copy charge from .0048 cents to .0038 cents. The new prices would save \$9,576 a year based on present Print Shop copy volumes of close to 6 million copies per year.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 93-1857 exempting Eastman Kodak from competitive bidding on the Kodak 300 duplicator.

:pj

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FINANCE COMMITTEE REPORT

RESOLUTION NO. 93-1857 AUTHORIZING AN EXEMPTION TO METRO CODE CHAPTER 2.04.041 COMPETITIVE BIDDING PROCEDURES, AND AUTHORIZING A SOLE SOURCE CONTRACT WITH EASTMAN KODAK COMPANY TO PROVIDE MAINTENANCE AND REPAIR SERVICE ON THE KODAK DUPLICATOR

Date: October 18, 1993

Presented By: Councilor Monroe

COMMITTEE RECOMMENDATION: At it's October 13, 1993 meeting the Committee voted unanimously to recommend Council adoption of Resolution No. 93-1857. All Committee members were present and voting.

COMMITTEE DISCUSSION/ISSUES: Ms. Pam Juett, Office Services Manager, presented the Staff Report. She stated that Metro has an opportunity to save approximately 25% of its yearly cost of maintenance and repair on the Kodak 300 duplicator by entering into a new contract with the Eastman Kodak Company. The new contract would reduce the monthly maintenance charge from \$857 to \$559. The Company is offering the new contract because of Metro's recent purchase of a Kodak 2085 duplicator.

Ms. Juett pointed out that this is a sole source contract since the Company is the only provider of service on this machine. To enter into the contract the Council, acting as the Contract Review Board, must provide an exemption from competitive bidding. Ms. Juett stated that the Company would be the only available bidder for the reasons provided in the written Staff Report.

There were no questions or discussion from the Committee.