

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING A	)	RESOLUTION NO. 94-1947
CONTRACT WITH SPANGLE ASSOCIATES FOR	)	
THE DEVELOPMENT OF MODEL LAND USE	)	Introduced by Rena Cusma,
AND DEVELOPMENT OF REGULATION FOR	)	Executive Officer
MITIGATING SEISMIC RISKS IN THE	)	
PORTLAND METROPOLITAN AREA	)	

WHEREAS, The purpose of Metro's Emergency Preparedness Planning Program is to identify earthquake hazards in the Portland metropolitan area, in partnership with the Oregon Department of Geology and Mineral Industries (DOGAMI); and

WHEREAS, The purpose of Metro's Emergency Preparedness Planning Program is also to assist in developing regional strategies for preparing citizens and communities for disaster, mitigating risks and hazards, and responding to and recovering from effects and damages of areawide disasters such as a major earthquake; and

WHEREAS, Metro's is actively seeking seismic mitigation funding to put into place a framework of planning tools that will be used by public and private agencies and organizations to develop disaster response capability, prioritize buildings and facilities for seismic retrofitting, and guide land use planning efforts; and

WHEREAS, Spangle Associates (based in Portola Valley, California) was selected via an RFP process in March 1993, and collaborated in developing the application to the U.S. Geological Survey (USGS) which proposed development of innovative and effective ways to share, transfer, or otherwise use earthquake hazards information to mitigate seismic risks; and

WHEREAS, USGS has agreed to provide the grant funds necessary to develop conceptual materials on model land use and development regulations for mitigating seismic risks in the Portland metropolitan area; now, therefore,

BE IT RESOLVED,

That the Metro Council authorizes the Executive Officer to execute a contract with Spangle Associates and start developing conceptual materials on model land use and development regulations for mitigating seismic risk in the Portland metropolitan area.

ADOPTED by the Metro Council this 14th day of April, 1994.

  
Judy Wyers, Presiding Officer

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## 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 600 N.E. Grand Avenue, Portland, Oregon 97232-2736, and Spangle Associates, referred to herein as "Contractor," located at \_\_\_\_\_.

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 \_\_\_\_\_, 1994, and shall remain in effect until and including \_\_\_\_\_, 1994, 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 Scope of Work for the maximum sums not to exceed the compensation stated in Exhibit F.
4. Insurance.
  - a. Contractor shall purchase and maintain at the Contractor's expense, the following types of insurances, 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 INSURED**.* Notice of any material change or

policy cancellation shall be provided to Metro thirty (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 F," 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 thirty (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 provision 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 \_\_\_\_\_ 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.

**SPANGLE ASSOCIATES**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**METRO**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

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**EXHIBIT A**

**SCOPE OF WORK**

**MODEL LAND USE AND DEVELOPMENT REGULATIONS  
FOR MITIGATING SEISMIC RISKS IN THE  
PORTLAND METROPOLITAN AREA**

**PROJECT PURPOSE AND DIRECTIONS**

The project purpose is to define the options for applying the earthquake hazards data/information (developed by the Oregon Department of Geology and Mineral Industries) to land development decisions in the Portland region. It takes the process of translating geotechnical information and correlating same with existing land use policies and building types to develop conceptual materials on regulations that could be used to mitigate seismic risks in this region. The project brings together a multidisciplinary team of land use planners and geotechnical and structural engineers. The team will investigate the realistic limits to land use policy and regulation based on earthquake hazard maps.

The objective of the proposed project is to foster the effective application of the relative earthquake hazard map to reduce vulnerability to earthquakes in the Portland area. To accomplish this, the study will:

1. explore a full range of possibilities for correlating hazard zones shown on the earthquake hazards maps with land use policies and regulations and building types; and
2. develop conceptual materials on land use and development regulations based on the relative earthquake hazard map and the maps of ground shaking amplification, liquefaction and landsliding for the Portland quadrangle.

Metro's long term goal is to develop model regulations from the conceptual materials and recommend ways to encourage adoption of the regulations by local governments in this region. The intent is to develop model regulations that are clear, easy to apply and flexible, transferable to other areas of the country with earthquake hazards, allowing for local judgments about acceptable risk to be directly incorporated into land use and development policies. The intent is also to explore the potential contribution of geographic information system (GIS) in fostering application of the earthquake hazard maps.

The project could demonstrate for the first time on a regional basis the value of using composite earthquake hazards maps (ground motion amplification, liquefaction susceptibility, and lateral spread displacement and dynamic slope instability) as a basis for land use planning and regulation. This potential is often talked about, but has rarely been achieved. Most of the regulations that exist are based on maps of individual hazards and focus on only one jurisdiction. These regulations also deal exclusively with determining when site-specific geologic investigations should be required prior to development rather than addressing land use planning on a broader

regional basis. The project could also demonstrate how GIS can be used to enhance the usefulness of hazards mapping by land use planners and other local officials.

### **SCOPE OF WORK TO BE ACCOMPLISHED**

The project will be conducted by Spangle Associates team and Metro. Spangle Associates team consist of Spangle Associates, specializing in urban planning and research, Dames & Moore, specializing in structural and geotechnical engineering, and Frank McClure specializing in structural engineering and related earthquake mitigation policies. Detailed information on the project team is in Exhibit B. The tasks below will be accomplished by Spangle Associates and its subcontractors.

- Task 1 PROJECT ORGANIZATION:** Spangle Associates will meet with Metro in Portland (at Metro) to organize, review and finalize the project schedule (Attachment C). During the same trip to Portland, the entire project team will meet with the scientists at the Oregon Department of Geology and Mineral Industries who prepared the earthquake hazards maps. Team members need a thorough understanding of the basis for and limitations of the relative earthquake hazard map and the three separate maps (ground motion amplification, liquefaction susceptibility, lateral spread displacement and dynamic slope instability) from which it was derived.
- Task 2 ADVISORY COMMITTEE:** Metro will form an advisory committee that will review project products ensuring that the results of the project are practical and can be applied in the Portland area. The committee will be made up of 10 to 15 members including planners, building officials and structural engineers from the state, regional and local public agencies, and representatives from key private sector organizations such as utilities, insurance and real estate and academic institutions. The committee members will serve as resources for the project team and meet two to three times during the course of the project to review and comment on draft material. Spangle Associates will lead in the presentation of project products at two meetings of the Advisory Committee and make changes as recommended. Metro will arrange meetings of the committee and assist in the presentations.
- Task 3 FIRST ADVISORY COMMITTEE MEETING:** At the first meeting of the committee, Spangle Associates and Metro will present the project's purpose, process, methodology and tasks and timeline.
- Task 4 DATA COLLECTION:**
- a. Metro will collect available background information on land use and developments in the City of Portland and other jurisdictions in the area. Metro will also collect available information on the requirements of the Oregon Statewide Planning Goals (Goal 7 - Areas Subject To Natural Disasters and Hazards).
  - b. Spangle Associates team will review the local plans and talk with planning departments to identify internal and external factors that influence local planning and develop categories of land use in the region related to seismic risk. Spangle Associates team will also talk with the appropriate advisory committee members and Metro staff about the organization for planning and kinds of plans and



regulations used in the Portland region. The proceedings of the January 1993 earthquake workshop will also be carefully reviewed by Spangle Associates team.

- c. Spangle Associates team will assemble available information on regulations, standards and other planning approaches used effectively in other locations, particularly in California and Utah, and review them for applicability to the Portland region.
- d. Spangle Associates team will review the report, *Earthquake Scenario Pilot Project: Assessment of Damage and Losses*, and the proceedings of the January 1993 Earthquake Workshop for information on structural types in Portland. Then, in consultation with Metro staff and appropriate members of the advisory committee, Spangle Associates team will compile a list of common structural types in the Portland area defined and grouped according to characteristics important to seismic risk.

- Task 5**     **CORRELATION OF LAND USES AND BUILDING TYPES:** Following Task 3, Spangle Associates team will work out the key correlations between land uses, occupancies and building types. Drawing on the information gathered and the considerable experience of Spangle Associates team members, the team will establish categories of land use taking into account occupancy and typical structural type. The intent will be to define land use categories in which the seismic risk would be roughly the same given the same location. The correlations will be presented to the Advisory Committee for review and comments.
- Task 6**     **MATRICES:** Spangle Associates team will then construct a set of matrices identifying for each hazard zone on the relative (and separate) earthquake hazard maps the categories of land use which would be "acceptable," "possibly acceptable" and "not acceptable." The "possibly acceptable" classification will be further broken down to include variations such as "acceptable depending on the results of site-specific investigation." Spangle Associates team will develop conceptual material on regulations from the matrices. The matrices will be presented to the Advisory Committee for review and comments.
- Task 7**     **SECOND ADVISORY COMMITTEE MEETING:** At the second meeting of the committee, Spangle Associates will lead in the presentation of the correlations and matrices, and conceptual materials on regulations.
- Task 8**     **REPORTS:** Spangle Associates will lead in preparing project reports to meet the USGS requirements as stated in the USGS Grant Award (Exhibit E). The reports shall be reviewed by the project team including Metro and shall be reproduced and disseminated by Metro.

## **PROJECT SCHEDULE**

The term of this contract shall be from March 1, 1994, through and including February 28, 1995. Detail of the project schedule is shown in the draft Timeline (Exhibit C) and will be finalized at the initial meeting (Task 1) of the entire project team.

## **PROJECT BUDGET/TERMS OF PAYMENT**

1. This is project dependent upon receipt of USGS grant funds. Metro payment for work on this project shall be limited to work consistent with USGS requirements in Exhibit "E."
2. Spangle Associates will solicit and invoice Metro on a monthly basis for tasks completed in the previous month. A total of twelve monthly payments will be submitted during the project period.
3. FIFTY-ONE THOUSAND TWO HUNDRED FIFTY AND NO/100THS DOLLARS (\$51,250) shall be the total compensation for which Metro shall be obligated to pay Spangle Associates for all services rendered pursuant to this Agreement. Detail of project compensation is provided in Exhibit D.
4. Metro shall pay Spangle Associates within 30 days following receipt and acceptance of an Spangle Associates invoice.
5. All funds expended under this Agreement will be at the discretion of Spangle Associates Project Manager, and solely for the pursuit of this project.

## EXHIBIT B

### PROJECT MANAGEMENT TEAM/PLAN

Metro is the project applicant and responsible for project management. Metro is subcontracting with Spangle Associates. Dames and Moore and Frank McClure are independent consultants subcontracting from Spangle Associates.

*Gerry Uba, Emergency Management Program Coordinator, Metro*, will serve as Metro's project manager and co-principal investigator. He will handle contacts with USGS, coordinate the work of the project team, take the lead in forming the advisory committee and disseminating the model regulations. He will also participate in all team and advisory committee meetings and direct other team members to sources of information in the region.

*George Mader, President, Spangle Associates*, will serve as Spangle Associates project manager and co-principal investigator for the project. He will have primary responsibility for defining assistance needed from the other consultants, and development of the matrices and preparation and testing of the model regulations. He will participate in all team and advisory committee meetings.

*Martha Tyler, Principal Planner, Spangle Associates*, will collect planning data, help draft planning materials for the Advisory Committee meetings and draft the final report and assist Mr. Mader as needed throughout the project.

*Frank McClure*, will compile list of structural types in the Portland area grouped according to seismic risks and provide structural engineering expertise for Task 4 and 5 and attend team meetings and the advisory committee meetings.

*John Martin, Associate, Dames & Moore Portland office*, will provide geotechnical expertise for Tasks 4 and 5, attend team meetings and advisory committee meetings.

## EXHIBIT C

### DRAFT TIMELINE

<u>Task</u>	<u>Target Date</u>
Choose Advisory Committee (Metro)	March/April 1994
Project Initiation Meeting and First Presentation to Advisory Committee (all)	May 1994
<ul style="list-style-type: none"><li>- Metro</li><li>- Spangle Associates</li><li>- Dames and Moore</li><li>- Frank McLure</li><li>- DOGAMI</li></ul>	
Data Collection and Review (all)	April 1994 - January 1995
Develop Correlations and Construct Matrices and Conceptual Regulations	June-August 1994
<ul style="list-style-type: none"><li>- Land uses and hazards (SP, FMc)</li><li>- occupancies/buildings and hazards (D&amp;M)</li><li>- Developments permitable in hazard zones</li><li>- Conceptual regulations</li></ul>	
Mail Correlation and Matrices to Advisory Committee (Metro, SP)	September 1994
2nd Presentation to Advisory Committee (all)	October 1994
<ul style="list-style-type: none"><li>- Review correlations</li></ul>	
Draft Project Report (all)	Nov. 1994 - Jan. 1995

## EXHIBIT D

### PROJECT COST/COMPENSATION

The total project cost is \$66,802. Total USGS grant amount is \$58,800. Grant limits project team members compensation as follows:

Metro	\$13,810 <sup>1</sup> (\$8,000 contribution)
Spangle Associates	\$31,895
Dames & Moore	\$8,672
Frank McLure	\$4,400
Travel	<u>\$8,025<sup>2</sup></u>
<b>Total</b>	<b>\$66,802<sup>3</sup></b>

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<sup>1</sup> Metro's true compensation is \$7,550.

<sup>2</sup> Metro's share of the Travel budget is \$1,740. Spangle Associates team share of the travel budget is \$6,285 (\$1,740 + \$2,430 + \$2,115).

<sup>3</sup> Spangle Associates team compensation is \$51,250 (\$31,895 + \$8,672 + \$4,400 + \$6,285 less \$2.00).

# EXHIBIT E

## USGS CONTRACT TERMS AND CONDITIONS

### 1. Method of Payment

The Recipient shall use Standard Form (SF) 270, Request for Advance or Reimbursement, to request payment under this award. It is the policy of this office to make reimbursement and not advance payments. An original and one copy of this request shall be submitted to the Administrative Contracting Officer (ACO) quarterly. Invoice payment requests must be made in U.S. currency. Preaward costs are not authorized.

### 2. Reporting Requirements

A. Required reports/documents. The Recipient shall submit the following reports/documents:

Report/Document	No. of Copies	Submit To	Due Date
Publication *	Five reprints	Project Officer	Immediately following publication.
Project Summary	Camera-ready original	**	Every October 24 of the project period.
Annual or Final Technical Report	Unbound Original + 6	ACO	Within 90 calendar days after the end of each 12-month period, beginning with the first day of the project period. To be printed double sided on 8 1/2 x 11 paper only. Oversized figures placed in pocket. Abstract only submitted on floppy disk in a common word-processor format (Word, Wordperfect, Ami) or by e-mail to bdietz@USGS.gov (see format on page 2.B.(3).f.
Non-Technical Project Summary	Original + 2	** and Project Officer	The due date is October 24, when submitted with the project summary; or within 90 calendar days after the end of each 12-month period, when submitted with the annual or final technical report.
SF 269	Original + 1	ACO	Within 90 calendar days after the end of each 12-month period, beginning with the first day of the project period.

\* Publication means any book, report, photograph, map, chart, or recording that has been published or disseminated to the scientific community. Preprints of articles submitted for publications will be accepted as final reports.

\*\* U.S. Geological Survey, Attn: Muriel Jacobson--Mail Stop 977, Office of Earthquakes, Volcanoes and Engineering, 345 Middlefield Road, Menlo Park, CA 94025.

Note: All Summaries and technical reports should be submitted on paper containing at least 50% recycled waste paper materials.

## SPECIAL TERMS AND CONDITIONS

B. Report preparation instructions. The Recipient shall prepare the reports/documents in accordance with the following instructions:

(1) Publications. All publications that contain work performed during the project period shall include the following statements:

"Research supported by the U.S. Geological Survey (USGS), Department of the Interior, under USGS award number (Recipient, insert award number). The views and conclusions contained in this document are those of the authors and should not be interpreted as necessarily representing the official policies, either expressed or implied, of the U.S. Government."

(2) Project summary. (a) Prepare the project summary in accordance with the instructions found in the National Earthquake Hazards Reduction Program Summaries of Technical Reports, Volume 33.

(b) The report shall also include the availability of seismic data, geodetic data, or processed data. The contact person and his/her telephone number shall be included, along with the format in which the data exist.

(3) Annual or Final Technical report. (a) The cover page of the report shall contain the award number, Recipient's name, Principal Investigator's name, title of the Recipient's application, program element and objective number, and the statement shown in paragraph 2.B.(1) above.

(b) The reports shall contain an abstract that summarizes the observations and conclusions of the report and shall be part of the report as well as being submitted as a second separate document as described in 2.B.(3).(f) below.

(c) The main body of the report shall be single-spaced on 8 1/2-inch by 11-inch paper and shall provide a concise summary of the work performed during each 12-month period. The main body of the report shall be printed double-sided, including figures and bibliography (see 2.B.(3)(d) below). Oversized (>8 1/2-inch by 11-inch) pages shall be placed in a pocket at the end of the report; not collated or bound with the report. Oversized pages should be used only if they are critical to convey data or conclusions.

(d) The report shall also contain a bibliography of all publications resulting from the work performed during each 12-month period. Copies of the publications are required if the Recipient has not previously submitted them to the Project Officer.

(e) One original copy of the report shall be unbound or unstapled. Remaining copies may be bound or stapled at the discretion of the Principal Investigator. If photo illustrations are included in the report, glossy prints, linotronic prints or similar high resolution prints of the illustrations shall be included in the unbound original (xerographic prints at resolutions less than 1200 x 1200 dpi are unacceptable.)

## SPECIAL TERMS AND CONDITIONS

(f) The abstract of the report, in addition to being part of the final technical report, shall also be submitted as a separate document on a floppy disk or by e-mail, at the election of the PI, in the style shown below. If submitted on a floppy disk, the document shall be produced by one of the following commonly used word processors: Word, WordPerfect or Ami. If submitted by e-mail, please do so to bdietz@usgs.gov.

### Style for abstract be submitted separately

TITLE (ALL UPPERCASE)

Authors and Affiliation with Address and ZIP Code

Award Number

#### TECHNICAL ABSTRACT:

Body of the technical abstract (For technically trained persons)

(4) Non-Technical Project Summary. In addition to the project summary and the annual or final technical report, each project will submit a Non-Technical Project Summary. This report will be limited to one paragraph of no more than 100 words and should be written in plain English. Emphasis of the report should be placed on how your work is helping to understand and ultimately reduce earthquake hazards. These paragraphs should be submitted with both the project summaries and the annual or final report. They will not be included in the Summaries of Technical Reports volume, but will be used to help explain our studies to the public and to those who oversee our program.

(5) SF 269, Financial Status Report. If there is an unobligated balance and all funds have been drawn, then submit a check made payable to "USGS, Department of the Interior" for the unobligated balance of Federal funds. (This report is subject to audit.)

C. Adherence to reporting requirements. A Recipient's failure to submit the required reports/documents, in a timely manner, may result in the withholding of payment, in termination of the award, and/or in the delay or nonissuance of a new award.

### 3. Principal Investigator

The Principal Investigator is the individual designated by the Recipient and approved by the USGS who is responsible for the technical direction of the research project. The Principal Investigator cannot be changed or become substantially less involved than was indicated in the Recipient's proposal, without the prior written approval of the Contracting Officer.

### 4. Project Officer

A. The Project Officer will work closely with the Recipient to ensure that all technical requirements are being met. The Project Officer's responsibilities include, but are not limited to, providing technical advice on the accomplishment of the proposal's objectives; reviewing the technical



## SPECIAL TERMS AND CONDITIONS

content of the reports and the other information delivered to the USGS; determining the adequacy of the technical reports; and conducting site visits, in coordination with the Contracting Officer, as frequently as practicable.

B. The Project Officer does not have the authority to issue any technical direction which constitutes an assignment of additional work outside the scope of the award; in any manner causes a change in the total cost or the time required for performance of the award; or changes any of the terms, conditions, or general provisions of the award.

### 5. Regional Team Leader

A. The Regional Team Leader will work closely with the Recipient to ensure coordination with other appropriate Recipients and appropriate USGS project scientists working in the same region for overall conformance with USGS program goals and objectives within that region. The Regional Team Leader's responsibilities include, but are not limited to, providing technical advice on the accomplishment of the proposal's objectives; reviewing the technical content of reports and other information delivered to the USGS; determining the adequacy of the technical reports; and conducting site visits, in coordination with the contract personnel, as frequently as practicable.

B. The Regional Team Leader does not have the authority to issue any technical direction which constitutes an assignment of additional work outside the scope of the award; in any manner causes a change in the total cost or the time required for performance of the award; or changes any of the terms, conditions, or general provisions of the award.

### 6. Contracting Officer

The Contracting Officer is authorized to enter into and/or terminate awards. The Contracting Officer is the sole authority designated to modify the funds and stated terms and conditions of the awards. The Contracting Officer, in coordination with the Project Officer, will ensure the effective utilization of Federal funds.

### 7. Administrative Contracting Officer (ACO)

The ACO administers and closes out awards. The ACO is the sole person designated to receive verbal and written requests for changes to the awards.

### 8. Adherence to Original Research Objectives and Budget Estimates

A. Any commitments or expenditures incurred by the Recipient in excess of the funds provided by this award shall be the responsibility of the Recipient. Expenditures incurred prior to the effective date of this award cannot be charged against award funds unless provided for in this award.

B. (1) The following expenditures require advance written approval by the ACO, and the request must be submitted to the ACO at least 30 calendar days prior to the requested effective date of the change:

(a) Changes in the scope, objective, or key personnel referenced in the Recipient's proposal.

## SPECIAL TERMS AND CONDITIONS

(b) Transfer of funds between direct cost categories when the cumulative amount of transfers during the project period exceeds 10 percent of the total award.

(c) Foreign travel.

(d) Acquisition of nonexpendable personal property having a useful life of more than 1 year and having an acquisition cost of \$5,000 or more.

(e) Change in the project period. The Recipient shall submit a revised budget indicating the planned use of all unexpended funds during the extension period.

(2) The Recipient shall submit a revised financial estimate and plan for (a) through (d) above.

(3) The ACO will notify the Recipient in writing within 30 calendar days after receipt of the request for revision or adjustment whether the request has been approved.

### 9. Nonexpendable Personal Property

Title to nonexpendable personal property will vest with the Recipient upon acquisition, unless otherwise specified in the award.

### 10. Dissemination of Results

The Recipient is encouraged to disseminate research results promptly to the scientific community. The USGS encourages the Recipient to publish project reports in scientific and technical journals. The Government may publish, reproduce, and use all technical data developed as a result of this award in any manner and for any purpose, without limitation, and may authorize others to do the same.

### 11. Record Retention Period

Unless a longer period is requested by the award, a Recipient shall retain all records for 3 years after the end of the project period for which it uses USGS award funds.

### 12. Preagreement Costs

Preagreement costs will not be authorized under this program. Costs must be obligated during the project period.

### 13. Violation of Award Terms

If a Recipient has materially failed to comply with the terms of the award, the Contracting Officer may suspend, terminate, or take such other remedies as may be legally available and appropriate in the circumstances.

SPECIAL TERMS AND CONDITIONS

14. Stevens Amendment

When using statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state:

- A. The percentage of total costs of the program or project which will be financed with Federal money,
- B. The dollar amount of Federal funds for the project or program, and
- C. Percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

## GENERAL PROVISIONS

The Recipient shall be subject to the following OMB circulars/regulations, as amended, which are incorporated herein by reference:

### 1. Educational Institutions

A. OMB Circular A-21, Cost Principles for Educational Institutions.

B. OMB Circular A-88, Indirect Cost Rates, Audit, and Audit Followup at Educational Institutions.

C. OMB Circular A-110, Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

D. OMB Circular A-133, Audits of Institutions of Higher Education and Other Nonprofit Institutions.

### 2. State and Local Governments

A. OMB Circular A-87, Principles for Determining Costs Applicable to Grants and Contracts with State, Local, and Federally Recognized Indian Tribal Governments.

B. OMB Circular A-102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

C. OMB Circular A-128, Audits of State and Local Governments.

### 3. Nonprofit Organizations

A. OMB Circular A-110, Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

B. OMB Circular A-122, Cost Principles for Nonprofit Organizations.

C. OMB Circular A-133, Audits of Institutions of Higher Education and Other Nonprofit Institutions.

### 4. Profit-Making Organizations

A. General administrative requirements will be in accordance with the Federal Acquisition Regulations (FAR), subchapter E, parts 28, 29, and 30.

B. Principles for determining the allowability of cost will be in accordance with the FAR, subchapter E, part 31.2.

### 5. Patents--Small Businesses and Nonprofit Organizations

Subject to the provisions set forth in 37 CFR 401 and 35 U.S.C. 203, a Recipient may retain the entire right, title, and interest throughout the world to each subject invention. With respect to any subject invention in which the Recipient retains title, the Federal Government will have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

## STAFF REPORT

### CONSIDERATION OF RESOLUTION NO. 94-1947 FOR THE PURPOSE OF APPROVING A CONTRACT WITH SPANGLE ASSOCIATES FOR THE DEVELOPMENT OF MODEL LAND USE AND DEVELOPMENT OF REGULATION FOR MITIGATING SEISMIC RISKS IN THE PORTLAND METROPOLITAN AREA

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Date: March 30, 1994

Presented by Andrew Cotugno

## PROPOSED ACTION

This resolution provides that the Metro Council approve the contract with Spangle Associates that will execute the U.S. Geological Survey (USGS) grant that has been awarded Metro for the development of Model Land Use and Development Regulations for Mitigating Seismic Risks in the Portland Metropolitan Area during FY 1993-94 and FY 1994-95.

## FACTUAL BACKGROUND

In March 1993, the Oregon Department of Geology and Mineral Industries (DOGAMI) informed us of the announcement of 1994 request for grant proposals by USGS for development of effective ways to share or transfer innovative ways to use earthquake hazards information to those responsible for mitigating seismic risks. On March 15, 1993, I informed the Council Planning Committee of staff intention to submit a proposal developed jointly with any consulting firm that specializes in this area. The Committee supported the Planning Department pursuing the grant.

Following the action of the Council Planning Committee, we issued a request for proposals for a consultant to assist Metro in developing the grant proposal. Spangle Associates (based in Portola Valley, California) was selected to assist us. We established \$119,862 grant proposal for the development of Model Land Use and Development Regulations for Mitigating Seismic Risks in the Portland Metropolitan Area.

The USGS approved our application and awarded us only \$58,800. The USGS also instructed us to scale down the initial scope of work to match the approved amount. The revised scope of work was approved in February 1994.

Accompanying this staff report is a contract (Personal Services Agreement and Scope of Work) developed by Metro and Spangle Associates to guide both organizations through this project. Project timeline is March 1994 through February 1995.

Last week, the USGS sent us an announcement for a 1995 request for grant proposals that is due April 15, 1994. It is important to develop a new grant application jointly with Spangle Associates for about \$60,800 for the second phase of this project and submit that proposal to the USGS by April 15, 1994.

It is essential that the Council approve the attached contract with Spangle Associates and allow Planning staff to prepare a new grant proposal requesting further funding for the project completion through a revised scope of work.

**EXECUTIVE OFFICER'S RECOMMENDATION**

The Executive Officer recommends adoption of Resolution No. 94-1947.

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## **PLANNING COMMITTEE REPORT**

### **CONSIDERATION OF RESOLUTION NO. 94-1947 AUTHORIZING A CONTRACT WITH SPANGLE ASSOCIATES FOR THE DEVELOPMENT OF MODEL LAND USE AND DEVELOPMENT OF REGULATION FOR MITIGATING SEISMIC RISKS IN THE PORTLAND METROPOLITAN AREA**

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Date: April 8, 1994

Presented By: Councilor Gates

**Committee Recommendation:** At the April 7 meeting, the Planning Committee voted unanimously to recommend Council adoption of Resolution No. 94-1947. Voting in favor: Councilors Kvistad, Gardner, Gates, McLain, Monroe, and Moore. Absent: Councilors Devlin and Washington.

**Committee Issues/Discussion:** Gerry Uba, Senior Management Analyst, Emergency Management, presented the staff report. He explained that Metro contracted with Spangle Associates for grant writing assistance in applying for a USGS grant. The grant funds are for development of effective ways to share or transfer innovative ways to use earthquake hazards information to those responsible for mitigating seismic risks. The grant was requested at \$119,862 but received at \$58,800. Metro was instructed to down-scale their original scope of work to match the approved amount. USGS approved the revised scope of work in February.

Andy Cotugno, Planning Director, added that Spangle Associates had helped write the scope of work and will now, upon approval of this resolution, be able to complete the actual work. It will be necessary to add these revenues as an amendment to the FY 1994-95 budget, plus any carry over funds from FY 1993-94.