

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING A )  
COMPETITIVE BID EXEMPTION AND THE ) RESOLUTION NO. 94 -2037  
EXECUTION OF A SOLE-SOURCE )  
CONTRACT WITH WESTERN ATTITUDES ) INTRODUCED BY  
FOR CONTINUATION OF "CITI-SPEAK" ) RENA CUSMA  
PUBLIC OPINION SURVEYS ) EXECUTIVE OFFICER

WHEREAS, Western Attitudes is uniquely qualified to perform "Citi-Speak" community attitude surveys through its past experience with cities, counties and special service districts within the Portland Metropolitan area; and

WHEREAS, The Metro Executive and Council has a present need for such services, has previously utilized Western Attitudes, and was well served by their past performance; and

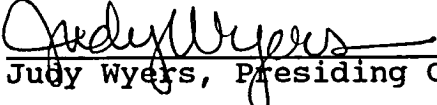
WHEREAS, The Metro Executive proposed the establishment of a new contract for similar public opinion polling in substantial compliance with Exhibit "B" attached; and

WHEREAS, The specific use of their services is unlikely to encourage favoritism in the awarding of or substantially diminish competition for public contracts; and

WHEREAS, The award of a public contract pursuant to this exemption process is expected to result in substantial cost savings; now, therefore

BE IT RESOLVED, That the Metro Contract Review Board hereby authorizes a competitive bid exemption pursuant to Metro Code Section 2.04.041(c), and the execution of a sole source contract with Western Attitudes pursuant to Metro Code Section 2.04.060.

ADOPTED by the Metro Contract Board this 13th  
day of October, 1994.

  
\_\_\_\_\_  
Judy Wyers, Presiding Officer

## EXHIBIT A

### SCOPE OF WORK

Western Attitudes shall design, conduct, analyze and publish the results for three public opinion surveys for Metro for a total fee of \$7,500. All expenses incurred by Western Attitudes in performance of the contract shall be covered by the contracted amount.

1. Western Attitudes will conduct three surveys for Metro during FY 94/95. The first survey will be conducted in October 1994; the second to take place during February 1995; and the third in June of 1995. The work will be coordinated through the Metro Office of Public and Government Relations.
2. Prior to development of each of the three surveys, staff of Western Attitudes will meet with a panel representing Metro elected officials, Metro staff, Metro Policy Advisory Committee (\*MPAC), Citizens Involvement Committee (CIC), and media experts to discuss survey topics and develop individual questions. The panel will be convened by Metro's Office of Public and Government Relations. Drafts of each proposed survey will be reviewed by the panel and final draft approved by the director of the Office of Public and Government Relations.
3. The survey will be conducted by Western Attitudes and its employees and will take place during both daytime and evening hours to assure a broad representation of public opinion. The survey will be conducted using telephone numbers of residences within the Metro boundaries, unless designated otherwise by Metro officials.
4. Analysis of survey results will be provided to Metro in both draft and final form. Metro will be provided with a master of the final analysis and bound copies of the same for the Metro Executive Officer, Metro Presiding Officer, Metro Council members, Deputy Executive Officer, Council Administrator, and members of the survey panel. The Office of Public and Government Relations will be responsible for printing of additional copies to be distributed to Metro department directors, advisory committees and other interested parties.
5. Staff of Western Attitudes will make themselves available for verbal presentation and discussion of the survey results before the Metro Council, select advisory committees, and/or other groups on request of the Office of Public and Government Relations.

Project Metro Citi-SpeaksContract No. 903903

## 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, OR 97232-2736, and Western Attitudes, referred to herein as "Contractor," located at 17321 SW Boones Ferry Road, Lake Oswego, Oregon 97035

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

1. Duration. This personal services agreement shall be effective July 1, 1994 and shall remain in effect until and including June 30, 1995, unless terminated or extended as provided in this Agreement.
2. Scope of Work. Contractor shall provide all services and materials specified in the attached "Exhibit A - Scope of Work," which is incorporated into this Agreement by reference. All services and materials shall be provided by Contractor in accordance with the Scope of Work, in a competent and professional manner. To the extent that the Scope of Work contains additional contract provisions or waives any provision in the body of this Agreement, the Scope of Work shall control.
3. Payment. Metro shall pay Contractor for services performed and materials delivered in the amount(s), manner and at the time(s) specified in the Scope of Work for maximum a sum not to exceed Seven Thousand Five Hundred AND 00/100THS DOLLARS (\$ 7500 ).
4. Insurance.
  - a. Contractor shall purchase and maintain at the Contractor's expense, the following types of insurance, covering the Contractor, its employees, and agents:
    - (1) Broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and
    - (2) Automobile bodily injury and property damage liability insurance.
  - b. Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
  - c. Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDs. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.

d. Contractor, its subcontractors, if any, and all employers working under this Agreement that are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Contractor shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If Contractor has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached, as Exhibit B, in lieu of the certificate showing current Workers' Compensation.

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

5. Indemnification. Contractor shall indemnify and hold Metro, its agents, employees and elected officials harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Agreement, or with any patent infringement or copyright claims arising out of the use of Contractor's designs or other materials by Metro and for any claims or disputes involving subcontractors.

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

7. Ownership of Documents. All documents of any nature including, but not limited to, reports, drawings, works of art and photographs, produced by Contractor pursuant to this Agreement are the property of Metro, and it is agreed by the parties that such documents are works made for hire. Contractor hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such documents.

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

9. Independent Contractor Status. Contractor shall be an independent contractor for all purposes and shall be entitled only to the compensation provided for in this Agreement. Under no circumstances shall Contractor be considered an employee of Metro. Contractor shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified in the Scope of Work. Contractor is solely responsible for its performance under this Agreement and the quality of its work; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified in the

Scope of Work; and for meeting all other requirements of law in carrying out this Agreement. Contractor shall identify and certify tax status and identification number through execution of IRS form W-9 prior to submitting any request for payment to Metro.

10. Right to Withhold Payments. Metro shall have the right to withhold from payments due to Contractor such sums as necessary, in Metro's sole opinion, to protect Metro against any loss, damage, or claim which may result from Contractor's performance or failure to perform under this Agreement or the failure of Contractor to make proper payment to any suppliers or subcontractors.

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

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

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

14. Termination. This Agreement may be terminated by mutual consent of the parties. In addition, Metro may terminate this Agreement by giving Contractor 30 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.

_____	METRO
By: _____	By: _____
Title: _____	Title: _____
Date: _____	Date: _____

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. (94-2037) FOR THE PURPOSE OF AUTHORIZING A COMPETITIVE BID EXEMPTION AND THE EXECUTION OF A SOLE-SOURCE CONTRACT WITH WESTERN ATTITUDES FOR THE CONTINUATION OF "CITI-SPEAK" PUBLIC OPINION SURVEYS.

Date: September 19, 1994

Presented by Merrie Waylett

### PROPOSED ACTION

Adoption of Resolution No. (94-2037) would authorize an exemption to competitive contract procedures and authorize the execution of the attached personal services contract (Exhibit B) with Western Attitudes. The contract will provide three public opinion surveys to determine public attitudes about a number of issues and programs staff and elected officials at Metro are concerned with during the contract period which runs through June 30, 1995.

### FACTUAL BACKGROUND

In September of 1991, Western Attitudes submitted a proposal to the Metro Executive Officer claiming to be "uniquely qualified" to conduct a series of community attitude surveys known as "Citi-Speak" and documenting their experience in performing such services for a number of cities, counties and special districts throughout the Portland Metropolitan area.

The Metro Executive Officer researched their claims, committed to a one-time "Citi-Speak: community attitude survey and executed a limited personal services contract with Western Attitudes. The Metro Executive was pleased with the results of that initial survey and additional surveys were commissioned, with questions designed by a panel representing the Executive Officer, Council, Metro Citizen Involvement Committee, the Metro Policy Advisory Committee, and the regional media. Results of the surveys were presented to Metro staff, Council, and members of Metro advisory groups to assist them in developing programs and policy.

The Metro Executive has been pleased with the results of those surveys, now feels that additional related work is warranted with funding proposed and approved for FY 1994-95, and is therefore requesting that the Metro Council, acting as Public Contract Review Board, authorize the execution of a new sole source contract with Western Attitudes for three community attitude surveys, to be conducted between October 1994 and June 30, 1995.

### EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 94-2037.

GOVERNMENTAL AFFAIRS COMMITTEE REPORT

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RESOLUTION NO. 94-2037, AUTHORIZING A COMPETITIVE BID EXEMPTION AND EXECUTION OF A SOLE SOURCE CONTRACT WITH WESTERN ATTITUDES FOR CONTINUATION OF CITI-SPEAK PUBLIC OPINION SURVEYS

Date: October 3, 1994

Presented by: Councilor McFarland

**COMMITTEE RECOMMENDATION:** At its September 27, 1994 meeting the Governmental Affairs Committee voted 4-0 to recommend Contract Review Board adoption of Resolution No. 94-2037. Voting in favor were Councilors Gates, McFarland, Van Bergen, and Wyers. Councilor Buchanan was absent.

**COMMITTEE DISCUSSION/ISSUES:** Merrie Waylett, Director of the Officer of Public and Governmental Relations, presented the staff report. She said the purpose of the three surveys proposed was to help the Executive, Council, and staff in setting and implementing policy, and said a panel would be created to help develop the issues to be surveyed. That panel would include representatives of Metro elected officials, MPAC, MCCI, and media experts, as outlined in item #2 of the scope of work.

Councilor Wyers asked how Metro has used the information from prior surveys. Ms. Waylett listed two examples. The first was in getting feedback from people on how they preferred getting information, which helped guide the decision to mail the Region 2040 survey to households. The second concerned the decision on the Wilsonville transfer station proposal, and the information from that survey was provided to the Council and Executive in making decisions on that project.

Councilor Van Bergen referred to Ms. Waylett's reference to "base case questions" to be developed for the surveys, and the broad spectrum of groups who will be consulted to develop those questions. He said his concern was that someone has to make decisions on which questions to ask, and not require consensus among all those consulted. Ms. Waylett said that representatives of the groups would be consulted, and their formal approval will not be required.