

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING A) RESOLUTION NO. 94-2038
COMPETITIVE BID EXEMPTION AND THE)
EXECUTION OF A SOLE-SOURCE CONTRACT) INTRODUCED BY
WITH PORTLAND CABLE ACCESS) RENA CUSMA
TELEVISION) EXECUTIVE OFFICER

WHEREAS, Portland Cable Access Television is a non-profit corporation which provides television airtime, studio access, and technical assistance for and on behalf of the public;

WHEREAS, The Metro Executive and the Council have a present need for such services to transmit information to the citizens of the Metro area, and to also establish additional ways for citizens of the region to communicate with elected officials and staff of Metro;

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 Portland Cable Access Television pursuant to Metro Code Section 2.04.060 for production and airing of nine programs on Metro, October 1994 - June 1995.

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



Judy Wyers, Presiding Officer

EXHIBIT A

SCOPE OF WORK

Portland Cable Access Television shall provide technical assistance for and produce nine cable television shows for Metro, including three town hall forums. PCAT will also arrange for airing the Metro cable program on the local government channel so it will reach viewers in Clackamas, Multnomah and Washington Counties in Oregon, and Clark County, Washington.

1. Portland Cable Access Television will produce nine cable access television programs during FY 1994-95, including three town hall forums which will allow viewers to telephone the studio with questions for Metro councilors and the Executive Officer. The programs will be aired in September, October and November 1994; and in January, February, March, April, May and June 1995.
2. PCAT staff will meet with Metro staff to come to agreement on number of programs, topics and basic production schedule.
3. Staff of Portland Cable Access television will communicate regularly with Office of Public and Government Relations personnel assigned as liaison and with any other Metro staff necessary for production of the Metro program. Communication will include anticipated airing schedules for each production.
4. Portland Cable Access will provide appropriate video footage to accompany program scripts which will be given to them by the Office of Public and Government Relations.
5. The public access television company will provide studio time and location for in-studio programs at a time to be agreed on between PCAT and Metro, and will also provide a professional host to moderate each show.
6. PCAT will preview rough cuts of each television program with representatives of Metro and make any reasonable changes which are suggested during the viewing. They will also arrange for Metro representatives to view the final version of each program prior to airing.
7. Portland Cable Access Television will provide Metro with a taped copy of each program.

Project Production of Metro Cable Program
 Contract No. 903959

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 Portland Cable Access Television, referred to herein as "Contractor," located at 2766 NE MLK Blvd., Portland OR 97212.

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 October 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 Eight Thousand AND no /100THS DOLLARS (\$ 8,000.00).
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. 94-2038 FOR THE PURPOSE OF AUTHORIZING A COMPETITIVE BID EXEMPTION AND THE EXECUTION OF A SOLE-SOURCE CONTRACT WITH PORTLAND CABLE ACCESS TELEVISION.

Date: September 19, 1994 Presented by Merrie Waylett

PROPOSED ACTION

Adoption of Resolution No. 94-2038 would authorize an exemption to competitive contract procedures and authorize the execution of the attached personal services contract (Exhibit B) with Portland Cable Access Television. The contract will provide for the production of nine television shows, including three town hall programs where members of the public will be able to call the studio and ask questions of Metro Councilors and the Executive Officer. The programs will be aired on the local government channel, reaching viewers throughout the Metro region and also in Clark County.

FACTUAL BACKGROUND

During consideration of the 1994-95 proposed budget and the merger of public affairs and government relations staff, much of the discussion centered on the need to find additional ways for Metro to reach citizens in the region, and for Metro to provide more opportunity for the public to communicate with the regional government. There are approximately 267,000 cable television subscribers in the Tri-County region, and an additional 50,000 more are served in Vancouver and Clark County. There are an additional 300,000 homes in the region which have cable passing by them but in which the residents have not yet chosen to subscribe to the service. PCAT has broadcast Metro Council meetings since 1992.

A total of \$10,000 was approved and included in the adopted budget for implementation of a Metro cable television show, \$8,000 of which will be used to pay a portion of the costs incurred under the contract. The remaining \$2,000 is to be spent on design and construction of a set for in-studio productions, and also for marketing to assist in building audience awareness of the program. Technical services beyond those covered by the contract will be made available to Metro for this year as part of Portland Cable Access Television's commitment to help regional government reach a larger constituency.

A meeting was held in July between representatives of Metro and Portland Cable Access to clarify goals of the cable television show and agree on responsibilities. The first program, an overview of Metro, was scheduled to be aired initially on September 26, 1994.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 94-2038.

GOVERNMENTAL AFFAIRS COMMITTEE REPORT

RESOLUTION NO. 94-2038, AUTHORIZING A COMPETITIVE BID EXEMPTION AND EXECUTION OF A SOLE SOURCE CONTRACT WITH PORTLAND CABLE ACCESS TELEVISION

Date: October 3, 1994

Presented by: Councilor Gates

COMMITTEE RECOMMENDATION: At its September 27, 1994 meeting the Governmental Affairs Committee voted 4-0 to recommend Contract Review Board adoption of Resolution No. 94-2038. Voting in favor were Councilor Gates, McFarland, Van Bergen and Wyers. Councilor Buchanan was absent.

COMMITTEE DISCUSSION/ISSUES: Merrie Waylett, Director of the Office of Public and Governmental Relations, presented the staff report. She discussed the prior evening's presentation of "Metro Matters" in response to a question from Councilor Gates. She outlined the proposed subject matter of scheduled monthly programs about Metro on cable access.

Councilor Van Bergen asked if staff had discussed presenting this series on Oregon Public Broadcasting (OPB), saying it would get far broader coverage. Ms. Waylett said they had not been consulted. Staff discussions were limited to Portland Cable Access because the \$10,000 budgeted for this project in 1994-95 was probably not enough to pay the costs to air the programs on OPB. Councilor Van Bergen said OPB would reach the many households without cable, and that arguments could be made that OPB should be doing more local production programming such as the proposed Metro project. He said he supports the idea of the program, but that the target is too low and more people would see the programs if they were aired on OPB. Councilor Gates asked if the programs could be re-broadcast on OPB. Ms. Waylett said she would explore that possibility with OPB.