

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING AN)
EXEMPTION TO METRO CODE CHAPTER)
2.04.41(c), COMPETITIVE BIDDING)
PROCEDURES, AND AUTHORIZING A)
SOLE-SOURCE CONTRACT WITH)
INFORMATION SYSTEMS, INC. FOR)
CONSULTING SERVICES FOR WEIGHT)
SYSTEMS SOFTWARE AT SOLID WASTE)
DISPOSAL FACILITIES)

RESOLUTION NO. 95-2155

Introduced by Mike Burton
Executive Officer

WHEREAS, Metro has a policy of weighing all solid waste loads at its solid waste transfer stations to determine customer disposal charges; and

WHEREAS, Metro utilizes a Weigh-Master computer system to prepare tickets for customers, record solid waste loads and prepare summary reports of scalehouse activities; and

WHEREAS, Information Services, Inc. designed and installed the Weigh-Master computer system and currently services the programs and software used to weigh, prepare tickets for and record solid waste loads at Metro disposal facilities; and

WHEREAS, Metro's contract with Information Services, Inc. for providing consulting services for weight system software at Metro's solid waste disposal facilities will expire June 30, 1995; and

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

WHEREAS, Information Services' Weigh-Master computer system is copyrighted and cannot be used or serviced by other vendors; and

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

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

ADOPTED by the Metro Council this 15 day of June, 1995.



J. Ruth McFarland, Presiding Officer

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Exhibit A
PERSONAL SERVICES AGREEMENT

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

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

1. Duration. This personal services agreement shall be effective July 1, 1995, and shall remain in effect until and including June 30, 1997, unless terminated or extended as provided in this Agreement.
2. Scope of Work. Contractor shall provide all services and materials specified in the attached "Exhibit A -- Scope of Work," which is incorporated into this Agreement by reference. All services and materials shall be provided by Contractor in accordance with the Scope of Work, in a competent and professional manner. To the extent that the Scope of Work contains additional contract provisions or waives any provision in the body of this Agreement, the Scope of Work shall control.
3. Payment. Metro shall pay Contractor for services performed and materials delivered in the amount(s), manner and at the time(s) specified in the attached "Exhibit B - Schedule of Fees" for a maximum sum not to exceed TWENTY THOUSAND AND NO/100THS DOLLARS (\$20,000).
4. Insurance.
 - a. Contractor shall purchase and maintain at the Contractor's expense, the following types of insurance, covering the Contractor, its employees, and agents:
 - (1) Broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and
 - (2) Automobile bodily injury and property damage liability insurance.
 - b. Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
 - c. Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDs. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.
 - d. Contractor, its subcontractors, if any, and all employers working under this Agreement that are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

INFORMATION SYSTEMS, INC.

METRO

By: _____

By: _____

Print name and title

Print name and title

Date: _____

Date: _____

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EXHIBIT "A"
SCOPE OF WORK

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

Metro South Station
Washington Street
Oregon City, OR 97045

Metro Central Station
NW 61st
Portland, OR 97219

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

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**EXHIBIT "B"
SCHEDULE OF FEES**

Site Licenses - Computer Software (Weigh Master System)

- Additional sites \$ 5,000

Support Plan - Weigh Master System Computer Software

3,000/year

- Metro South Station
- Metro Central Station
- Additional Sites 500/year

Data Processing Services

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

- Systems Analyst 95/hour
- Programmer/Analyst 85/hour
- Clerical 35/hour

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

Travel Costs (coach class)

Actual cost

Travel Time

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

Per Diem Charges - (\$185)

Actual cost

- Meals (per diem \$25) Actual cost
- Auto Rental (per diem \$60) Actual cost
- Lodging (per diem \$100) Actual cost

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METRO

600 NE Grand Ave.
Portland, OR 97232
(503) 797-1700

Procurement Review Summary

To: Procurement and Contracts Division

Vendor

From _____

Date May 3, 1995

Information Systems, Inc.

Department Solid Waste

Mill Centre, Ste. 210
3000 Chestnut Ave.

Division Operations

Subject

Baltimore, MD 21211

Name Ray Barker

Bid

Contract

Vendor no. _____

Title Assistant Operations Mgr.

RFP

Other

Contract no. _____

Extension 1694

Purpose Consulting Services for Weight System Software at
Solid Waste Transfer Stations

Expense

Procurement Personal/professional services Services (LM) Construction IGA

Revenue

Budget code(s)

Price basis

Term

Contract

531-310274-524210-75000

Unit

Completion

Grant

531-310275-524210-75000

Total

Annual

Other

Other

Multi-year**

This project is listed in the
199__ -199__ budget.

Payment required

July 1, 1995

Yes

Type A

Lump sum

Beginning date

No

Type B

Progress payments

June 30, 1997

Ending date

Total commitment	Original amount	\$ <u>20,000.00</u>
	Previous amendments	\$ _____
	This transaction	\$ <u>20,000.00</u>
	Total	\$ <u>20,000.00</u>
	A. Amount of contract to be spent fiscal year <u>1995</u> - <u>1996</u>	\$ <u>10,000.00</u>
	B. Amount budgeted for contract <u>Data Process Service</u>	\$ <u>10,000.00</u>
	C. Uncommitted/discretionary funds remaining as of <u>5/3/95</u>	\$ <u>10,000.00</u> ***

Approvals

Division manager _____

Department director _____

Labor _____

Fiscal _____

Budget _____

Risk _____

Legal _____

Competitive quotes, bids or proposals:

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

Comments: _____

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

Instructions:

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

Special program requirements:

General liability: _____ / _____ / _____

Liquidated damages \$ _____ day.

<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 \$ _____

_____ % L/M \$ _____

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

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

SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 95-2155, FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO METRO CODE CHAPTER 2.04.41(C), COMPETITIVE BIDDING PROCEDURES, AND AUTHORIZING A SOLE-SOURCE CONTRACT WITH INFORMATION SERVICES, INC. FOR CONSULTING SERVICES FOR WEIGHT SYSTEMS SOFTWARE AT SOLID WASTE DISPOSAL FACILITIES

Date: June 7, 1995

Presented by: Councilor McLain

Committee Recommendation: At the June 6 meeting, the Committee voted unanimously to recommend Council adoption of Resolution No. 95-2155. Voting in favor: Councilors Kvistad, McFarland and McLain.

Committee Issues/Discussion: Council Analyst Houser reviewed the purpose of the proposed resolution. He noted Metro has installed computerized weight measurement systems at both transfer stations. The system is a proprietary system that was developed and sold only by Information Systems Inc.(ISI). Therefore, this resolution provides for a sole-source contract with ISI for the maintenance of the system. The issue is before the Council because it is a sole-source multi-year contract

Ray Barker, Solid Waste Operations Division, presented the staff report. He noted that the department has been very satisfied with the level of maintenance and consulting services that ISI has provided since the initial installation of the Weighmaster system. He explained that as ISI has fine-tuned the system and Metro staff have become more familiar with it, the maintenance costs have steadily declined. The proposed contract will be for \$20,000 for a two year period. Barker also praised ISI for their willingness to make modifications to improve the system. He noted that many other designated facilities in the region either use the Weighmaster or compatible systems.

Councilor Kvistad asked how long Metro had been associated with ISI. Barker responded that the system had been initially installed at Metro South in either 1988 or 1989 and that ISI had maintained the system since its installation. He also commented that replacing the current system would probably cost in excess of \$50,000.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 95-2155 FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO METRO CODE CHAPTER 2.04.041(c), COMPETITIVE BIDDING PROCEDURES, AND AUTHORIZING A SOLE-SOURCE CONTRACT WITH INFORMATION SYSTEMS, INC., FOR CONSULTING SERVICES FOR WEIGHT SYSTEMS SOFTWARE AT SOLID WASTE DISPOSAL FACILITIES

Date: May 3, 1995

Presented by: Sam Chandler

PROPOSED ACTION

Adoption of Resolution No. 95-2155, authorizing an exemption to competitive bidding procedures, and authorizing the execution of a personal services contract for computer software services at solid waste disposal facilities.

FACTUAL BACKGROUND AND ANALYSIS

Metro implemented a policy in February 1991 of weighing all vehicles at Metro solid waste disposal facilities to determine customer disposal charges. Previously, only the loads of commercial haulers were weighed. Metro utilizes a Weigh-Master computer system to prepare tickets for thousands of customers and record solid waste loads at its transfer stations. The system is also used to prepare summary reports of scalehouse activity. The Weigh-Master computer system was designed, installed and is being serviced by Information Systems, Inc. (ISI). The personal services contract between Metro and ISI expires June 30, 1995.

It is proposed that Metro enter into a new computer software services contract with ISI for the weighing systems at the scalehouses at Metro South and Metro Central transfer stations. The proposed contract provides unlimited telephone support for Metro's questions; programming and training support; routine enhancements to the system; and access to major improvements, additions or other custom programming to the Weigh-Master system. The length of the contract is two years. The total cost of the contract is \$20,000. Metro has found ISI to be experienced, competent and very responsive. Their services have been excellent.

SOLE-SOURCE JUSTIFICATION

ISI designed the programs and software for the computer weight systems currently in use at Metro's solid waste disposal facilities. The Weigh-Master Computer System is a proprietary product of ISI. It is copyrighted and cannot be used or serviced by other vendors. It is believed that a contract with another vendor to design, install and service a comparable computer system would cost more than the proposed contract with ISI.

BUDGET IMPACT

A total of \$10,000 is budgeted for the proposed contract in FY 1995-96. Estimated costs for FY 1995-96 are summarized as follows:

Software Support Plan	\$ 3,000
◆ Metro South Station	
◆ Metro Central Station	
Data Processing Services	7,000
◆ Systems Analyst	
◆ Programmer/Analyst	
◆ Travel Costs	
◆ Per Diem Charges	
	TOTAL \$10,000

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 95-2155