

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING THE)
EXECUTIVE OFFICER TO AMEND PUBLIC) RESOLUTION NO. 96-2262
CONTRACT 904257 WITH UNITED RECYCLING)
TO PURCHASE MANUFACTURING EQUIPMENT) Introduced by Mike Burton
UNDER THE METRO RECYCLING BUSINESS) Executive Officer
DEVELOPMENT GRANT PROGRAM)

WHEREAS, A technical evaluation committee in April 1995 selected United Recycling, Inc. (URI) to receive a Metro Recycling Business Development Grant for \$27,500; and

WHEREAS, The Metro Council in May 1995 authorized the Executive Officer to enter into a public contract with (URI) to use grant funds to purchase two industrial shredders; and

WHEREAS, URI has installed one of these shredders; and

WHEREAS, Metro has disbursed \$15,000 of this \$27,500 grant to URI, leaving an outstanding balance of \$12,500; and

WHEREAS, The Recycling Business Development Grant is a matching grant; and

WHEREAS, URI has matched \$15,000 in Metro grant funds received with \$121,000 of its own funds (i.e., cash and debt) for this project; and

WHEREAS, URI is on course to achieve the objectives stated in the grant contract; and

WHEREAS, Changes in URI's markets have dictated they modify the way they implement the project partially funded by the grant;

WHEREAS, It is not prudent at this time for URI to purchase one of the shredders called for in its contract; and

WHEREAS, URI has incurred significant additional expenses (e.g., electrical system upgrade required by the utility) to complete the project; and

WHEREAS, URI used debt financing (in anticipation of receiving undisbursed grant funds) to temporarily cover additional expenses required to complete the project;

WHEREAS, URI is poised to move to its next stage of development, given sufficient cash flow; and

WHEREAS, Payment of additional expenses required to complete this project reduce URI's cash flow and impede its planned growth; and

WHEREAS, URI's planned growth will increase demand for locally generated drywall waste; and

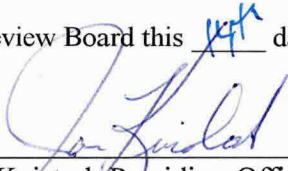
WHEREAS, Fostering development of the local recycling industry is an objective of the Regional Solid Waste Management Plan; and

WHEREAS, The Solicitation for Applications (RFP #94R-40-SW) governing the Recycling Business Development Grant Program allows grant funds to be used for plant upgrades (i.e., electrical system improvements); now therefore,

BE IT RESOLVED,

That the Metro Council authorizes the Executive Officer to amend Public Contract 904257 with United Recycling, Inc. per the terms and conditions specified in Change Order No. 1 (attached as Exhibit A) to this resolution.

ADOPTED by the Metro Contract Review Board this 14th day of March, 1995.



Jon Kvistad, Presiding Officer

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 96-2262 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO AMEND PUBLIC CONTRACT 904257 WITH UNITED RECYCLING FOR THE PURCHASE OF MANUFACTURING EQUIPMENT UNDER THE METRO RECYCLING BUSINESS DEVELOPMENT GRANT PROGRAM.

Date: December 20, 1995

Presented by: Debbie Gorham
Andy Sloop

PROPOSED ACTION

Approval of Resolution No. 96-2262, authorizing the Executive Officer to amend Public Contract 904257 with United Recycling for the purchase of manufacturing equipment under the Metro Recycling Business Development Grant Program.

BACKGROUND

The Waste Reduction budget for FY 1994-95 included \$55,000 for a recycling business development grant program. A technical evaluation committee selected two projects for funding. Each received \$15,000 in FY 1994-95. The balance of the grant funds (\$12,500 for each recipient) has been carried over to FY 1995-96. The proposed contract amendment will not change the dollar value of the original contract with United Recycling (URI), the grantee seeking the amendment.

URI is seeking the contract amendment because changes in its product markets have dictated that it modify the way it implements the project partially funded by the grant. As a result of market changes, it is not prudent at this time for URI to purchase one of the shredders called for in its contract. At the same time, though, URI has incurred significant additional expenses (e.g., electrical system upgrade required by the utility) to complete its grant project. URI used debt financing (in anticipation of receiving undisbursed grant funds) to temporarily cover these expenses.

URI is an emerging drywall recycler located in North Plains. URI's primary product is gypsum fertilizer in a pelletized form. URI is using Metro grant funds to improve the efficiency and throughput of its processing system. Grant funds are also earmarked to develop the ability to convert wallboard facepaper residue into marketable products, thus eliminating the need for disposal. URI has invested approximately \$121,000 of its own money (cash and debt) in this project.

Public Contract 904257 with (URI) is a multi-year contract that extends through June 30, 1996. This contract called for the purchase and installation of two shredders, one to pre-shred large pieces of wallboard for feeding into a crusher, and the other to finely shred facepaper residue to specifications for a particular market. After installing the first shredder, the targeted user of the fine-shred facepaper deferred use of this product indefinitely. At the same time, Portland General Electric required URI to upgrade its processing plant electrical systems in conjunction with installation of the first shredder. This was work which should have been included in the

subcontractor quote for fabrication of the first shredder, but wasn't. Thus, it is not prudent for URI to purchase the second shredder at this time, and URI has incurred \$24,000 in unanticipated expenses required to complete the project.

Staff has visited URI's processing plant twice during the project. Staff also has reviewed detailed business information for URI and is satisfied with the company's performance. As a direct result of plant improvements partially financed with the Metro grant, URI's average monthly output has increased from approximately 100 tons in December 1994, to more than 400 tons currently. Moreover, these plant improvements have lead to stronger product demand due to increased customer confidence in meeting delivery schedules. This has enabled URI to raise its product price from \$50 to \$58 per ton and to lower its tipping fees to attract more waste wallboard.

URI is working diligently to develop several markets for the facepaper residue and may make additional plant improvements once a market is secured.

Cash flow allowing, URI is planning to add staff and implement plant improvements in response to increased product demand. It achieved a positive cash flow for the first time in October 1995. Disbursement of the grant funds will help ensure adequate cash flow for the company to move to its next stage of development. Fostering such development is consistent with the objectives of the grant program and Metro's Regional Solid Waste Management Plan.

According to the pertinent Solicitation for Applications (RFP #94R-40-SW), grant funds may be used for plant upgrades (i.e., electrical system improvements).

BUDGET IMPACT

The FY 1995-96 Regional Environmental Management Department budget contains \$25,000 for 1994-96 recycling business development grant projects, \$12,500 of which is earmarked for this contract.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 96-2262.

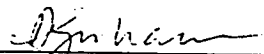
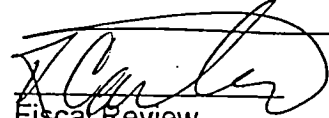
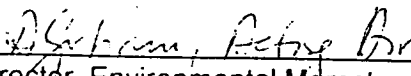
CHANGE ORDER SUMMARY

CONTRACTOR: United Recycling
PROJECT: Purchase, Install & Test Shredder and Conveyor
PURPOSE: Additional Services
CONTRACT NO.: 904257 **BUDGET NO.** 531-310320-524190-75990
DEPARTMENT: Regional Environmental Management
ACCOUNT NAME Operating

THIS REQUEST IS FOR APPROVAL OF CHANGE NUMBER: 1

1. The original contract sum was	\$27,500.00
2. Net change by previously authorized change order	\$0.00
3. The contract sum prior to this request was	\$27,500.00
4. Total amount of this change order request	\$0.00
5. The new contract sum, including this change order	\$27,500.00
6. The contract sum paid in FY 94-95	\$15,000.00
The contract sum paid in FY 95-96	\$0.00
7. Fiscal Year appropriation for FY 95-96	\$958,010.00
Line item name: Misc. Prof. Services	
Estimated appropriation remaining as of 12/22/95	\$865,175.08
8. Start Date: 12/28/95 Expire Date: 6/30/96	

REVIEW AND APPROVAL:

 Manager, Environmental Mgmt.	1-3-96 Date	 Fiscal Review	Date
 Director, Environmental Mgmt.	1-3-96 Date	Budget Review	Date
Director, Administrative Services VENDOR #12915	Date	Legal Review	Date

MODIFICATION TO THE CONTRACT BETWEEN METRO AND UNITED RECYCLING

This change order, dated as of the last signature date below, is entered into between Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, and United Recycling, Inc., "Contractor," pursuant to the Public Contract dated May 18, 1995 (the "original contract"). In exchange for the promises and other valuable consideration described in the original contract, subsequent change orders, and this change order, the parties agree as follows:

1. Contractor has provided the following additional work and/or items as of the date of this contract amendment:

Upgraded processing plant electrical systems as required for operation of processing equipment purchased under the "original contract" (904257).
2. Metro agrees to pay the Contractor the lump sum of \$12,500 for the above-described services and/or materials. This is the amount of grant funds from the "original contract" that have not been disbursed as of the date of this change order. Metro shall pay the Contractor immediately upon execution of this change order.
3. Contractor will not purchase the shredder per Section 1. A., paragraph 5 of the "original contract," as this equipment is not needed to accomplish the objectives of the contract.
4. The maximum compensation which Metro shall be obligated to pay the Contractor pursuant to this change order shall be \$12,500. The maximum contract price in the original contract is not affected by this change order.

Except as modified herein, all other terms and conditions of the original contract and previous change orders (if any) remain in full force and effect.

UNITED RECYCLING, INC.

METRO

Signature

Signature

Print name and title

Print name and title

Date

Date

PUBLIC CONTRACT

THIS Contract is entered into between Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, whose address is 600 NE Grand Avenue, Portland, Oregon 97232, and United Recycling, whose address is 1190 SE Frontage Road, North Plains, Oregon 97133, hereinafter referred to as the "CONTRACTOR."

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

ARTICLE I
SCOPE OF WORK

CONTRACTOR shall perform the work and/or deliver to METRO the goods described in Attachment A, the Scope of Work, which is incorporated herein by this reference. All services and goods shall be of good quality and, otherwise, in accordance with the Scope of Work.

ARTICLE II
TERM OF CONTRACT

The term of this Contract shall be for the period commencing May 1, 1995, through and including June 30, 1996.

ARTICLE III
CONTRACT SUM AND TERMS OF PAYMENT

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

ARTICLE IV
LIABILITY AND INDEMNITY

CONTRACTOR is an independent contractor and assumes full responsibility for the content of its work and performance of CONTRACTOR's labor, and assumes full responsibility for all liability for bodily injury or physical damage to person or property arising out of or related to this Contract, and shall indemnify, defend and hold harmless METRO, its agents and employees, from any and all claims, demands, damages, actions, losses, and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Contract. CONTRACTOR is solely responsible for paying CONTRACTOR's subcontractors and nothing contained herein shall create or be construed to create any contractual relationship between any subcontractor(s) and METRO.

ARTICLE V
TERMINATION

METRO may terminate this Contract upon giving CONTRACTOR seven (7) days written notice. In the event of termination, CONTRACTOR shall be entitled to payment for work performed to the date of termination. METRO shall not be liable for indirect or consequential damages. Termination by METRO will not waive any claim or remedies it may have against CONTRACTOR.

ARTICLE VI
INSURANCE

CONTRACTOR shall purchase and maintain at CONTRACTOR's expense, the following types of insurance covering the CONTRACTOR, its employees and agents.

A. Broad form comprehensive general liability insurance covering personal injury, property damage, and bodily injury with automatic coverage for premises and operation and product liability. The policy must be endorsed with contractual liability coverage.

B. Automobile bodily injury and property damage liability insurance.

Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an aggregate limit, the aggregate limit shall not be less than \$1,000,000. METRO, its elected officials, departments, employees, and agents shall be named as an ADDITIONAL INSURED. Notice of any material change or policy cancellation shall be provided to METRO thirty (30) days prior to the change.

This insurance as well as all workers' compensation coverage for compliance with ORS 656.017 must cover CONTRACTOR's operations under this Contract, whether such operations be by CONTRACTOR or by any subcontractor or anyone directly or indirectly employed by either of them.

CONTRACTOR shall provide METRO with a certificate of insurance complying with this article and naming METRO as an insured within fifteen (15) days of execution of this Contract or twenty-four (24) hours before services under this Contract commence, whichever date is earlier.

ARTICLE VII
PUBLIC CONTRACTS

All applicable provisions of ORS chapters 187 and 279, and all other terms and conditions necessary to be inserted into public contracts in the State of Oregon, are hereby incorporated as if such provision were a part of this Agreement, including, but not limited to, ORS 279.310 to 279.320. Specifically, it is a condition of this contract that Contractor and all employers working under this Agreement are subject employers that will comply with ORS 656.017 as required by 1989 Oregon Laws, Chapter 684.

ARTICLE VIII
ATTORNEY'S FEES

In the event of any litigation concerning this Contract, the prevailing party shall be entitled to reasonable attorney's fees and court costs, including fees and costs on appeal to any appellate courts.

ARTICLE IX
QUALITY OF GOODS AND SERVICES

Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of the highest quality. All workers and subcontractors shall be skilled in their trades.

CONTRACTOR guarantees all work against defects in material or workmanship for a period of one (1) year from the date of acceptance or final payment by METRO, whichever is later. All guarantees and warranties of goods furnished to CONTRACTOR or subcontractors by any manufacturer or supplier shall be deemed to run to the benefit of METRO.

ARTICLE X
OWNERSHIP OF DOCUMENTS

All documents of any nature including, but not limited to, reports, drawings, works of art and photographs, produced by CONTRACTOR pursuant to this agreement are the property of METRO and it is agreed by the parties hereto that such documents are works made for hire. CONTRACTOR does hereby convey, transfer and grant to METRO all rights of reproduction and the copyright to all such documents.

ARTICLE XI
SUBCONTRACTORS

CONTRACTOR shall contact METRO prior to negotiating any subcontracts and CONTRACTOR shall obtain approval from METRO before entering into any subcontracts for the performance of any of the services and/or supply of any of the goods covered by this Contract.

METRO reserves the right to reasonably reject any subcontractor or supplier and no increase in the CONTRACTOR's compensation shall result thereby. All subcontracts related to this Contract shall include the terms and conditions of this agreement. CONTRACTOR shall be fully responsible for all of its subcontractors as provided in Article IV.

ARTICLE XII
RIGHT TO WITHHOLD PAYMENTS

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

If a liquidated damages provision is contained in the Scope of Work and if CONTRACTOR has, in METRO's opinion, violated that provision, METRO shall have the right to withhold from payments due CONTRACTOR such sums as shall satisfy that provision. All sums withheld by METRO under this Article shall become the property of METRO and CONTRACTOR shall have no right to such sums to the extent that CONTRACTOR has breached this Contract.

ARTICLE XIII
SAFETY

If services of any nature are to be performed pursuant to this agreement, CONTRACTOR shall take all necessary precautions for the safety of employees and others in the vicinity of the services being performed and shall comply with all applicable provisions of federal, state and local safety laws and building codes, including the acquisition of any required permits.

ARTICLE XIV
INTEGRATION OF CONTRACT DOCUMENTS


All of the provisions of any bidding documents including, but not limited to, the Advertisement for Bids, Request for Bids or Proposals, General and Special Instructions to Bidders, Proposal, Bid, Scope of Work, and Specifications which were utilized in conjunction with the bidding of this Contract are hereby expressly incorporated by reference. Otherwise, this Contract represents the entire and integrated agreement between METRO and CONTRACTOR and supersedes all prior negotiations, representations or agreements, either written or oral. This Contract may be amended only by written instrument signed by both METRO and CONTRACTOR. The law of the state of Oregon shall govern the construction and interpretation of this Contract.

ARTICLE XV
ASSIGNMENT

CONTRACTOR shall not assign any rights or obligations under or arising from this Contract without prior written consent from METRO.

UNITED RECYCLING

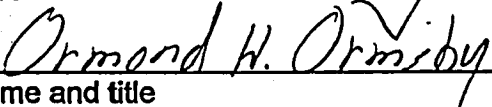
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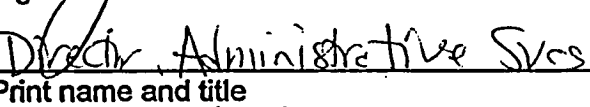
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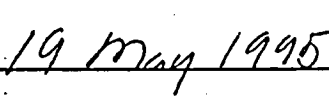
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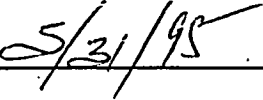
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Date



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Attachment A

SCOPE OF WORK

1. Description of the Work.

A. Purchase, Install, Test and Equipment

Contractor will purchase, install, test, and operate certain shredding and related production equipment.

The first such equipment will be acquired from Pacific Shredder Technologies, Inc., 1335 NW Northrup St., Portland, Oregon. This equipment has the following nomenclature and description.

1. Shredder: Model PST 11-48 HS, 100 H.P.
2. Conveyor: Hydraulic Discharge

Equipment will be placed at the beginning of the production line in such manner as to reduce random sized drywall received from various suppliers. The intent of this equipment and its operation is to create a uniform sized material which will provide consistent feeding of equipment down line.

This change is anticipated to result in greater production of gypsum powder through the creation of even flow rates and material that is optimally sized for introduction into crushing equipment. The increased exposed surface area of the reduced drywall will also increase the recovery of gypsum from the paper backing and further expedite separation of the two materials.

The second piece of equipment complements the first. It will further reduce the paper backing for subsequent resale.

This equipment will be procured through a competitive bid process.

B. Project Monitoring and Reporting

Metro staff will visit the Contractor's site periodically to monitor implementation of the Contractor's grant project. With the exception of proprietary processing and financial information, all observations and information obtained during these visits will become part of the public record.

The Contractor will prepare three progress reports for Metro. The first must be received at Metro's offices 30 days after installation of the first shredder purchased under this contract. The second must be received at Metro's offices by December 30, 1995. The third must be received by June 30, 1996. These reports shall contain the following information:

1. Total tons of drywall *received* each month from generators in the Metro area, from July 1, 1994, through the month preceding the report.

2. Total tons of drywall *received* each month from generators outside the Metro area, from July 1, 1994, through the month preceding the report.
3. Total tons of drywall *processed* each month, from July 1, 1994, through the month preceding the report.
4. Number of tipping accounts, loads tipped and gross tipping revenue, by month, from July 1, 1994, through the month preceding the report.
5. Total tons of product sold and gross revenues for each product, by month, from July 1, 1994, through the month preceding the report.
6. Total employees and total salaries and wages, by month, from July 1, 1994, through the month preceding the report.
7. Brief narrative description/journal of barriers encountered during implementation of grant project, strategies to overcome barriers, and results of implementing strategies.

C. Conditions

1. Contractor will continue to test products regularly to ensure that they are safe for their intended agricultural uses.
2. A minimum of 50 percent of the post-consumer recycled material used in the Contractor's product will be from the Metro area.

D. Additional Documents

Metro's Solicitation for Applications for Recycling Business Development Grant (RFP #94R-40-SW), and Contractor's Grant Application, including business plan, are incorporated into this contract by this reference. In the event of any conflict, this contract, and then the Solicitation, shall prevail.

2. Payment and Billing.

Contractor shall perform the above work for a maximum price not to exceed TWENTY-SEVEN THOUSAND, FIVE HUNDRED DOLLARS (\$27,500).

The maximum price includes all fees, costs and expenses of whatever nature. Metro will pay Contractor in two installments. The first installment will be \$15,000 payable within 30 days of contract execution and prior to June 30, 1995. The second payment will be \$12,500. This payment will be contingent upon receipt of the first progress report and satisfactory installation and start-up of the first shredder purchased under this contract. The second payment will be payable prior to June 30, 1996.

Contractor will provide Metro with itemized invoices for all equipment purchased under this grant.