

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF EXEMPTING) RESOLUTION NO. 96-2291
A HOUSING AFFORDABILITY CONTRACT)
TO LENNERTZ & COYLE FROM) Introduced by Mike Burton,
COMPETITIVE BID) Executive Officer and
) Councilor Ed Washington

WHEREAS, housing affordability became an important issue during consideration of the 2040 Growth Concept and Regional Urban Growth Goals and Objectives; and

WHEREAS, Metro has been approached by Lennertz and Coyle, an architecture and planning firm, offering their services to conduct a housing affordability charrette and bring together local and regional elected officials, private sector representatives and public interest groups to reach agreement on actions that government, the private sector and interest groups can take to reduce the cost and increase the availability of housing especially for lower and middle income households; and

WHEREAS, Lennertz and Coyle have worked with private developers, public interest representatives, and local government staff to put together this proposal; and

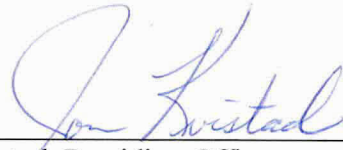
WHEREAS, Lennertz and Coyle have committed to raising half of the funds necessary to conduct this charrette, thereby reducing the cost to Metro; and

WHEREAS, Lennertz and Coyle have extensive experience and expertise in developing and facilitating charrettes and with planning issues; now therefore,

BE IT RESOLVED,

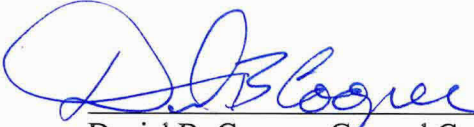
That the Metro Contract Review Board pursuant to Metro Code Section 2.04.041(c) declares that this transaction is hereby exempt from competitive bidding.

ADOPTED by the Metro Contract Review Board this 28th day of March, 1996.



Jon Kvistad, Presiding Officer

Approved as to Form:



Daniel B. Cooper, General Counsel

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 96-2291 FOR THE PURPOSE OF EXEMPTING A HOUSING AFFORDABILITY CONTRACT WITH LENNERTZ & COYLE FROM COMPETITIVE BID

Date: February 21, 1996

Presented by: John Fregonese

FACTUAL BACKGROUND AND ANALYSIS

Section 2.04.041(c) of the Metro Code allows the Contract Review Board, where appropriate, to exempt specific contracts from the general requirement for competitive bidding.

Last summer, Metro was approached by Lennertz & Coyle, an architecture and planning firm, offering their services to conduct a charrette on affordable housing. During deliberations on the Region 2040 Growth Concept and Regional Urban Growth Goals and Objectives (RUGGOs), staff heard from the public and from the Council that affordable housing was an issue that needed to be addressed.

The charrette as proposed would bring together local and regional elected officials and staff, the private sector (developers and financiers) and public interest groups to reach agreement on 10 to 15 actions that government, the private sector and interest groups can take -- other than expanding the Urban Growth Boundary -- to reduce the cost and increase the availability of housing especially for lower and middle income households (those with incomes of less than \$50,000). Under their proposal, the proposers would, with the assistance of a project team including Metro, identify charrette participants, gather base data for case studies, manage charrette logistics, prepare participant questionnaires, conduct a one and one-half day workshop (charrette), and produce a summary report. Metro would pay 50 percent of the charrette costs, or \$9,000, and the proposers will solicit the remaining 50 percent costs from the private sector.

Because Lennertz & Coyle have been working for several months with private developers, local government staff, and public interest representatives and because they have extensive experience and expertise in developing and facilitating charrettes and in planning issues, we propose to award a sole source contract to organize and complete this project.

BUDGET IMPACT

The Growth Management Department has sufficient funds in its FY 1995-96 budget to fund this contract.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 96-2291.

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 Lennertz & Coyle, referred to herein as "Contractor," located at 321 SW 4th, Suite 400, Portland, OR 97204.

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 March 15, 1996 and shall remain in effect until and including June 30, 1996, 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 a maximum sum not to exceed Nine Thousand and 00/100ths Dollars (\$9,000).
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 seven 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.

LENNERTZ & COYLE

METRO

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

**Exhibit A
Scope of Work**

Contractor will perform the following tasks:

1. With the assistance and approval of Metro, Contractor will select participants for a housing affordability charrette providing a balance of viewpoints and including the private sector, public sector, and public interest groups.
2. Develop with Metro hypothetical or actual projects that present a series of problems for assuring affordable housing.
3. Provide logistical support for conducting the charrette including, but not limited to, preparing materials for participants, arranging for meeting space, training discussion leaders, and supervising the charrette.
4. Facilitate the charrette discussion to reach agreement on 10 to 15 key actions that local and regional governments, the private sector, and public interest groups can do to reduce the cost and increase the availability of housing especially for lower and middle income households.
5. Prepare a written final report and assist with distribution.

Metro will:

1. Act as a co-convenor of the charrette with private sector funders.
2. Assist with distribution of the final report.

Payment Schedule:

Contractor will submit invoices in the following manner: one-half of the total contract upon the signing of the contract, and one-half of the total contract upon completion and receipt of the final report. All payments are subject to the review and approval of Metro before payment can occur. All payments to Contractor shall be made no later than thirty (30) days after approval of invoice.