

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE	)	RESOLUTION NO. 96-2305
EXECUTIVE OFFICER TO ENTER INTO AN	)	
AGREEMENT WITH THE OREGON DEPART-	)	Introduced by Mike Burton
MENT OF ENVIRONMENTAL QUALITY FOR	)	Executive Officer
THE PURPOSE OF FUNDING REGULATORY	)	
OVERSIGHT OF ST. JOHNS LANDFILL	)	

WHEREAS, Metro is implementing its Revised Closure and Financial Assurance Plan for St. Johns Landfill and its Natural Resources Management Plan for Smith and Bybee Lakes by constructing environmental protection improvements on St. Johns Landfill and continuing to monitor its environmental impact; and

WHEREAS, This effort can be most cost effectively carried out if Metro negotiates with the Oregon Department of Environmental Quality (DEQ) within a consistent and predictable regulatory framework; and


WHEREAS, a consistent and predictable regulatory framework is promoted if Metro enters into an agreement with the Site Response Section of the DEQ Environmental Clean-up Division to pay for a regulatory oversight at this time; and

WHEREAS, The resolution was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now therefore,

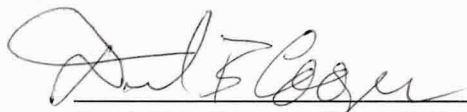
BE IT RESOLVED, That the Metro Council authorizes the Executive Officer to enter into Letter Agreement 904902 (Attached as Exhibit A) with the Oregon Department of

Environmental Quality for Metro to fund regulatory oversight by the DEQ Site Response Program.

ADOPTED by the Metro Contract Review Board this 11<sup>th</sup> day of April, 1996.

  
\_\_\_\_\_  
Jon Kvistad, Presiding Officer

Approved as to Form:

  
\_\_\_\_\_  
Daniel B. Cooper, General Counsel

DO:elk  
S:\SHARE\ONE\DEQ\AGMT.RES

# TRANSMITTAL SUMMARY

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736  
 TEL 503 797 1700 | FAX 503 797 1799



**METRO**

To: Risk and Contracts Management

From: \_\_\_\_\_  
 Department REM  
 Division Engineering  
 Name Dennis O'Neil  
 Title Sr. SW Planner  
 Extension 1197

Date 3/13/96 Vendor DEQ  
 Subject 2020 SW 4th Ave Side 4C  
 Bid  Contract Portland OR 97201  
 RFP  Other Vendor no. \_\_\_\_\_  
 Purpose Site Response Program at SIF Contract no. 904902

Expense  
 Procurement  Personal/professional services  Services (L/M)  Construction  IGA

Revenue <input type="checkbox"/> Contract <input type="checkbox"/> Grant <input type="checkbox"/> Other	Budget code(s) <u>531-319000-52490-75960</u> This project is listed in the 199 <u>5</u> -199 <u>6</u> budget. <input type="checkbox"/> Yes <input type="checkbox"/> Type A <input checked="" type="checkbox"/> No <input type="checkbox"/> Type B	Price basis <input type="checkbox"/> Unit prices, NTE <input type="checkbox"/> Per task <input checked="" type="checkbox"/> Total/lump sum Payment required <input type="checkbox"/> Lump sum <input checked="" type="checkbox"/> Progress payments	Contract term <input checked="" type="checkbox"/> Completion* <input type="checkbox"/> Annual <input type="checkbox"/> Multi-year** Beginning date* <u>3/15/96</u> Ending date <u>Open</u>
------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Total commitment	Original amount	\$ <u>50,000<sup>00</sup></u>
	Previous amendments	\$ _____
	This transaction	\$ _____
	Total	\$ <u>50,000<sup>00</sup></u>
	A. Amount of contract to be spent fiscal year <u>95-96</u>	\$ <u>35,000<sup>00</sup></u>
	B. Amount budgeted for contract <u>Misc Prof Services</u>	\$ <u>7,210,000<sup>00</sup></u>
	C. Uncommitted/discretionary funds remaining as of <u>3/8/96</u>	\$ <u>4,384,492<sup>96</sup></u> ...

Approvals

Project manager <u>[Signature]</u>	Division manager <u>[Signature]</u>	Department director <u>[Signature]</u>
Fiscal	Budget manager	Risk
Legal		

Competitive quotes, bids or proposals

Submitted by	\$Amount	M/W/DBE	Foreign or Oregon contractor
Submitted by	\$Amount	M/W/DBE	Foreign or Oregon contractor
Submitted by	\$Amount	M/W/DBE	Foreign or Oregon contractor

Comments

Attachments  Ad for bid  Plans and specifications  Bidders list (M/W/DBEs included)

Instructions

- Secure contract number from Risk and Contracts Management. Place number on the transmittal summary and all contract copies.
- Complete transmittal summary form to the extent of project completion.
- If contract is:
  - Sole source, attach memo detailing justification pursuant to ORS 279.
  - Less than \$2,500, attach memo detailing need for contract and contractor's capabilities, bids, etc.
  - More than \$2,500 but less than \$25,000, attach quotes, informal solicitations, evaluation forms, etc.
  - More than \$25,000 attach RFP/RFB complete with summary, all required documents and all evaluation, utilization forms.
- List and identify all subcontractors below.
- Provide completed RFB/RFP packet to Risk and Contracts Management.

Subcontractor/supplier  
 Address  
 City/state/ZIP  
 Phone

M/W/DBE certified Ethnicity  
 Type of work  
 Dollar amount

Subcontractor/supplier  
 Address  
 City/state/ZIP  
 Phone

M/W/DBE certified Ethnicity  
 Type of work  
 Dollar amount

Attach additional list(s) as necessary.

Total utilization: \$ \_\_\_\_\_

Total contract: \$ \_\_\_\_\_

Percent utilization: \_\_\_\_\_



March 1, 1996

Mr. Mike Burton  
Executive Officer  
METRO  
600 NE Grand Avenue  
Portland, Oregon 97232-2736

DEPARTMENT OF  
ENVIRONMENTAL  
QUALITY

Re: St. Johns Landfill

NORTHWEST REGION

Dear Mr. Burton:

This letter serves as an Agreement (Letter Agreement) between the Oregon Department of Environmental Quality (DEQ) and METRO to provide DEQ Site Response Program (SRP) review and technical support for the investigation and remediation of hazardous substances released to the environment from the St. Johns Landfill (facility) in Portland, Oregon. The facility is approximately 238 acres bordered to the north by the North Slough, to the south and west by the Lower Columbia Slough, and to the east by Smith Lake.

Under this Agreement, SRP will provide planning assistance, technical review, and oversight services in support of the DEQ's Solid Waste Program for the focused remedial investigation, risk assessment, feasibility study, interim actions, and remedy selection and implementation for the facility. ORS 190.110 permits state agencies to enter into an agreement for the performance of authorized actions, such as this intergovernmental agreement. The facility is currently regulated under ORS 459.005 et. seq., OAR Chapter 340, and Solid Waste Disposal permit 116, administered by DEQ's Solid Waste Program. Project management and enforcement responsibility remains with the Solid Waste Program under the Solid Waste Disposal permit under this Agreement.

The objectives of the work to be completed under this Agreement are to:

- Identify the hazardous substances which have been released to the environment,
- Determine the full nature and extent of hazardous substances in affected media on and off-site,
- Determine the distribution of hazardous substance concentrations,
- Determine the direction and rate of migration of hazardous substances,
- Identify migration pathways,
- Identify the environmental impact and risk to human health and/or the environment,
- Develop the information necessary to select a remedial action.

A more detailed Scope of Work will be provided to METRO following completion of technical staff discussions between DEQ and METRO. Extra copies of future technical reports and monitoring reports shall be provided to the Solid Waste project manager for distribution to appropriate SRP staff.

John A. Kitzhaber  
Governor



2020 SW Fourth Avenue  
Suite 400  
Portland, OR 97201-4987  
(503) 229-5263 Voice  
TTY (503) 229-5471  
DEQ-1

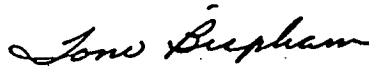
If necessary, SRP staff shall be allowed to enter and move freely about the facility at all reasonable times for the purpose of observing landfill closure operations, evaluating environmental conditions, observing or collecting samples, and providing technical assistance. SRP staff shall notify the facility management of their presence at the site upon arrival.

This Agreement authorizes recovery of costs incurred by SRP for activities described in this Agreement. METRO's obligations under this agreement shall not exceed \$50,000. However, if DEQ's costs approach \$50,000, DEQ will notify METRO, and DEQ and METRO will negotiate payment of any costs exceeding \$50,000. DEQ shall provide METRO with a monthly statement of costs incurred by SRP for services described above after January 1, 1996. The costs will include both direct and indirect costs. Direct costs include site-specific expenses. Indirect costs include personnel and other overhead expenses allocable to DEQ's participation under this Agreement and not charged as direct site-specific costs. The Solid Waste Programs costs are covered by the permit fee and are not recoverable under this Agreement. Within 30 days after issuance of the monthly statement, METRO shall pay the amount of costs billed by check made payable to the "State of Oregon, Hazardous Substance Remedial Action Fund".

This agreement may be terminated by either party without cause by giving 30 days written notice of intent to terminate. Costs incurred prior to the effective date of the termination must be paid.

SRP looks forward to working with METRO on the investigation and remediation of environmental releases to enhance the environment in the vicinity of St. Johns Landfill.

Sincerely,



Tom Bispham  
Administrator, Northwest Region

cc: Dave St.Louis, NWR Site Response Manager  
Chuck Donaldson, NWR Solid Waste Manager  
Tim Spencer, NWR:SW  
Ann Levine, NWR:SR  
Project File

If the terms of this Letter Agreement are acceptable to you, please sign in the space provided below and return a signed original to DEQ.

Accepted and agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 1996.

By: \_\_\_\_\_  
Mike Burton  
Executive Officer

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 96-2305 FOR THE PURPOSE  
OF AUTHORIZING THE EXECUTIVE OFFICER TO ENTER INTO AN  
AGREEMENT WITH THE OREGON DEPARTMENT OF  
ENVIRONMENTAL QUALITY FOR THE PURPOSE OF FUNDING  
REGULATORY OVERSIGHT OF ST. JOHNS LANDFILL

---

Date: March 11, 1996

Presented by: Jim Watkins  
Dennis O'Neil

### PROPOSED ACTION

Approval of Resolution No. 96-2305 authorizing the Executive Officer to enter into an agreement with the Oregon Department of Environmental Quality to pay for regulatory oversight by the Site Response Section of the Environmental Clean-up Division.

### FACTUAL BACKGROUND AND ANALYSIS

In March, 1995 the Oregon Department of Environmental Quality (DEQ) added the St. Johns Landfill to its list of sites with confirmed releases of hazardous substances and to its inventory of sites in various phases of remediation. The effect of this action was to make a complex regulatory framework more complex and unpredictable. For water quality impacts, the St. Johns Landfill is now regulated by three offices within DEQ: Solid Waste, Water Quality, and now The Site Response Section (SRS) of the Environmental Clean-up Division which oversees the clean-up of sites contaminated with hazardous substances. These three tentacles of the DEQ operate under three different sets of laws and rules.

Metro was concerned that unpredictability and inconsistencies in regulatory approach within DEQ would result in decreased efficiency and increased costs for Metro's continuing effort to monitor the environmental impact of St. Johns Landfill and to construct cost-effective environmental improvements. Therefore, after submitting two major studies requested by DEQ, Metro requested information from DEQ as to:

- 1) How DEQ currently views the environmental impact of St. Johns Landfill;
- 2) How DEQ will be regulating St. Johns Landfill in future years.

After seven months, DEQ responded by proposing that its solid waste office regulate the St. Johns Landfill through the Solid Waste Disposal Site Closure Permit. Other DEQ offices concerned with groundwater and surface water quality, such as the Water Quality Office and the SRS, would also regulate St. Johns Landfill through the solid waste office and the closure permit. The advantage of this arrangement was that DEQ would speak to Metro with one voice on water quality issues rather than with multiple, confusing, conflicting voices.

In contrast with other DEQ regulatory programs which are financed by solid waste fees or are not financed directly by Metro, SRS oversight is financed through mandatory charges levied on potentially responsible parties whose properties are being cleaned up. Therefore, DEQ proposed that Metro enter into an open-ended agreement with it to pay DEQ for SRS oversight costs. Metro negotiators insisted on an initial limit of \$50,000 and the ability to terminate the agreement if Metro desired. The attached Letter of Agreement 904902 contains these clauses.

If Metro signs this Letter of Agreement, the SRS will begin to actively take part now in regulatory oversight of St. Johns Landfill. Metro is a participant in an agreement rather than the object of a unilateral order by DEQ. DEQ agrees to a cost limit which cannot be exceeded without approval by Metro. Metro will incur increased regulatory costs now but should expect reduced confusion and uncertainty.

If Metro does not sign the Letter of Agreement, the SRS will probably not assume oversight now. However, because St. Johns Landfill is under its regulatory jurisdiction, SRS sooner or later will exercise regulatory oversight and order Metro to pay for this oversight and for any cleanup work it requires. Metro may face a situation where it performs certain work under the Solid Waste Rules now and then has to modify or re-do this work later when new personnel and a new regulatory framework are imposed.

#### BUDGET IMPACT

The St. Johns Landfill Closure Account in the FY 95-96 budget contains funds sufficient for DEQ review. Sufficient funds are available because of a delay in implementing the Gas Pipeline Project.

#### EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 96-2305.

DO:clk  
S:\SHARE\ONE\DEQ\AGMT.RPT  
03/19/96 10:21 AM