

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING) RESOLUTION NO. 96-2346
EXECUTION OF MULTI-YEAR)
CONTRACTS FOR PRIMARY SERVICE)
AND SYSTEM ACQUISITIONS AND FOR) Introduced by Mike Burton
AN EXEMPTION TO CONTRACT CODE) Executive Officer
2.04.044 GRANTING AUTHORITY TO THE)
EXECUTIVE OFFICER TO ENTER INTO)
ADDITIONAL CONTRACTS ON THE)
MANAGEMENT INFORMATION SYSTEM)
PROJECT.)

WHEREAS, Metro has proposed a Management Information System project budget in FY 1996-97; and

WHEREAS, the Management Information System project is identified as needing Council action; and

WHEREAS, the primary service and system acquisition contracts are attached and a competitive process was followed; and

WHEREAS, other components of the Management Information System project include entering into contracts greater than \$25,000.

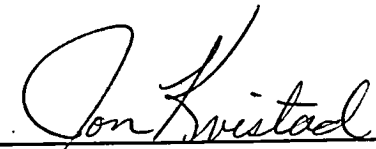
BE IT RESOLVED THAT

1. The Metro Council grant authority to the Executive Officer to enter into multi-year contracts with PeopleSoft and BIT, attached as Exhibits A & B; and

2. The Metro Council grant the Executive Officer the authority to enter into all other contracts associated with the Management Information System project on the condition that the contracts are within the Management Information System project budget; the competitive bid/proposal process is adhered to; recognition that training and travel are exempt from the competitive bid/proposal process.

ADOPTED by the Metro Contract Review Board, Metro Finance

Committee this 13th day of June, 1996.



Jon Kvistad, Presiding Officer

STAFF REPORT

IN CONSIDERATION OF RESOLUTION 96-2346 FOR THE PURPOSE OF AUTHORIZING EXECUTION OF MULTI-YEAR CONTRACTS FOR PRIMARY SERVICE AND SYSTEM ACQUISITIONS AND FOR AN EXEMPTION TO CONTRACT CODE 2.04.044 GRANTING AUTHORITY TO THE EXECUTIVE OFFICER TO ENTER INTO ADDITIONAL CONTRACTS ON THE MANAGEMENT INFORMATION SYSTEM PROJECT.

Date: May 22, 1996

Presented By: Jennifer Sims

PROPOSED ACTION:

Adoption of Resolution 96-2346 for the purpose of execution of multi-year contracts for primary service and system acquisitions and for an exemption to Metro Contract Code 2.04.044 granting authority to the Executive Officer to enter into additional contracts on the Management Information System project.

FACTUAL BACKGROUND AND ANALYSIS:

MIS Background

In 1995, the Council approved the release of a Request for Proposal to seek financial system software and implementation consulting assistance to replace the current financial system. Two key reasons to replace the current software is that it will not accurately process financial data beginning Fiscal Year 1999-2000 and because it is no longer being supported by the vendor. The entire process from release of the request for proposal document through implementation was projected to take up to three years.

PeopleSoft was selected as the vendor of choice and BIT was recommended to assist in the implementation of PeopleSoft software systems since they have expertise in PeopleSoft systems. The software systems Metro will be purchasing from PeopleSoft include: General Ledger, Accounts Receivable, Billing, Accounts Payable, Project Costing, Payroll, Human Resources, Asset Management, Purchasing, Budget, Time and Labor.

Since the selection of PeopleSoft and BIT, another Request For Proposal was released in early 1996 to determine the hardware, operating system and database system on which to run the PeopleSoft software systems. Hewlett-Packard running Unix and Informix have been selected as the preferred vendors. A more in-depth analysis is being done at this time. Once the final decision has been made, contracts negotiations will commence.

The Management Information System project budget was proposed to the Metro Council in April, 1996. The major components of the budget, totalling \$2,363,716, are

software, hardware, training/travel, implementation services and a contingency factor. This amount is scheduled to be expended over three fiscal years beginning FY 96-97.

Metro employed an outside consultant to review work being done throughout the various stages of the selection process and has continued participating in the contract negotiations for PeopleSoft and BIT.

To date, Metro has been working towards the selection and acquisition of software, implementation consulting assistance, hardware and database system. Beginning with the signing of the PeopleSoft and BIT contracts, Metro is transitioning into a new phase, that of implementation. The preliminary project plan reflects the implementation of the financial systems taking three years in an effort to reduce risk.

Contract Issues

The Management Information System Project budget is made up of many components, some of which will necessitate entering into contracts of greater than \$25,000 in size. A competitive process was performed to select the primary software vendor, implementation assistance, hardware and database vendors. According to the existing Contract Code 2.04.044, if Public Contracts exceed \$25,000, the Request For Proposal and Contracts must be identified during the budget process, otherwise approval from the Council must be sought.

To facilitate the timeliness of implementation, approval for the Executive Officer to enter into multi-year contracts with PeopleSoft, the software vendor, and BIT, the implementation assistance consultant is being requested. A competitive process for both of these contracts was adhered to.

Furthermore, an exemption to Contract Code 2.04.044 is being requested along with Council authority being granted to the Executive Officer to enter into all other contracts, regardless of the amount, associated with the Management Information System project if the following conditions are met:

1. The contracts are within the Management Information System project budget.
2. The competitive bid/proposal process is adhered to.
3. Recognition that Training and Travel expenses are exempted from the competitive bid/proposal process.
4. All contracts not listed here are under \$25,000.

Components of the Management Information System project that are estimated to exceed \$25,000 are described below.

Hardware

The three major hardware components are: 1) the database server which is the repository for all financial data budgeted in the amount of \$168,883; 2) a switch that will speed the network backbone budgeted in the amount of \$30,000; and 3) personal

computers for primary users of the financial system within Administrative Services and budgeted in the amount of \$54,755.

Software

The two primary software components are: 1) the PeopleSoft contract in the amount of \$653,900, and 2) the database software system which is the repository for all financial data budgeted for \$75,370. A copy of the PeopleSoft contract is attached as Exhibit A.

Training and Travel

The two major training and travel expenses will be for PeopleSoft application system training and database system training.

Implementation Services

The three major components of implementation services are: 1) BIT implementation consulting assistance for a maximum amount of \$472,700; 2) database consulting assistance to instruct IMS on database management practices budgeted for \$35,000; 3) temporary resources to assist in implementing the project and in continuing to support the current financial system environment budgeted for \$93,960. A copy of the BIT contract is attached as Exhibit B.

BUDGET IMPACT:

The total project budget is \$2,363,716 for the implementation of the Management Information System. This amount is scheduled to be expended over three fiscal years. The proposed contracts are within budget.

EXECUTIVE OFFICER RECOMMENDATION:

The Executive Officer recommends approval of Resolution No. 96-2346.

EXHIBIT A

SOFTWARE LICENSE AND SERVICES AGREEMENT

This agreement ("Agreement") is made as of _____, 1996 ("Effective Date") by and between PeopleSoft, Inc. ("PeopleSoft"), a Delaware corporation having its principal place of business at 1331 North California Boulevard, Walnut Creek, California 94596 and

Name: Metro ("Licensee" or "Metro")
Address: c/o Chief Financial Officer
600 NE Grand Avenue
Portland, OR 97232-2736

This Agreement, and the attached exhibits and Schedules constitute the entire agreement between the parties concerning Licensee's use of the Software. This Agreement replaces and supersedes any prior verbal or written understandings, communications, and representations. No purchase order or other ordering document which purports to modify or supplement the printed text of this Agreement, any Exhibit, or any Schedule shall add to or vary the terms of this Agreement. All such proposed variations or additions (whether submitted by PeopleSoft or Licensee) are objected to and deemed material.

THE TERMS AND CONDITIONS HEREIN ARE ACCEPTED AS PART OF THIS AGREEMENT.

LICENSEE:

PEOPLESOFT, INC.

Authorized Signature

Authorized Signature

Printed Name and Title

Paul Salsgiver, Vice President
Printed Name and Title

TERMS AND CONDITIONS

1. License

- 1.1 PeopleSoft grants Licensee a perpetual, non-exclusive, nontransferable license to use the licensed number of copies of the Software, solely for internal data processing operations for the Licensee, on each Server at the Site up to the licensed number of Servers specified in the Schedule(s). Internal data processing operations are those required for Metro and any agencies listed on Exhibit A-Metro Serviced Agencies. Any third party software products or modules provided by PeopleSoft to Licensee shall be used solely with PeopleSoft Software. Licensee may use the Software temporarily on a machine other than the Server(s) in the event that the Server(s) is inoperable. Licensee may make a reasonable number of copies of the Software solely for archive or emergency back-up purposes and/or disaster recovery testing purposes. Licensee may modify or merge the Software with other software with the understanding that any modifications, however extensive, shall not diminish PeopleSoft's title or interest in the Software.
1.2 PeopleSoft shall provide Licensee with the licensed number of copies of the Software and Documentation as specified the Schedules. Licensee may make a reasonable number of copies of Documentation solely for Licensee's internal use with the Software provided all copyright notices are reproduced.
1.3 Replacement Versions: During the two year period following Effective Date, Customer has the one time option, for no additional PeopleSoft license fee, for replacing the licensed database version of the Software with any other database version of the Software supported by PeopleSoft. Once the conversion to the replacement version is complete, Customer agrees to return or certify the destruction of the originally licensed version of the software to PeopleSoft.
1.4 Migration to different hardware: Licensee may move the Software to any non IBM MVS database server at any time. There will be no license or migration fee due to PeopleSoft, provided that the Software is not, except for a reasonable testing period during the migration, running on more than one database server at any time, and that PeopleSoft is not required to supply additional software or documentation to facilitate or as a result of the migration.

2. License Exclusions

2.1 Except as expressly authorized herein, Licensee shall not:

- a. Copy the Software;
- b. Cause or permit reverse compilation or reverse assembly of all or any portion of the Software;
- c. Distribute, disclose, market, rent, lease or transfer to any third party any portion of the Software (including PeopleTools) or the Documentation, or use the Software or Documentation in any service bureau arrangement, facility management, or third party training;
- d. Disclose the results of Software performance benchmarks to any third party without PeopleSoft's prior written consent;
- e. Transfer the Software to a different database platform without the prior written consent of PeopleSoft (such consent not unreasonably withheld) and payment of any additional fees which may be due;
- f. Transfer the Software to a different Site without prior written notice to PeopleSoft;
- g. Export the Software in violation of U.S. Department of Commerce export administration regulations;
- h. Invoke support libraries other than through documented API calls; and
- i. Use PeopleTools except in conjunction with the licensed PeopleSoft applications.

2.2 No license, right, or interest in any PeopleSoft trademark, trade name, or service mark is granted hereunder.

3. Fees and Payment Terms

3.1 Licensee shall pay PeopleSoft the fees as specified in the Schedule and all applicable shipping costs.

3.2 Unless Licensee provides PeopleSoft with a valid tax exemption or direct pay certificate, Licensee is responsible for all taxes, duties and customs fees concerning the Software and/or services, excluding taxes based on PeopleSoft's income. Overdue payments shall bear interest at the lesser of twelve percent (12%) per annum or the maximum rate allowed under applicable law.

3.3 For a period commencing upon the Effective Date of this Agreement and expiring three years thereafter, Metro shall be entitled to receive a 25% reduction from the then-current list license fee for PeopleSoft software not included on any Schedule to this Agreement, provided that Metro does not require PeopleSoft to respond to a formal request for proposals or formal request for information.

4. Title and Protection

4.1 PeopleSoft (or its third-party providers) retains title to all portions of the Software, any modifications to the Software developed with PeopleTools, and any copies thereof. Title to the physical media for the Software vests in Licensee upon delivery. PeopleSoft represents that the Software contains valuable proprietary information, and Licensee shall not disclose the Software to anyone other than those of its employees or consultants under nondisclosure obligations who have a need to know for purposes consistent with this Agreement. Licensee shall affix, to each full or partial copy of the Software made by Licensee, all copyright and proprietary information notices as affixed to the original. The obligations set forth in this paragraph shall survive termination of this Agreement.

4.2 The Software may be transferred to the U.S. government only with the separate prior written consent of PeopleSoft, and solely subject to restricted rights as set forth in FAR 52.227-19 (or DFAR 252.227-7013, if the transfer is to a defense-related agency) or subsequent citation.

4.3 Except in the event of a default by Metro, Metro's license shall not be revoked by any action of any assignee or successor to PeopleSoft's rights to title of the Software including any Trustee in bankruptcy.

5. Patent and Copyright Indemnity

PeopleSoft shall indemnify and defend Licensee against any claims that the Software infringes any United States or Canadian patent or copyright; provided that PeopleSoft is given prompt notice of such claim and is given information, reasonable assistance, and sole authority to defend or settle the claim. In the defense or settlement of the claim, PeopleSoft may obtain for Licensee the right to continue using the Software, replace or modify the Software so that it becomes noninfringing while giving equivalent performance. PeopleSoft shall have no liability to indemnify or defend Licensee if the alleged infringement is based on: (i) a modification of the Software by anyone other than PeopleSoft, or (ii) the use of the Software other than in accordance with the Documentation.

6. Default and Termination

6.1 Any of the following shall constitute an event of default:

- a. Licensee fails to perform any of its obligations under the sections entitled "License Exclusions" or "Title and Protection"; or
- b. Either party fails to perform any other material obligation under this Agreement and such failure remains uncured for more than thirty (30) days after receipt of written notice thereof.

6.2 If an event of default occurs, PeopleSoft, in addition to any other rights available to it under law or equity, may terminate this Agreement and all licenses granted hereunder by written notice to Metro. Remedies shall be cumulative and there shall be no obligation to exercise a particular remedy.

6.3 Within fifteen (15) days after termination of this Agreement, Licensee shall certify in writing to PeopleSoft that all copies of the Software in any form, including partial copies within modified versions, have been destroyed or returned to PeopleSoft.

7. Limited Warranty

PeopleSoft believes that its Software, in conjunction with a HP 9000 with the appropriate number of processors, memory, and disk space, is capable of meeting Metro's response time requirements as set forth in its RFP. However, because performance is affected by other load on the server, data type, client speed, and other factors, PeopleSoft does not warranty or guarantee that its Software will meet the response time requirements in every instance.

PeopleSoft warrants that all PeopleSoft Software is MAPI, VIM, and Year 2000 compliant. PeopleSoft warrants that it has title to the Software and the authority to grant licenses to use the Software. PeopleSoft warrants that the Software will perform as represented in PeopleSoft's proposal made in response to Metro's RFP. PeopleSoft warrants that the Software will perform substantially in accordance with the Documentation for a period of one (1) year from the date of installation. In the event of any difference between PeopleSoft's proposal and the Documentation, the Documentation will take precedence. PeopleSoft's sole obligation is limited to repair or replacement of the defective Software, provided Licensee notifies PeopleSoft of the deficiency within the one-year period and provided Licensee has installed all Software updates provided by PeopleSoft's Software Support Services. **PEOPLESOFT DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

8. Limitation of Liability

PEOPLESOFT WILL NOT BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST DATA OR LOST PROFITS, HOWEVER ARISING, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCLUDING DAMAGES INCURRED UNDER THE ARTICLE ENTITLED "PATENT AND COPYRIGHT INDEMNITY", PEOPLESOFT'S LIABILITY FOR DAMAGES UNDER THIS AGREEMENT (WHETHER IN CONTRACT OR TORT) SHALL IN NO EVENT EXCEED THE AMOUNT PAID BY LICENSEE TO PEOPLESOFT FOR THE SOFTWARE OR THE SERVICES FROM WHICH THE CLAIM AROSE. THE PARTIES AGREE TO THE ALLOCATION OF LIABILITY RISK WHICH IS SET FORTH IN THIS SECTION.

9. Software Support Services Terms and Conditions

On the Effective Date, PeopleSoft shall provide Licensee with one (1) year of software support services as described in PeopleSoft's standard Software Support Services Terms and Conditions (receipt of which is hereby acknowledged). After the first year, Licensee may elect to acquire Software Support Services by paying PeopleSoft applicable fees as set forth in the applicable Schedule.

10. On-Site Support Days

PeopleSoft shall provide Licensee with support at the Site for the Software as set forth in the Schedules. For a period of two years from the Effective Date, support days not used during the installation phase may be used for other implementation support. Licensee shall reimburse PeopleSoft for all reasonable travel and

living expenses associated with any installation and support. Travel expenses shall not exceed most commonly available coach airfare. Living expenses will not exceed Metro's then-current published per-diem rate.

11. Training

PeopleSoft shall provide Licensee with the number of training units set forth in the Schedules for use at a PeopleSoft Training Facility. Licensee may use training units for Site training as the parties mutually agree in writing. Licensee must use these training units within one (1) year from the Effective Date. For a period of three (3) years from the Effective Date, Licensee may purchase additional training units at a cost of \$350 per unit.

12. Notices

All notices shall be in writing and sent by first class mail, overnight mail, courier, or transmitted by facsimile (if confirmed by such mailing), to the addresses indicated on the first page of this Agreement, or such other address as either party may indicate by at least ten (10) days prior written notice to the other party. Notices to PeopleSoft shall be sent to the Legal Department. Notices to Licensee shall be sent to both Chief Financial Officer and General Counsel.

13. Assignment

Licensee may not assign this Agreement (by operation of law or otherwise) or sublicense the Software without the prior written consent of PeopleSoft, and any prohibited assignment or sublicense shall be null and void. PeopleSoft shall give Metro notice of any assignment by it of title to the Software.

14. Nondisclosure Obligation

14.1 The terms, conditions, pricing and any other information clearly marked "confidential" under this Agreement are confidential and shall not be disclosed, orally or in writing by Licensee to any third party without the prior written consent of PeopleSoft.

14.2 Licensee shall protect the Software with at least the same degree of care and confidentiality which Licensee utilizes for similar Licensee information which it does not wish disclosed to the public. Licensee may provide access to and use of the Software only to those third parties, (undertaking similar nondisclosure obligations), providing services concerning Licensee's use of the Software.

14.3 Licensee is a public body subject to the Oregon Public Records Act. All nondisclosure obligations of Licensee are subject to the provisions of Oregon law that may require disclosure. For purposes of the Oregon Public Records Act, Licensee agrees that it will treat all material marked confidential as confidential and proprietary business information under the Act, and further acknowledges that PeopleSoft owns the copyright to its Software; documentation; and training materials; and such copyrighted documents are protected under federal law.

15. General

This Agreement is made in and shall be governed by the laws of the State of Oregon, excluding choice of law principles. Venue shall be in Multnomah County, Oregon. The section headings herein are provided for convenience only and have no substantive effect on the construction of this Agreement. No purchase order or other ordering document that purports to modify or supplement the printed text of this Agreement or any Schedule shall add to or vary the terms of this Agreement. All such proposed variations or additions (whether submitted by PeopleSoft or Licensee) are objected to and deemed material unless agreed to in writing. Except for Licensee's obligation to pay PeopleSoft, neither party shall be liable for any failure to perform due to causes beyond its reasonable control. If any provision of this Agreement is held to be unenforceable, this Agreement shall be construed without such provision. The failure by a party to exercise any right hereunder shall not operate as a waiver of such party's right to exercise such right or any other right in the future. Except for actions for non-payment or breach of PeopleSoft's proprietary rights in the Software, no action, regardless of form, arising out of this Agreement may be brought by either party more than one year after the cause of action has accrued. This Agreement may be amended only by a written document executed by a duly authorized representative of each of the parties. This Agreement may be executed in counterparts. To expedite order processing, Transmitted Copies are considered documents equivalent to original documents, however Licensee agrees to provide PeopleSoft with one fully executed original Agreement and applicable Schedule(s).

This Agreement and the Schedule(s) ("Agreement") constitute the entire agreement between the parties concerning Licensee's acquisition and use of the Software. This Agreement replaces and supersedes any prior verbal or written understandings, communications, and representations between the parties. This Agreement may be executed in counterparts, which taken together shall be considered original.

16. Additional Terms and Conditions

Attached as Exhibit ___ and incorporated by reference is Metro's Public Contract form. All terms and conditions of the Public Contract form not inconsistent with the provisions of this Agreement shall apply to this Agreement.

17. Definitions

"Documentation" means only technical publications relating to the use of the Software, such as reference, user, installation, systems administrator and technical guides, delivered by PeopleSoft to Licensee.

"PeopleTools" means the underlying architecture from which the Software is designed, and includes software application programming tools and code.

"Schedule(s)" means the independent Software product schedule(s) executed by the parties and Support Services schedule(s) referencing this Agreement. Each Schedule is a separate and independent contractual obligation from any other Schedule. Agreement Effective Date and Schedule Effective Date(s) may differ.

"Server" means a single database or file server that may be accessed by a network of personal computers as set forth in the applicable Schedule.

"Site" means a specific, physical location of Licensee's Server at any facility owned or operated by Metro within Metro's jurisdiction in the Portland, Oregon Metropolitan region.

"Software" means all or any portion of the then commercially available U.S. or Canadian version of the binary computer software programs and enhancements thereto, (including corresponding source code) and Documentation delivered by PeopleSoft to Licensee (or subsequently made by Licensee with PeopleSoft's prior written consent), as listed in the applicable Schedule. Software includes the third-party software only as specified in the Schedule. Software does not include source code to PeopleTools. Unless specifically stated otherwise, all Software is delivered to Licensee only if and when generally commercially available.

"Software Installation Date" means the date upon which PeopleSoft tenders Metro a written certification that the installation process has been completed.

"Transmitted Copies" means this Agreement, Schedules and other ordering documents that are (i) copied or reproduced and transmitted via photocopy, facsimile or process that accurately transmits the original documents; and (ii) accepted by PeopleSoft.

Exhibit A

Metro Serviced Agencies

Metro Facilities, Natural Areas and Cemeteries

■ Metro Facilities

- A. **Metro Washington Park Zoo**
4001 SW Canyon Road
Portland, OR 97221
- B. **Metro Central Station**
6161 NW 61st Ave.
Portland OR 97210
- C. **St. Johns Landfill**
9363 N. Columbia Blvd.
Portland, OR 97232
- D. **Oregon Convention Center**
777 NE Martin Luther King Jr. Blvd.
Portland, OR 97232
- E. **Civic Stadium**
1844 SW Morrison St.
Portland, OR 97205
- F. **Portland Center for the Performing Arts**
1111 SW Broadway
Portland, OR 97205
- G. **Metro Regional Center**
600 NE Grand Ave.
Portland, OR 97232
- H. **Metro South Station**
2001 Washington St.
Oregon City, OR 97045

● Natural Areas

- 1. **Mason Hill**
3 acres
- 2. **Sauvie Island Boat Ramp**
1 acre
- 3. **Multnomah Channel**
11 acres
- 4. **Bybee House & Howell Park**
73 acres
- 5. **Bell View Point**
10 acres
- 6. **M. James Gleason Memorial Boat Ramp**
6 acres
- 7. **Broughton Beach**
9 acres
- 8. **Beggar's-tick Marsh**
20 acres
- 9. **Glendoveer Golf Course & Fitness Trail**
232 acres
- 10. **Blue Lake Park**
185 acres
- 11. **Gary & Flagg Islands**
132 acres
- 12. **Oxbow Park**
1,000 acres
- 13. **Indian John Island**
64 acres
- 14. **Larch Mountain Corridor**
185 acres
- 15. **Chinook Landing Marine Park**
67 acres
- 16. **Expo Park (future overnight facility)**
12 acres
- 17. **Sandy River Access Points (4)**
5.6 acres
- 18. **Beggar's-tick Addition**
.25 acres
- 19. **Smith & Bybee Lakes Addition**
5.17 acres

- 20. **Phillipi Property**
6.38 acres
- 21. **Smith & Bybee Lakes**
2,000 acres

◆ Cemeteries

- 22. **Jones**
2.5 acres
- 23. **Grand Army of the Republic**
1 acre
- 24. **Lone Fir**
30.5 acres
- 25. **Multnomah Park**
9.3 acres
- 26. **Brainard**
1.1 acres
- 27. **Columbia Pioneer**
2.4 acres
- 28. **White Birch**
0.5 acres
- 29. **Escobar**
0.5 acres
- 30. **Gresham Pioneer**
2 acres
- 31. **Mt. View Stark**
0.8 acres
- 32. **Douglass**
9.1 acres
- 33. **Pleasant Home**
2 acres
- 34. **Powell Grove**
1 acre
- 35. **Mt. View Corbett**
2 acres

**SCHEDULE # 1
TO THE
SOFTWARE LICENSE AND SERVICES AGREEMENT
(PeopleSoft HRMS and Financials)**

This independent Schedule is made as of _____ by and between PeopleSoft, Inc. ("PeopleSoft") and Metro ("Licensee"). This Schedule is part of the Software License and Services Agreement between the parties dated _____, 1996 ("Agreement"). PeopleSoft's standard Software Support Service Terms and Conditions shall be a part of this Schedule provided that Licensee elects to purchase Software Support Services. Capitalized terms used herein shall have the same meaning ascribed to them in the Agreement. Handwritten or typewritten text (other than information which is specifically called for in the spaces provided) which purports to modify or supplement the printed text of this Schedule shall have no effect and shall not add to or vary the terms of the Agreement. All such additions (whether submitted by Licensee or PeopleSoft) are objectionable and deemed material.

ACCEPTED BY:
LICENSEE

ACCEPTED BY:
PEOPLESOFT, INC.

Authorized Signature

Authorized Signature

Printed Name and Title

Printed Name and Title

	<u>Per Copy License Fee</u>	<u>Production Copies</u>	<u>Test & Development Copies</u>	<u>License Fee</u>
HRMS and Financials Product Line				
Human Resources	116,000	1	0	116,000
Payroll	116,000	1	0	116,000
General Ledger for Public Sector	110,000	1	0	110,000
Accounts Receivable for Public Sector	77,000	1	0	77,000
Accounts Payable for Public Sector	77,000	1	0	77,000
Asset Management for Public Sector	66,000	1	0	66,000
Purchasing for Public Sector	99,000	1	0	99,000
Project Costing for Public Sector	88,000	1	0	88,000
Billing for Public Sector	66,000	1	0	66,000

Subtotal from Page 1: \$ 815,000

Subtotal from Page 2: \$ 32,000

Subtotal: \$ 847,000

Price Reduction: \$ (296,450)

Total Net Price \$ 550,550.00

The prices on this Schedule are contingent upon Licensee placing a simultaneous order for all software on this Schedule and on Schedule 2, excluding any test and development copies.

Database Version: INFORMIX	Operating System: HP-UX	Hardware Model: HP 9000
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Depending on the Database Version licensed, Licensee receives the applicable items listed below:

	Qty.	DB2	SQLBase	SQL Server	All Other
Database	0	N/A	included	N/A	N/A

PeopleTools - Restricted Development¹	1	included	included	included	included
Training Units²	115	included	included	included	included
On-Site Support Days³	12	included	included	included	included
Documentation	2	included	included	included	included

¹ PeopleTools for Restricted Development shall be used by Licensee to develop add-on applications only to the licensed PeopleSoft Software applications.

² One (1) Training Unit is day in class for one student.

³ One (1) Support day is equivalent to an eight (8) hour work day.

ADDITIONAL SOFTWARE/SERVICES

<u>Software/Service</u>	<u>Manufacturer</u>	<u>Per Item Fee</u>	<u>Quantity</u>	<u>Fee</u>
Workstation Access (includes base application access, Workstation SQR, Client/LAN SQR, QueryLink, Crystal, nVision)	PeopleSoft, Inc. Sybase, Inc./MITI Crystal Computer Services	25,000	unlimited access	25,000
Server SQR	Sybase, Inc./MITI	7,000 FOR 3	3	7,000
Workflow Manager	PeopleSoft	included	1	0
Import Manager				
Application Upgrader				
Subtotal of Page 2:			<u>\$32,000</u>	<u>\$32,000</u>

Option to Purchase Test and Development Copy: For a period of two years from the Schedule Effective Date, Licensee may purchase a test and development copy of all Software Products on this Schedule for use on a separate server for a single fee of \$36,000.00.

Payment terms: Licensee shall pay PeopleSoft fifty (50%) percent of license fees on the Schedule Effective Date, twenty-five (25%) percent of license fees sixty (60) days from the Schedule Effective Date, fifteen (15%) percent on March 1, 1997, and ten (10%) on May 1, 1997. All fees are payable in U.S. dollars and shall be sent to the attention of PeopleSoft's Accounts Receivable Department. License fees are not refundable and cancellation or termination of the license does not entitle Licensee to a full, partial, or pro-rata refund of license fees.

Support Services Effective Date: Support services shall commence upon the Support Services Effective Date. The Support Services Effective Date shall be the same as the Schedule Effective Date for General Ledger, Payables, Receivables, Project Costing, and Billing. The Support Services Effective Date shall be March 1, 1997 for Human Resources and Payroll. The Support Services Effective Date shall be March 1, 1998 for Asset Management and Purchasing.

Software Support Service Renewal Terms: One (1) year after the Support Services Effective Date, Licensee may elect to continue Software Support Services for the following year by paying PeopleSoft an annual Support Services fee of seventeen (17%) percent of the net license fee for the applicable Software listed on this Schedule. Thereafter, Licensee may elect to continue Software Support Services by paying PeopleSoft the then-current Support Services fee, which will not increase more than six (6%) percent per year for the first four years after the Schedule Effective Date. Thereafter, Customer may elect to continue Software Support Services for the following year by paying Supplier the then-current annual Support Services fee, or in accordance with a fixed fee schedule of no greater than three year's duration as mutually agreed by Supplier and Customer.

LICENSEE SITE ADDRESS FILL IN	BILL-TO ADDRESS FILL IN	SHIP-TO ADDRESS FILL IN
Contact Name: Phone No. Fax No.	Contact Name: Phone No. Fax No. P.O. Box No:	Contact Name: Phone No. Fax No.

LICENSEE TRAINING ADMINISTRATOR
Contact Name: FILL IN Phone No. Fax No.

**SCHEDULE # 2
TO THE
SOFTWARE LICENSE AND SERVICES AGREEMENT
(PeopleSoft Time and Labor and Budgets)**

This independent Schedule is made as of _____ by and between PeopleSoft, Inc. ("PeopleSoft") and Metro ("Licensee"). This Schedule is part of the Software License and Services Agreement between the parties dated _____, 1996 ("Agreement"). PeopleSoft's standard Software Support Service Terms and Conditions shall be a part of this Schedule provided that Licensee elects to purchase Software Support Services. Capitalized terms used herein shall have the same meaning ascribed to them in the Agreement. Handwritten or typewritten text (other than information which is specifically called for in the spaces provided) which purports to modify or supplement the printed text of this Schedule shall have no effect and shall not add to or vary the terms of the Agreement. All such additions (whether submitted by Licensee or PeopleSoft) are objectionable and deemed material.

ACCEPTED BY:
LICENSEE

ACCEPTED BY:
PEOPLESOFT, INC.

Authorized Signature

Authorized Signature

Printed Name and Title

Printed Name and Title

	<u>Per Copy License Fee</u>	<u>Production Copies</u>	<u>Test & Development Copies</u>	<u>License Fee</u>
PeopleSoft Budgeting for Public Sector ¹	66,000	1	0	66,000
PeopleSoft Time and Labor ²	93,000	1	0	93,000

Subtotal from Page 1: \$ 159,000
Subtotal from Page 2: \$ 0

Subtotal: \$159,000
Price Reduction: (\$55,650)

Total Net Price \$103,350.00

The prices on this Schedule are contingent upon Licensee placing a simultaneous order for all software on this Schedule and on Schedule 1, excluding any test and development copies.

Database Version: INFORMIX	Operating System: HP-UX	Hardware Model: HP 9000
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Depending on the Database Version licensed, Licensee receives the applicable items listed below:

	<u>Qty.</u>	<u>DB2</u>	<u>SQLBase</u>	<u>SQL Server</u>	<u>All Other</u>
Database	N/A	N/A	included	N/A	N/A
PeopleTools - Restricted Development ³	1	included	included	included	included
Training Units ⁴	0	included	included	included	included
On-Site Support Days ⁵	0	included	included	included	included
Documentation		included	included	included	included

¹ If and when available

² If and when available

³ PeopleTools for Restricted Development shall be used by Licensee to develop add-on applications only to the licensed PeopleSoft Software applications.

⁴ One (1) Training Unit is day in class for one student.

⁵ One (1) Support day is equivalent to an eight (8) hour work day.

Option to Purchase Test and Development Copy: For a period of two years from the Schedule Effective Date, Licensee may purchase a test and development copy of each Software Product on this Schedule for a single fee of \$36,000.00.

Payment terms: Licensee shall pay PeopleSoft fifty (50%) percent of license fees on the date the Software module becomes commercially available and fifty (50%) percent of license fees sixty (60) days from the commercial availability date. Licensee understands that the Software specified in this Schedule is not currently available and PeopleSoft makes no assurances regarding if or when such Software shall become available. After a specified Software module is commercially available for delivery, the associated license fees shall be non-cancelable and non-refundable. All fees are payable in U.S. dollars and sent to the attention of PeopleSoft's Accounts Receivable Department.

Support Services Effective Date: Support services shall commence upon the Support Services Effective Date. The Support Services Effective Date shall be the later of the date the Software modules become commercially available or March 1, 1998.

Software Support Service Renewal Terms: One (1) year after the Support Services Effective Date, Licensee may elect to continue Software Support Services for the following year by paying PeopleSoft an annual Support Services fee of seventeen (17%) percent of the net license fee for the applicable Software listed on this Schedule. Thereafter, Licensee may elect to continue Software Support Services by paying PeopleSoft the then-current Support Services fee, which will not increase more than six (6%) percent per year for the first four years after the Schedule Effective Date. Thereafter, Customer may elect to continue Software Support Services for the following year by paying Supplier the then-current annual Support Services fee, or in accordance with a fixed fee schedule of no greater than three year's duration as mutually agreed by Supplier and Customer.

LICENSEE SITE ADDRESS FILL IN	BILL-TO ADDRESS FILL IN	SHIP-TO ADDRESS FILL IN
Contact Name: Phone No. Fax No.	Contact Name: Phone No. Fax No. P.O. Box No:	Contact Name: Phone No. Fax No.

LICENSEE TRAINING ADMINISTRATOR
Contact Name: FILL IN Phone No. Fax No.

Software Support Services Terms and Conditions

Software Support Services Terms and Conditions ("Support Services") are referenced in and incorporated into the License Agreement between PeopleSoft and Licensee. Upon reasonable notice, PeopleSoft reserves the right to modify the terms and conditions of Support Services on an annual basis to reflect then - current market conditions.

1. Coverage

PeopleSoft provides Licensee with Support Services for the Software in consideration of Licensee's payment of the applicable fees to PeopleSoft.

2. Software Maintenance

The following technical and functional improvements will be issued periodically by PeopleSoft to improve Software operations:

- a. Fixes to Errors;
- b. Updates; and
- c. Enhancements contained within new releases.

3. Priority Level of Errors

PeopleSoft shall reasonably determine the priority level of Error in accordance with the following protocols:

Priority A - Critical:

PeopleSoft promptly initiates the following procedures: (1) assign PeopleSoft specialist(s) to correct the Error; (2) provide ongoing communication on the status of the correction(s); and (3) immediately begin to provide a Workaround or a Fix.

Priority B - Urgent:

(1) PeopleSoft assigns a PeopleSoft specialist to commence correction of Error(s) and (2) Provide escalation procedures as reasonably determined by PeopleSoft support staff. PeopleSoft exercises all commercially reasonable efforts to include the Fix for the Error in the next Software maintenance release.

Priority C - Standard:

PeopleSoft may include the Fix for the Error in the next major Software release.

4. Telephone Support

PeopleSoft provides telephone support concerning installation and use of the Software. Except for designated holidays, standard telephone support hours are Monday through Friday, 4:00 a.m. to 6:30 p.m., Pacific Standard Time. Telephone Support is also available 24-hours a day, 7-days a week for in-production customers who need to resolve critical production problems apart from normal support hours.

5. Account Manager

PeopleSoft assigns an account manager to assist with the on-going support relationship between PeopleSoft and Licensee. A reasonable amount of account manager on-Site time, no less than sixteen (16) hours per year, is included in the annual Support Services fee. Licensee will reimburse PeopleSoft for the reasonable travel and living expenses of the account manager for on-Site support activity. Site visits to correct priority A errors shall be at PeopleSoft's expense.

6. PEOPLESOFT FORUM

- a. PeopleSoft Forum on-line bulletin board system features postings by PeopleSoft and PeopleSoft Software users regarding technical and non-technical topics of interest. Licensee may access PeopleSoft Forum through Licensee's CompuServe services account or through the Internet via Licensee's Internet access software. At Licensee's own expense, Licensee may acquire the CompuServe service and a license to use Lotus Notes.
- b. All Software maintenance releases and Fixes to the Software may be delivered to Licensee through PeopleSoft Forum or through the Internet via Licensee's Internet access software. All information specified in PeopleSoft Forum by PeopleSoft is confidential and proprietary to PeopleSoft and shall only be used in connection with Licensee's use of the Software and informational communications with other PeopleSoft Forum participants. PeopleSoft reserves the right to modify information posted to PeopleSoft Forum. PeopleSoft shall have the right to publish and distribute only through PeopleSoft Forum in all languages and in association with Licensee's name any material or software programs provided by Licensee to PeopleSoft

Forum. Licensee shall not use PeopleSoft Forum for advertising or public relations purposes and shall only submit information to PeopleSoft Forum that is owned by Licensee or which Licensee has third party permission to submit to PeopleSoft Forum for use by all other PeopleSoft Forum users.

- c. In the interest of diminishing exposure to software viruses, PeopleSoft tests and scans for software viruses all information entered by PeopleSoft prior to submission of information to PeopleSoft Forum. Licensee shall also use a reliable virus detection system on any software or information posted to PeopleSoft Forum, utilize back-up procedures, monitor access to PeopleSoft Forum, promptly notify PeopleSoft of any virus detected within Licensee's systems associated with PeopleSoft Forum and generally exercise a reasonable degree of caution when utilizing information from PeopleSoft Forum. PeopleSoft does not warrant that PeopleSoft Forum will operate without interruption or without errors. PeopleSoft reserves the right to modify or suspend PeopleSoft Forum service in connection with PeopleSoft's provision for Support Services.

7. Fees

The first year of Support Services is included in the Software license fees; thereafter, in the event Licensee elects to continue to receive Support Services, Licensee shall pay PeopleSoft the annual Support Services fee as set forth in the applicable Schedule. Support Services are billed on an annual basis, payable in advance. Licensee shall be responsible for all taxes associated with Support Services, exclusive of taxes based on PeopleSoft's income. Licensee's payment shall be due within thirty (30) days of receipt of the PeopleSoft invoice. Should Licensee elect not to renew Support Services and subsequently request Support Services, PeopleSoft shall reinstate Support Services only after Licensee pays PeopleSoft the annual then current fee plus all cumulative fees that would have been payable had Licensee not suspended Support Services.

8. Term and Termination

Unless a shorter term is agreed to in writing by both parties, Support Services shall be provided for one (1) year from the Schedule Effective Date and shall be extended each additional year unless terminated by either party. Each one (1) year term shall commence on the anniversary of the Schedule Effective Date.

Either party may terminate the Support Services provisions at the end of the original term or at the end of any renewal term by giving the other party written notice at least ninety (90) days prior to the end of any term.

In the event Licensee fails to make payment pursuant to the section titled "Fees", or in the event Licensee breaches the Support Services provisions and such breach has not been cured within thirty (30) days of written receipt of notice of breach, PeopleSoft may suspend or cancel Support Services.

9. Exclusions

PeopleSoft shall have no obligation to support:

- a. Altered, damaged or substantially modified Software;
- b. Software that is not a current release, or a Previous Sequential Release;
- c. Errors caused by Licensee's negligence, hardware malfunction, or other causes beyond the reasonable control of PeopleSoft;
- d. Software installed in a hardware or operating environment not supported by PeopleSoft; and
- e. Third party software not licensed through PeopleSoft.

10. General

All Updates provided to Licensee are subject to the terms and conditions of the Agreement.

PeopleSoft shall not be liable for any failure or delay in performance of the Support Services due to causes beyond its reasonable control. Any illegal or unenforceable provision shall be severed from these Terms and Conditions. Licensee agrees that any information received pursuant to these Terms and Conditions shall be deemed subject to the non-disclosure obligations set forth in the Agreement. The Support Services Terms and Conditions states the entire agreement of PeopleSoft's provision of Support Services to Licensee and may only be amended by a written amendment executed by both parties.

11. Definitions

Unless otherwise defined herein, capitalized terms used herein shall have the same meaning as set forth in the Agreement and applicable Schedule.

"Enhancement" means technical or functional additions to the Software to improve software functionality and/or operations. Enhancements are delivered with new releases of the Software.

"Error" means a malfunction in the Software which degrades the use of the Software.

"Fix" means the repair or replacement of source or object or executable code versions of the Software to remedy an Error.

"Previous Sequential Release" means a release of Software for use in a particular operating environment which has been replaced by a subsequent release of the Software in the same operating environment. A Previous Sequential Release will be supported by PeopleSoft for a period of eighteen (18) months after release of the subsequent release. Multiple Previous Sequential Releases may be supported at any given time.

"Priority A - Critical" means an Error that: (1) renders the Software inoperative; or (2) causes the Software to fail catastrophically.

"Priority B - Urgent" means an Error that affects performance of the Software, but does not prohibit Licensee's use of the Software.

"Priority C - Standard" means an Error that causes only a minor impact of the use of the Software.

"Update" means all published revisions to the printed documentation and one (1) copy of the new release of the Software which are not designated by PeopleSoft as new products for which it charges separately.

"Workaround" means a change in the procedures followed or data supplied to avoid an Error without significantly impairing performance of the Software.

Project _____
Contract No. _____**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 NE Grand Avenue, Portland, OR 97232-2736, and **BUSINESS INFORMATION TECHNOLOGY, INC.**, referred to herein as "BIT" or "Contractor," located at 1800 Sutter Street, Suite 770, Concord, California 94520.

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 _____ and shall remain in effect until and including _____, 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 Four Hundred Seventy-two Thousand Seven Hundred and no/100 Dollars (\$472,700).
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.

Subject to the liability limits of the Oregon Tort Claims Act, Metro shall indemnify and hold Contractor, its agents and employees harmless from any and all claims, demands, actions, losses and expenses, including attorney's fees, arising out of Metro's negligence or other wrongful acts except for Contractor's negligence or wrongful acts.

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 joint property of Metro and Contractor, 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 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 to a maximum of \$15,000, which 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 twenty-one 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 necessarily and properly incurred through the date 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.

17. **Contractor Property.** Metro and Contractor acknowledge and understand that Contractor has developed certain copyrighted material, software, trade secrets, project plans, products, schedules and other properties prior to the execution of this Agreement which Contractor will provide to Metro for its unlimited, internal use and which Contractor will utilize in performing its obligations pursuant to this Agreement; that Contractor will retain full ownership of such properties and that Metro shall not disclose or reveal any such properties to any unauthorized person or entity at any time without Contractor's written consent notwithstanding Metro's right to utilize these properties.

18. **Availability of Metro Staff.** Metro agrees to make its personnel available as necessary to Contractor on a consulting basis to answer questions that may arise, and to the project to perform implementation related tasks as jointly assigned, throughout the term of this Agreement.

19. **Non-hiring Provision.** Metro agrees that it will not hire, nor independently contract with, BIT consultants during the term of this Agreement, nor for three months following this Agreement.

20. **Space and Facilities.** Metro agrees to furnish, without charge, reasonable space, computer facilities and clerical support for Contractor personnel assigned to perform services under this Agreement, when they are on site.

BUSINESS INFORMATION
TECHNOLOGY, INC.

METRO

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

SCOPE OF WORK FOR BIT

General Information/Approach/RIA Scope

BIT's involvement will primarily be of an advisory nature. While BIT consultants will perform certain specific fit analysis, planning, conversion, design, coding, testing, implementation, production, and post implementation activities, the primary purpose of these activities will be to train Metro staff in how to do it themselves.

BIT will also provide at no additional cost to Metro a set of automated tools to increase the productivity of the team in performing the RIA, project planning, data mapping and conversion. BIT anticipates contributing approximately 3,260 hours over the life of the Financials and HRMS project. See Attachment #1 for how the hours are estimated to be allocated among the project activities.

The anticipated implementation approach for Metro includes phasing in the application systems, in accordance with Attachment #1, and includes modeling of each application system in order to reduce the risk to Metro. The actual implementation approach may be subject to revision based on the Requirements Integration Assessment (RIA).

BIT will assign an Account Manager for managing the efforts of all BIT consultants, reviewing deliverables, and monitoring progress against all applicable plans and assignments. This person will have experience in managing accounts, preferably PeopleSoft accounts for both Financials and HRMS.

Metro's project is divided into Phase I (Foundation) and Phase II (Build-Out) and the scope of BIT's involvement is for Phase I. The completion of Phase I must coincide with Payroll being implemented beginning January 1, 1998. BIT must adhere to this schedule.

The implementation project deliverables include a completed Requirements Integration Assessment (RIA) for the following application systems: (all application systems are PeopleSoft systems or are provided by PeopleSoft with their software packages).

Financials:

- General Ledger
- Project Costing
- Accounts Payable
- Billing
- Accounts Receivable
- EIS/Report Writer (nVision Product & Others such as Crystal)

HRMS:

Human Resources (included in references to HRMS)

Payroll (included in references to HRMS)

The RIA principal deliverables will include a comprehensive Fit/Gap Analysis and a detailed Project Plan including all application systems listed above. It additionally should contain, but not exclusively, an Executive Summary; Summary of Estimates for each application system and conversions; Conversion Requirements for each application system; Issue Papers (BIT terminology); Fit/Gap Analysis and Requirements for each application system; Electronic Interface Requirements for each application system; Issues/Resolutions; Detailed Implementation Plan (comprehensive and for each application system).

The completed PeopleSoft Financials' RIA and Project Plan will be incorporated as part of this contract and will represent the work effort to be completed by BIT and other project participants. If BIT is utilized by Metro to assist in the RIA and Project Plan for the PeopleSoft Human Resources/Payroll system, the RIA and Project Plan will be incorporated as part of this contract and will represent the work effort to be completed by BIT and other project participants.

The RIA is expected to be completed in a reasonable timeframe to accommodate the Integrated Management Information System Preliminary Project Plan schedule, Attachment #1, to this contract. BIT understands Metro is desirous of changing the way business is done to gain efficiencies in operations and that the RIA will factor this goal into consideration as BIT prepares the RIA.

Implementation Project Deliverables

The project deliverables include a completed Requirements Integration Assessment for Financials (per the above list of applications) and if Metro elects to proceed with additional services, HRMS (personnel and payroll), detail project plans, fully tested and functioning Financials and HRMS applications, plus all applicable internal and external interfaces and a converted data base. BIT will work in conjunction with Metro, PeopleSoft, Database Vendor, Hardware/Operating System Vendor, to achieve all of the desired performance benchmarks stipulated in Metro's Request For Proposal, Chapter III-Technical Requirements, Section 18-System Performance.

BIT Role

BIT's role on this project will be to provide guidance and assistance to Metro through Phase I of the project with a wide range of services and productivity tools. The services will include technical support, conversion assistance, RIA and project planning assistance, design, development, and testing and implementation of individual modules, system testing and miscellaneous post implementation activities.

PeopleTools Implementation Services

BIT will provide specialized expertise required for PeopleCode or other program language enhancements to the system, interfaces, and SQR reports and batch programs to help decrease the learning curve of Information Management Services technicians.

BIT will provide the necessary technical and functional support to meet the requirements of the implementation. BIT functional consultants will support Metro by providing the analysis of Metro's requirements, interpreting them in light of the PeopleSoft architecture, and making recommendations for organization and set-up of relevant tables and files.

BIT functional and technical consultants will work with Metro project team members in developing the functional and technical design of all system enhancements, including a thorough analysis of all inputs, processes, table changes, and new processes.

Relationship to PeopleSoft

Metro has entered into an agreement with PeopleSoft for the purchase of Software licenses and support and maintenance thereof. PeopleSoft has recommended that Metro utilize the services of BIT in the implementation process. BIT agrees that they will not take any action that will be grounds for PeopleSoft to not provide needed support or that will cause PeopleSoft not to honor all warranties made in the PeopleSoft Agreement.

Testing

As part of BIT's acceptance testing support services, BIT has developed formal procedures that include Test Forms, Test Case Worksheets, and Problem Logs for proven testing procedures.

Project Tracking and Reporting

BIT consultants will prepare status reports to account on a weekly basis for the time spent on the project and the work accomplished. A weekly report on the overall status will be prepared by BIT's staff and will be distributed to Metro and BIT management. BIT's Account Manager will meet with Metro's management and provide updates on the progress of the project, identify contingencies that may have an impact on schedule, and offer alternative solution to problems.

Solutions Library

BIT will make available to Metro the Solutions Library which includes enhancements made to PS applications at no charge to Metro.

Expertise of Employees

BIT employees shall be experts at implementation of PeopleSoft products in a government environment. With the exception of illness, termination or other causes beyond BIT's control, BIT employees, deemed by Metro as key and critical, shall not be removed from the project without Metro's prior consent. BIT employees shall be sensitive to the municipal operations and provide recommendations and support to Metro so that Metro may provide efficient and effective service to its customers. Such services may include advice on redesigning the way Metro performs business activities.

Metro has the express authorization to approve all BIT personnel assigned to the Metro project. Approval may include interviews and checking references. Upon written request from Metro, BIT will reassign any project staff unacceptable to Metro and assign new staff acceptable to Metro, in a timely manner that does not delay implementation of Metro's projects.

If BIT proposes to Metro that BIT Consultants, whose status is that of Trainee, be placed on the Metro account, it will take the form of an amendment to this contract and be mutually agreed to by both parties.

Payment

Metro shall pay BIT for work performed on location at Metro for the completion of the RIA for the PeopleSoft Financials based on the hourly rates attached as Exhibit A, not to exceed \$116,000 while accomplishing the work indicated in Attachment #1. If the work effort is less than what is represented in Attachment #1 and/or in the Final Project Plan, a product developed as part of the RIA, the billing to Metro will reflect the reduced cost. For the integration and post implementation phase for the PeopleSoft Financials, BIT's compensation shall not exceed \$179,800.

Whether BIT plays a role in the preparation of the RIA or in the implementation of Human Resources/Payroll will be a decision made by Metro following the implementation of PeopleSoft Financials. If Metro proceeds with PeopleSoft HRMS and elects to have BIT assist with the implementation, BIT will do all of the work indicated in the Attachment #1 for a not to exceed amount of \$46,400. If the work effort is less than represented in Attachment #1, Metro will reimburse BIT at the reduced cost. BIT's total compensation for the integration and post implementation phase for PeopleSoft HRMS shall not exceed \$130,500.

Invoicing will be monthly directed to:

Metro

c/o Accounts Payable

600 N. E. Grand Avenue

Portland, Oregon 97232-2736

Invoicing will be detailed to include activity performed for the applicable month. Payment by Metro will be made within 30 days. BIT will provide the level of detail in its invoice that may be reasonably required by Metro, including, but not limited to, information regarding names of staff members, hours worked, specific services performed and billing rates.

Business Information Technology Consulting Services Fee Schedule is Attachment #2 to this contract. Attachment #2 is what Metro will pay for services negotiated outside the scope of the work described in this contract or at a lesser rate, dependent on negotiations.

If Metro elects to make use of BIT for any part of or all of Phase II, also known as the Build-Out, BIT's rate will not increase more than 15% from the date of this agreement until the commencement of Phase II. The base rate source, to calculate the approved and allowable increase, is the rate BIT utilized to compute the cost of their involvement as published in Attachment #1. Phase II consists of PeopleSoft Purchasing, Time and Labor, Budget and Asset Management Systems.