

PROJECT MANAGEMENT AGREEMENT

This Agreement between the City of Portland, Oregon (City) and Morse/Diesel, Inc. (Project Manager).

Recitals:

1. The City of Portland, Oregon Public Buildings Corporation (PBC), an Oregon non-profit corporation, has solicited bids for the design and construction of the Portland Public Service Building (Facility).
2. The City will represent PBC in all bidding and contract matters and will lease the facility from PBC on its substantial completion.
3. PBC and the City desire that the City retain the services of Project Manager to assist the City in all bidding and contract matters and to monitor the activities of the design-build entity (Contractor).
4. Project Manager is willing to provide these services.

Agreement:

I. PROJECT MANAGER'S DUTIES

A. General: The Project Manager generally shall administer for the City the evaluation of bids for the Design-Build Contract (Contract), negotiations after submission of bids and prior to award of the Contract, and the execution of the Contract until final payment is due. Although "Contract" as used herein means the executed Design-Build Contract, a draft Contract is attached hereto for informational purposes. Although this Agreement specifically refers to work done under the Contract, the Project Manager shall provide comparable services when requested by the City as to work done on the facility by PBC, the City, or other contractors. In all respects, the Project Manager shall use its professional skill and judgment to further the interests of the City and PBC. The services to be performed by the Project Manager shall include those specific services to be performed by the Project Manager under the Contract and under Paragraph I(B) of this Agreement, but also shall include such other services as are necessary to carry out the intention of this Paragraph.

B. Specific Services: The Project Manager, without limiting its duties, shall perform the following specific services, to the extent necessary or desirable to promote the interests of the City and PBC:

1. The Project Manager shall schedule, attend, and manage all meetings with bidders during the period after submission of bids and prior to award of the Contract.

2. The Project Manager shall complete all duties of the Project Manager within the time established by PBC's and the Contractor's Schedules of Critical Dates and by agreement with the Contractor.

3. The Project Manager shall review and comment on bids received for the Contract, and provide comparative analyses and other advice about bid selection.

4. The Project Manager shall require bidders to clarify their bids.

5. The Project Manager shall request or authorize bidders to make revisions in their bids.

6. The Project Manager shall advise PBC on the waiving of bid irregularities and on acceptance or rejection of alternatives.

7. The Project Manager shall assist in development of the proposed Contract during the bidding period and in negotiation of the Contract after submission of bids and prior to award of the Contract.

8. The Project Manager shall review and approve or reject "or equal" and "or similar" substitution items, prior to their use by the Contractor.

9. The Project Manager shall review and approve or reject the Contractor's proposed elimination, modification, or substitution for products or workmanship that are described in the Building Description and that exceed provisions of the Specifications.

10. The Project Manager shall review and approve or reject the Contractor's proposed expenditures for Permanent Artwork, after consultation with PBC and the City.

11. The Project Manager shall review and advise the City on the acceptance or rejection of the Contractor's proposed forms of Certificates of Extended Warranty.

12. The Project Manager shall review and advise the City on acceptance or rejection of the Contractor's proposed forms of Extended Maintenance Service Contracts.

13. The Project Manager shall provide a Project Representative to assist the Project Manager in carrying out its responsibilities at the site. The duties and responsibilities of the Project Representative shall be as set forth in Paragraph I (C) of this Agreement.

14. The Project Manager shall coordinate the performance of the obligations and responsibilities of PBC and the City and their contractors with respect to the Contractor.

15. The Project Manager shall provide value engineering and life cycle cost analyses during the course of architectural and engineering design of the Facility, as requested by the City.

16. The Project Manager shall perform those services designated to be performed by the Project Manager under the Contract.

17. The Project Manager shall provide such other administrative services as are necessary for the final completion of the Facility.

C. Project Representation: The Project Manager shall provide one full-time Project Representative to assist the Project Manager. The Project Representative shall be selected (subject to City's approval), employed, and directed by the Project Manager. The duties, responsibilities, and limitations of authority of the Project Representative shall be as follows:

1. Assist the Contractor's superintendent in understanding the intent of the Contract Documents.

2. Conduct on-site observations and spot checks of the work in progress as a basis for determining conformance of work, materials and equipment with the Contract Documents. Prepare field inspection reports and report any defective work he discovers to the Project Manager.

3. Obtain from the Project Manager additional details or information if, and when, required at the site for proper execution of the work. Become acquainted with standard or reference specifications referred to in the specifications.

4. Consider and evaluate suggestions or recommendations which may be submitted by the Contractor to the Project Manager and report them with recommendations to the Project Manager.

5. Be alert to the construction schedule and to conditions which may cause delay in completion, and report same to the Project Manager.

6. Maintain liaison with the Contractor and all of his subcontractors only through the Contractor's superintendent.
7. Attend and report to the Project Manager on conferences held at the work site as directed by the Project Manager.
8. Advise the Project Manager's office in advance of the schedules of tests and observe that tests at the work site which are required by the Contract Documents are actually conducted; observe, record and report to the Project Manager all details relative to the test procedures.
9. If inspectors representing local or state agencies having jurisdiction over the work visit the site, accompany such inspectors during their trips through the site, record and report to the Project Manager's office the results of these inspections.
10. (1) Maintain orderly files at the site for (1) correspondence, (2) reports of site conferences, (3) shop drawings and (4) reproductions of original Contract Documents including all addenda, change orders and supplementary drawings issued subsequent to the award of the Contract.  
  
(2) Keep a daily diary or log book, recording hours on the site, weather conditions, list of visiting officials and jurisdictions, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures.  
  
(3) Record names, addresses and telephone numbers of all contractors and subcontractors.
11. Receive samples which are required to be furnished at the site; record date received and from whom, and notify the Project Manager of their readiness for examination; record Project Manager's approval or rejection; and maintain custody of approved samples.
12. Review the applications for payment submitted by the Contractor, and forward them with recommendations to the Project Manager for disposition.
13. After substantial completion, check each item listed as an item for correction as it is corrected.
14. If the facility or any portion thereof is opened prior to final completion of the work by the Contractor, be especially alert to possibilities of claims for damage to work completed prior to occupancy.

15. If a situation arises during construction which in the Project Representative's view requires that work be rejected, report such situation immediately to the Project Manager.

Through the on-site observations by Project Representative of the work in progress, the Project Manager shall endeavor to provide further protection for PBC and the City against defects in the work.

D. Nature of Services: All of the services of the Project Manager shall be provided as an independent contractor and not as an employee of the City. All persons employed by the Project Manager in connection with the services shall be its employees and not the employees of the City. The Project Manager shall provide qualified personnel in order to provide the services, who shall be available as shall be necessary to perform the express and implied duties of the Project Manager under this Agreement. The Project Manager shall obtain City approval of its employee primarily responsible for the performance of services under this Agreement and of the Project Representative, and of any replacements of either of them. Such employees shall be available as required by the City. The Project Manager shall replace either or both of them if reasonably requested to do so by the City. The Project Manager shall obtain all regulatory licenses or approvals required in order for it to perform the services under this Agreement.

## II. COMPENSATION

A. Amount: The City shall compensate the Project Manager for its services under this Agreement by paying it a Fee of \$351,775.00, plus out-of-pocket expenses in an amount not exceeding \$32,000.00 incurred in connection with the Project Manager's performance of services under this Agreement for items such as transportation, lodging, and meals while away from home, long distance telephone, and printing. The Project Manager shall provide all the services and incur all the necessary expenses required of it under this Agreement for the amount of compensation set out herein.

B. Payment: The City shall pay the Fee in thirty six equal monthly installments commencing on March 1, 1980 and monthly thereafter. The City shall pay the reimbursement for out-of-pocket expenses as billed to the City by the Project Manager at monthly intervals commencing on March 1, 1980 and monthly thereafter. The Project Manager shall provide verification of out-of-pocket expenses if so requested by the City.

### III. TERM

This Agreement shall be effective as of January 16, 1980 and shall continue until completion by the Project Manager of the services provided for herein.

### IV. INSURANCE AND INDEMNIFICATION

A. Liability: The City, through PBC, shall cause the Contractor and other contractors doing work on the Facility to name the Project Manager, its agents and employees as an additional insured on their liability insurance policies covering the work. The City, through PBC, shall cause the Contractor and other contractors doing work on the Facility to indemnify and hold harmless the Project Manager, its agents and employees, from and against all claims, damage, loss or expenses provided that it (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

The obligations of the City under this Paragraph shall not extend to the liability of the Project Manager, its agents or employees, arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or (2) the giving of or the failure to give directions, or instructions by the Project Manager, his agents or employees provided such preparation, approval, giving, or failure to give is the primary cause of the injury or damage.

B. Property: The City, through PBC, shall cause the Contractor to maintain property insurance upon the entire work at the site to the full insurable value thereof, including the interests of the Project Manager in the work against the perils of fire and extended coverage (water, high winds, and like causes of damage) and including "all risk" coverage for theft, vandalism and malicious mischief as well as such boiler and machinery insurance as is required by law.

C. Protection of City and PBC: The Project Manager shall indemnify and hold harmless the City and PBC, their agents and employees, from and against all claims, damage, loss or expenses arising out of the negligent performance or the nonperformance by the Project Manager, its agents or employees, of its services under this Agreement.

D. Protection of Project Manager: The City shall indemnify and hold harmless the Project Manager, its agents and employees, from and against all claims, damage, loss or expenses arising out of the negligent performance or the nonperformance by the City or PBC, their agents or employees, of their obligations under this Agreement.

V. AUTHORITY OF PROJECT MANAGER

The Project Manager shall have no right or authority to commit or otherwise obligate the City or PBC except as expressly authorized herein or in the Contract or by other written authorization from the City.

VI. TERMINATION

Either party may terminate this Agreement due to breach of the Agreement by the other party, upon 30 days written notice of the specific breach, provided the other party has not corrected the breach within the 30 day period. In the event PBC determines that it is not able to sell tax-exempt revenue bonds to finance the Project, then City immediately may terminate this Agreement and shall pay the Project Manager only for out-of-pocket expenses incurred prior to termination and the next monthly installment due after the date of termination.

VII. NOTICE

Notice under this Agreement shall be sufficiently given and deemed to have been received forty-eight (48) hours after being placed in the United States mail, postage prepaid, addressed as follows:

City:

Portland Public Services Building  
c/o City Auditor  
1220 S.W. Fifth Avenue  
Portland, Oregon 97204

Project Manager:

Morse/Diesel, Inc.  
Number One Ecker  
San Francisco, CA 94105  
ATTN: Curtis S. Peterson

VIII. EEO COMPLIANCE

The Project Manager shall obtain a certification that it is an equal employment opportunity affirmative action employer from the City Contract Compliance Division.

**IX. AGREEMENT AND ASSIGNMENT**

This Agreement is the entire agreement between the City and the Project Manager and shall be binding on them, their successors, and their assigns. Neither party may assign this Agreement without the written consent of the other party. This Agreement may be changed only by written amendment signed by both parties.

Dated: \_\_\_\_\_

MORSE/DIESEL, INC.

By: \_\_\_\_\_  
Title:

CITY OF PORTLAND

By: \_\_\_\_\_  
Mayor

By: \_\_\_\_\_  
Commissioner of Public Utilities

Approved as to form:

\_\_\_\_\_  
City Attorney



ORDINANCE NO. **149035**

An Ordinance authorizing a contract with Morse/Diesel, Inc. for project management services for the Public Service Building project, authorizing drawing and delivery of warrants not to exceed \$383,775, and declaring an emergency.

Section 1. The Council finds:

- (1) The City of Portland plans to build a public office building on the Annex Block and has requested bids from design/build teams for construction of the building.
- (2) The City requires the services of a project manager to evaluate the bids and to administer the construction project.
- (3) The Purchasing Manager has advertised and received proposals from project management consulting firms, and the Commissioner of Public Utilities has appointed a committee to evaluate the proposals.
- (4) Based on an evaluation of all materials presented, and on interviews with the applicants, the committee recommends that Morse/Diesel, Inc. be hired as project manager for the City's public office building construction project.
- (5) Funds for payment of the project management services will be provided to the City by the City of Portland, Oregon Public Building Corporation.

NOW, THEREFORE, the Council directs:

- (a) The Mayor and Commissioner of Public Utilities are hereby authorized to enter into a contract with Morse/Diesel, Inc., 233 South Wacker Drive, Chicago, Illinois 60606, to perform the work of project manager as described in the specifications for the Public Service Building and the proposal submitted to the City on January 4, 1980, by said consultant and on file with the City Purchasing Manager, which contract shall be substantially in the form of Exhibit "A", which is attached only to the original hereof.
- (b) The Mayor and Auditor are hereby authorized to draw and deliver warrants not to exceed \$383,775 when approved by proper authority, which warrants shall be chargeable to Public Service Building, Planning, BUC No. 47100011/210.

## ORDINANCE No.

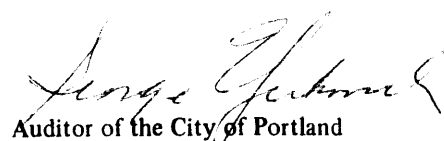
Section 2. The Council declares that an emergency exists because delay will deprive the City of the financial benefits of early completion of this project; therefore, this Ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, JAN 16 1980

Commissioner Ivancie  
Earl Bradfish:en  
January 10, 1980

  
Mayor of the City of Portland

Attest:

  
Auditor of the City of Portland

Calendar No. 151

**ORDINANCE No. 149035**

**Title**

An Ordinance authorizing a contract with Morse/Diesel, Inc. for project management services for the Public Service Building project, authorizing drawing and delivery of warrants not to exceed \$383,775, and declaring an emergency.

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
Ivancie	/	
Jordan	/	
Lindberg	/	
Schwab	/	
McCready	/	

FOUR-FIFTHS CALENDAR	
Ivancie	
Jordan	
Lindberg	
Schwab	
McCready	

INTRODUCED BY
Commissioner Ivancie

NOTED BY THE COMMISSIONER
Affairs
Finance and Administration
Safety
Utilities <i>AJE</i>
Works

BUREAU APPROVAL
Bureau: General Services
Prepared By: Earl Bradfish
Date: 1-10-80
Budget Impact Review:
<input type="checkbox"/> Completed <input type="checkbox"/> Not required
Bureau Head: Earl Bradfish

NOTED BY
City Attorney
City Auditor
City Engineer

Filed JAN 11 1980

**GEORGE YERKOVICH**  
Auditor of the CITY OF PORTLAND

By *George Yerovich*  
Deputy