

777 NE MLK JR BLVD PORTLAND, OREGON 97232 | PO BOX 2746 PORTLAND, OREGON 97208
TEL 503 731 7800 | FAX 503 731 7870
www.metro-region.org



METROPOLITAN EXPOSITION-RECREATION COMMISSION

REQUEST FOR BIDS (GOODS & SUPPLIES)

OCC- Automatic Hand Dryers Purchase

MERC Capital / Construction Division
777 NE MLK Jr. Blvd.
PORTLAND, OR 97232
(503) 731-7927

Project Manager:
Josh Lipscomb
(503) 731-7947
joshlipscomb@mercvenues.org

Notice is hereby given that bids for the OCC - Automatic Hand Dryers Purchase shall be received by MERC at the Metro Regional Center 600 NE Grand Ave., Portland, OR 97232-2736 until 2:00 p.m. February 3, 2011. It is the sole responsibility of the bidder to ensure that MERC receives the Bid by the specified date and time. All late Bids shall be rejected. BIDDERS SHALL REVIEW ALL INSTRUCTIONS AND CONTRACT TERMS AND CONDITIONS.

MERC is requesting sealed Bids for the Automatic Hand Dryers Purchase for the Oregon Convention Center. Bids are due to be received (postmarks not accepted) no later than 2:00 p.m., February 3, 2011, at the Metro Regional Center 600 NE Grand Ave., Portland, OR 97232-2736, Attention: **Heather Peck**. Bids will be publicly opened at 2:00 p.m. and read at that time at the Metro Regional Center.

RFB Criteria: Overall price,

Request for Bids (RFB) (Goods and Supplies)

The contract contemplated consists of the following:

Intent of the Contract is for the purchase ninety-one (91) electric automatic hand dryers.

- **Hand dryer must be wall mount.**
- **Hand dryer is to be trough style with open sides.**
- **Hand dryer must not require more than 15 amps each.**
- **Hand drying time must be a maximum of 10-15 seconds.**

- **Hand dryer finish shall be the most durable available by brand submitted.
If color choice is available, owner to decide finish at no additional cost.**

Bidder is to provide (3) three sets of O&M's.

**Delivery is to be no later than April 30, 2011.
Pricing is to include all shipping and handling charges.**

Lowest Bid will be selected based on lowest Lump Sum Total

Any questions please contact Josh Lipscomb, MERC Capital/Construction Manager at 503-731-7947 or joshlipscomb@mercvenues.org

Products or materials that are different than those called out in the specifications may be considered for bid purposes only if requested by the Bidder in writing and submitted to MERC at least 7 business days (168 business hours Monday – Friday), prior to the Bid opening. Following Bid opening, product or material substitutions will only be made at the request or discretion of the Owner.

O&M Manuals:

Data shall be bound in first quality, permanent three-ring type binders. Manuals shall be assembled and indexed so that information on any piece of equipment can be readily found. Provide three (3) copies.

Maintenance Schedule:

Maintenance schedules for each item of equipment will include a "Summary of Maintenance."

On-Site Training: (If applicable)

Contractor shall schedule/perform on-site training of equipment with a manufacturer's representative and in accordance with the Operations and Maintenance instructions.

Contract Terms:

Delivery of Goods to be no later than April 30, 2011.

The term of the contract is anticipated to be through June 15, 2011.

All Bids must be submitted in sealed envelopes which clearly identify the subject of the Bid and the opening date as stated in the RFB. Bidding documents, including Appendix A may be viewed and downloaded in PDF Format on the Metro Website at www.metro-region.org or are available by contacting the MERC Capital/Construction Division at 503-731-7927 or by email: reneepace@mercvenues.org.

All Bids must conform to the INSTRUCTIONS TO BIDDERS and be complete including the use of any required forms. MERC may accept or reject any or all Bids, in whole or in part, or waive irregularities not affecting substantial rights if such action is deemed in the public interest.

MERC and its contractors will not discriminate against any person(s), employee or applicant for employment based on race, color, religion, sex, national origin, age, marital status, familial status, gender identity, sexual orientation, disability for which a reasonable accommodation can be made, or any other status protected by law. MERC fully complies with Title VI of the Civil Rights Act of 1964 and related

Request for Bids (RFB) (Goods and Supplies)



statutes and regulations in all programs and activities. For more information, or to obtain a Title VI Complaint Form, see www.oregonmetro.gov.

MERC/Metro extends equal opportunity to all persons and specifically encourages minority and women-owned businesses to access and participate in this and all MERC projects, programs and services.

Request for Bids (RFB) (Goods and Supplies)

Table of Contents

Table of Contents	4
INSTRUCTIONS TO BIDDERS	
BID.....	5
COST OF BID.....	5
ERRORS / OMISSIONS.....	5
ADDENDA TO PLANS OR SPECIFICATIONS.....	6
MODIFICATION OF BID.....	6
WITHDRAWAL OF BIDS.....	6
LATE BID.....	6
EXECUTION.....	6
EXAMINATION OF PLANS, SPECIFICATIONS, AND SITE OF WORK.....	6
COMPLIANCE.....	7
PERMITS AND LICENSES.....	7
CONFLICT OF INTEREST.....	7
IMMATERIAL VARIANCES.....	7
LATEST MODEL.....	7
"OR APPROVED EQUAL" CLAUSE.....	7
RECYCLABLE PRODUCTS.....	8
RECYCLED PRODUCTS AS BID ITEMS.....	8
QUANTITIES.....	8
TERMS.....	8
PRICES.....	8
WARRANTY / GUARANTY.....	9
SERVICE.....	9
DELIVERY.....	9
BID SECURITY.....	10
RESIDENT / NON-RESIDENT BIDDER.....	10
EXPERIENCE AND ABILITY TO PERFORM THE WORK.....	11
BASIS OF AWARD.....	11
GENERAL CONDITIONS	
NOTICE OF AWARD.....	12
APPEAL OF CONTRACT AWARD.....	12
CONTRACT.....	12
FOREIGN CONTRACTOR.....	12
INSURANCE.....	12
WORKERS' COMPENSATION.....	13
NOTICE OF ASSIGNMENT.....	13
HAZARD COMMUNICATION.....	13
DELIVERY TIMES.....	13
FAILURE TO PERFORM.....	13
PATENTS.....	13
INVOICES.....	14
LAW OF STATE OF OREGON.....	14



Request for Bids (RFB) (Goods and Supplies)

SPECIAL CONDITIONS
MINORITY, WOMEN & EMERGING SMALL BUSINESS PROGRAM 15
NOTICE TO ALL BIDDERS.....16

Appendix "A"

Bidder's Checklist.....Page 1
Bid FormsPages 1-8
MERC Sample Goods & Supplies Contract.....Pages 1-5

INSTRUCTIONS TO BIDDERS

BID

The Metropolitan Exposition Recreation Commission (MERC) is soliciting Bids for the OCC – Automatic Hand Dryers Purchase. Bids must be enclosed in a sealed envelope and mailed or delivered to MERC, Attention: **Heather Peck** at the Metro Regional Center 600 NE Grand Ave., Portland, OR 97232-2736, no later than 2:00 p.m., **February 3, 2011**. Bids will be publicly opened at 2:00 p.m. and read at that time at the Metro Regional Center. A formal Bid may not be submitted by Facsimile (FAX) transmittal.

The outside of the envelope shall be addressed plainly to MERC - Attn: Heather Peck, 600 NE Grand Ave, Portland, OR 97232-2736, and identify the subject of the Bid and the opening date "OCC - Automatic Hand Dryer Purchase".

All Bids must be clearly and distinctly typed or written with ink or indelible pencil. All blank spaces must be completed. No erasures are permitted. Mistakes must be crossed out and corrections typewritten or written in ink adjacent thereto, and initialed in ink by the party signing the Bid, or his authorized representative.

Written amounts shall be shown in both words and figures. Words shall govern in cases of discrepancy between the amounts stated in words and the amounts stated in figures.

All Bids must be on the forms furnished by MERC or they may be rejected by MERC.

COST OF BID

This invitation to Bid does not commit MERC to pay any costs incurred by any Bidder in the submission of a Bid, or in making necessary studies or designs for the preparation thereof, or for procuring or contracting for the items to be furnished under the invitation to Bid.

ERRORS / OMISSIONS

Any Bid may be deemed non-responsive by MERC if it is: Not on the Bid forms provided; contains errors or omissions, erasures, alterations, or additions of any kind; proposes prices which are unsolicited or obviously unbalanced; or not in complete conformance with any and all conditions of the bid documents.

Request for Bids (RFB) (Goods and Supplies)

ADDENDA TO PLANS OR SPECIFICATIONS

Requests for additional information or interpretation of the contract documents shall be delivered to the Project Manager, in writing, at least five (5) business days prior to the Bid opening date and time. If, in the opinion of the Project Manager, additional information or interpretation is needed by the Bidders, an addendum will be issued to all known specification holders. The provisions of any written addenda issued by the Procurement Officer or Project Manager at least seventy two (72) hours prior to the Bid opening date and time shall be binding upon the Bidders, and failure of a Bidder to obtain such addenda shall not excuse compliance therewith by the successful Bidder.

MODIFICATION OF BID

An offer to modify the Bid which is received from the successful Bidder after award of contract which makes the terms of the Bid more favorable or advantageous to MERC will be considered, and may thereafter be accepted. To be effective, every modification must be made in writing over the signature of the Bidder.

WITHDRAWAL OF BIDS

A Bidder may withdraw its bid by written request which are received prior to the scheduled closing time for filing Bids. Negligence on the part of the Bidder in preparing his or her Bid confers no right to withdraw the Bid after the scheduled closing time for filing Bids.

LATE BID

Bids received after the scheduled closing time for filing Bids will be returned to the Bidder unopened, unless such closing time is extended by MERC.

EXECUTION

Each Bid shall give the Bidder's full business address and bear its legal signature. By submitting a Bid, all bidders are acknowledging any and all Bid addenda and clarifications.

Bids by partnerships must list the full name of all partners and be signed by a partner or agent authorized to execute the contract on behalf of the partnership and identified by printed name and title.

Bids by corporations must bear the legal name of the corporation, the name of the state of incorporation, and the signature of the officer or agent authorized to legally bind the corporation.

Upon request by MERC, satisfactory evidence of the authority of the partner or officer shall be furnished.

If an agent who is not an officer of the corporation or a member of the partnership signs the Bid, a notarized Power of Attorney must be on file with MERC prior to the opening of Bids or be submitted with the Bid. Without such notice of authority, the Bid shall be considered improperly executed, defective and therefore nonresponsive.

A Bid submitted by a joint venture must include a certified copy of the terms and conditions of the agreement creating the joint venture.

EXAMINATION OF PLANS, SPECIFICATIONS, AND SITE OF WORK

It is understood that the Bidder, before submitting a Bid, has made a careful examination of the plans, specifications, and contract; that it has fully informed itself as to the quality and quantity of materials and/or the character of the work required; and that it has made a careful examination of the location and condition of the work and the sources of supply for materials. All documents provided by MERC are for

Request for Bids (RFB) (Goods and Supplies)

information only. The Contractor is responsible for all field verifications, measurements, site inspection, exiting material inspection and required to visit the site prior to submitting a Bid.

COMPLIANCE

Each Bidder shall inform itself of, and the Bidder awarded a contract shall comply with, federal, state, and local laws, statutes, and ordinances relative to the execution of the work. This requirement includes, but is not limited to, nondiscrimination in the employment of labor, protection of public and employee safety and health, environmental protection, waste reduction and recycling, the protection of natural resources, fire protection, burning and non-burning requirements, permits, fees and similar subjects.

PERMITS AND LICENSES

MERC is responsible for any permits.

CONFLICT OF INTEREST

A Bidder filing a Bid thereby certifies that no officer, agent, or employee of MERC/Metro or MERC/Metro has a pecuniary interest in this Bid or has participated in contract negotiations on behalf of MERC/Metro; that the Bid is made in good faith without fraud, collusion, or connection of any kind with any other Bidder for the same call for Bids; the Bidder is competing solely in its own behalf without connection with, or obligation to, any undisclosed person or firm.

IMMATERIAL VARIANCES

MERC reserves the right to determine whether equipment or materials that comply substantially in quality and performance with the specifications are acceptable to MERC, and whether any variance listed by the Bidder in a Bid is material or immaterial.

LATEST MODEL

Parts and materials must be new, of latest model, of current date, and meet specifications. This provision excludes all surplus, remanufactured, and used products, unless such material is proposed in lieu of items specified.

"OR APPROVED EQUAL" CLAUSE

In order to establish a basis of quality, certain processes, types of machinery and equipment, or kinds of materials may be specified, either by description of process or by designating a manufacturer by name and referring to his brand or product designation, or by specifying a kind of material. It is not the intent of these specifications to exclude other processes, equipment, or materials of equal value, utility or merit.

Whenever a process is designated or a manufacturer's name, brand, or product is described, it shall be understood that the words, "or approved equal" follow such name, designation, or description, whether in fact they do so or not.

If a Bidder proposes to furnish an item, process or material which it claims to be of equal utility to the one designated, then:

1. Bidder shall submit to MERC, in care of the Project Manager, a written statement describing it together with supporting data and details sufficient to permit MERC to evaluate the same, five (5) business days prior to the Bid opening date and time. Bidder shall specify how products or materials are "equal" in detail and describe if a submitted "equal" will benefit MERC (cost savings, warranties, associated proven data and research).

Request for Bids (RFB) (Goods and Supplies)

If the product contains chemical properties, the relevant Material Safety Data Sheets (MSDS) shall be included to document all health and physical hazards, chemical ingredients, exposure limits, personal protective equipment for handling and use, and emergency procedures in response to unanticipated spills or environmental release.

2. MERC may require demonstration, additional tests, and additional data, all to be supplied at the expense of the Bidder.
3. If MERC determines that the proposed item, material or process is of equal value, utility or merit, the Project Manager shall notify all potential Bidders of record by issuance of an addendum at least seventy two (72) hours prior to the Bid opening date and time.
4. MERC may in its sole discretion, determine if an item submitted as an alternate or approved equal is "equal" or "equivalent".

RECYCLABLE PRODUCTS

Vendors shall use recyclable products to the maximum extent economically feasible in the performance of the work set forth in this contract document.

RECYCLED PRODUCTS AS BID ITEMS

Oregon Law (ORS 279A.125) requires MERC and all public agencies to give preference to materials and supplies manufactured from recycled materials.

All Bidders are therefore required to specify the exact or minimum percentage of recycled paper and fiber type in all paper products or recycled content in all other products offered, plus both the post-consumer and secondary waste content of the products offered.

Only Bids submitted with such information shall receive preference consideration and post Bid declaration or discovery shall not be allowed.

Definitions of "recycled product," "post-consumer" and "secondary" waste material and other explanatory notes are available from the Metro Procurement Services Division.

QUANTITIES

Payment will be made only for quantities actually ordered, delivered, installed and accepted whether greater or less than the stated amounts. MERC will not accept damaged merchandise or product as it may interfere with the products operation.

TERMS

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

PRICES

All prices submitted shall be firm during the contract period. If unit prices are requested, they should be provided for each unit on which there is a Bid. In case of mistake in extension of price, unit prices shall govern. All prices shall be F.O.B. the destination designated by MERC, and include shipping

Request for Bids (RFB) (Goods and Supplies)

WARRANTY / GUARANTY

Each Bid for the furnishing of materials and equipment shall provide an explanation of both the Bidder's and manufacturer's warranties on materials and workmanship.

Every Bid shall indicate and include any warranty costs to MERC, including but not limited to, all parts, labor, and shipping costs required for compliance with any specific requirement(s) contained in the special conditions.

SERVICE

Each Bidder shall furnish detailed information on any service facilities, locations, and procedures as well as information on any maintenance agreements or contracts available to MERC.

DELIVERY

Each Bidder shall provide a delivery schedule for each item offered. The successful Bidder shall notify MERC, in writing, within ten (10) business days of order if delivery cannot be completed as proposed and required. **Delivery is to be no later than April 30, 2011.**

Upon receipt of such notice from the successful Bidder, MERC reserves the right to cancel the order and make the purchase from the second lowest, responsible Bidder.

If MERC does not elect to cancel the contract initially, subsequent failure to meet the then current delivery requirement does not foreclose MERC's option for later cancellation.

Product Shipment, Handling, Storage and Protection:

- A. When practical, products shall be factory assembled.
 - 1. Furnish assembly instructions for parts and assemblies that are shipped unassembled.
 - 2. Mark or tag the separate parts and assemblies for field assembly.
 - 3. Cover machined and unpainted parts that may be damaged by the elements with a strippable protective coating.
- B. Package or crate products to provide protection from damage during shipping, handling, and storage.
 - 1. Mark or tag outside of each package or crate to indicate its purchase order number, bill of lading number, contents by name, name of project and Contractor, equipment number, and approximate weight.
- C. Mark spare parts and special tools to identify the associated products by name, equipment, and part number. Package parts for protection against damage from the elements during shipping, handling, and storage. Ship in boxes or containers marked to indicate the contents and as stated above. Deliver spare parts and special tools before the associated equipment is scheduled for initial test run.
- D. Contractor shall request a minimum 7-day advance notice of shipment from manufacturers.
- E. Where specified for specific product, factory test results shall be reviewed and accepted before such product is shipped.

Receiving, Inspection and Unloading:

Request for Bids (RFB) (Goods and Supplies)

- A. Contractor shall record the receipt of products at the jobsite.
- B. Upon receipt of products at the jobsite, Contractor shall inspect for completeness and evidence of damage during shipment.
 - 1. Owner Authorized Representative or Project Manager shall be present for inspection.
 - 2. Should there appear to be damage, notify the OWNER immediately and inform the manufacturers and the transportation company.
 - 3. Expedite replacement of damaged, incomplete, or lost items.
- C. After completion of inspection, unload products in accordance with manufacturer's instructions for unloading, or as specified. Do not unload damaged or incomplete products to be returned to manufacturer for replacement, except as necessary to expedite return shipment.

Handling, Storage and Maintenance:

- A. Handle products in accordance with the manufacturer's written recommendations, and in a manner to prevent damage.
- B. Store products prior to installation as recommended by the manufacturer.
 - 1. Store items subject to damage by the elements, vandalism, or theft in secure areas.
- C. Provide manufacturer's recommended maintenance during storage, installation, and until products are accepted for use by owner.
- D. Store products to provide access for inspection and inventory control. Contractors shall document products in storage to facilitate inspection and to estimate progress payments for products delivered but not installed in the Work.

BID SECURITY

All Bids in excess of \$25,000 must be accompanied by a bid security in the form of a cashier's check, certified check, irrevocable letter of credit, or a bid bond issued by a surety authorized to conduct such business in the state of Oregon. Security shall be in the amount of 5% of the total bid price. The bid security shall serve as a guarantee that the Bidder will not withdraw the bid for a period of sixty (60) days after Bid opening, and if awarded the contract, will execute the MERC contract and furnish all required bonds and insurance with the time frame specified.

The Attorney-in-Fact who executes any bond on behalf of the surety must attach a notarized copy of his or her Power of Attorney as evidence of authority to bind the surety on the date of bond execution.

Bid securities will be held until the Contract has been finally executed, after which all Bid securities, other than those which have been forfeited, will be returned to the respective Bidders whose Bid they accompanied.

RESIDENT / NON-RESIDENT BIDDER

Oregon law requires MERC, in determining the lowest responsive Bidder, to add a percent increase on the Bid of a non-resident Bidder equal to the percent, if any, of the preference given to that Bidder in the state in which that Bidder resides. Therefore, each Bidder must indicate whether it is a resident or non-resident Bidder. A resident Bidder is a Bidder that has paid unemployment taxes or income taxes in the

Request for Bids (RFB) (Goods and Supplies)

state of Oregon during the last twelve (12) months immediately preceding submission of this Bid, has a business address in Oregon, and has stated in its Bid that it is a “resident Bidder.”

EXPERIENCE AND ABILITY TO PERFORM THE WORK

Upon request, Bidders must present all necessary information indicating that the Bidder has met the standards of responsibility set forth in ORS 279B.110. MERC will make the final determination as to whether or not the Bidder is qualified to perform the work.

BASIS OF AWARD

The award shall be made to the responsible Bidder submitting the lowest responsive Bid. **Lowest Bid will be based on Lump Sum Total.** Any determination of Bidder’s responsibility or responsiveness is subject to review and determination by the Office of the Metro Attorney as to legal sufficiency. MERC reserves the right to accept or reject any and all Bids in whole or in part and to waive any irregularities in the best interest of MERC.

Request for Bids (RFB) (Goods and Supplies)

GENERAL CONDITIONS

NOTICE OF AWARD

Within ninety (90) calendar days after the opening of Bids, MERC will accept one of the Bids, or combination of Bids, or reject all Bids in accordance with the Basis of Award. The acceptance of the Bid will be by written Notice of Award, mailed or delivered to the office designated in the Bid. The Notice of Award shall not entitle the party to whom it is delivered to any rights whatsoever.

APPEAL OF CONTRACT AWARD

Aggrieved bidders who wish to appeal the award of this contract must do so in writing within seven (7) days of issuance of the notice of intent to award by MERC. Appeals must be submitted to Heather Peck, Capital/Construction Division Manager, 777 NE MLK Jr. Blvd., Portland, OR 97232 and must state the specific deviation of rule or statute in the contract award. MERC will issue a written response to the appeal in a timely manner.

CONTRACT

Within ten (10) business days of receipt of the contract from MERC, the Successful Bidder shall sign and deliver the Contract to MERC.

FOREIGN CONTRACTOR

A Contractor that is not domiciled in or registered to do business in the State of Oregon shall, upon execution of a contract in excess of \$10,000, promptly report the total contract price, terms of payment, length of contract and all other required information to the Oregon Department of Revenue. Compliance shall be documented and MERC shall be fully satisfied as to complete compliance prior to release of final payment.

INSURANCE

The Contractor shall purchase and maintain at his expense the following types of insurance covering the Contractor, and his employees and agents.

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

Insurance coverage shall be a minimum of \$1,000,000 per occurrence.

MERC/Metro, its departments (i.e. Oregon Convention Center), employees, and agents shall be named as an ADDITIONAL INSURED. Notice of any material change or policy cancellation shall be provided to MERC thirty (30) days prior to the change.

The Contractor shall comply with ORS 656.017 for all employees who work in the state of Oregon for more than 10 days. The Contractor shall provide MERC with certification of workers' compensation insurance including employer's liability.

Request for Bids (RFB) (Goods and Supplies)

WORKERS' COMPENSATION

The Contractor, and all subsequent subcontractors and suppliers performing work pursuant to this contract shall provide Workers' Compensation benefits as required by and in accordance with all applicable state and federal laws.

NOTICE OF ASSIGNMENT

MERC will not recognize any assignment or transfer of any interest in this contract without written approval of the Project Manager.

HAZARD COMMUNICATION

The Contractor shall be required to strictly adhere to, coordinate with MERC and document full compliance with the policies and procedures of the Oregon Occupational Health and Safety Code, OAR Chapter 437, Division 155, Hazard Communication.

Therefore, the Contractor and all subcontractors and suppliers within his control shall notify MERC and all parties to the agreement as to:

- Hazardous materials to which they may be exposed on site;
- Employee measures to lessen the possibility of exposure;
- All contractor measures to reduce the risk;
- Procedures to follow if exposed.

The Contractor shall provide MERC with all Material Safety Data Sheets (MSDS) prior to delivery or introduction of the material on site.

For further information or clarification, contact Heather Peck at (503) 731-7846 or the Metro Risk Management Division at (503) 797-1622.

DELIVERY TIMES

Delivery is to be no later than April 30, 2011. The Contractor shall deliver on business days between the hours of 8:00 a.m. and 5:00 p.m., unless otherwise agreed upon in writing by both parties. Unloading must be completed by 5:00 p.m. unless approved in advance by MERC. Requests for such approval must be received by MERC at least three (3) days prior to delivery. Contractor shall assume all risk of deliveries made during hours beyond those listed above.

FAILURE TO PERFORM

Should the Contractor fail to meet the agreed upon delivery schedule, thereby making it necessary for MERC to purchase urgently-needed items from another source, the low Bidder shall pay the difference between the accepted low Bid price and the purchase price or accept an offset against any monies then owed by MERC. Upon Contract, MERC may terminate contract upon giving Contractor seven (7) days written notice. Contractor shall be entitled to payment for work performed to date of termination; MERC shall not be liable for indirect, consequential or any other damages. Termination will not waive any claim or remedies it may have against Contractor.

PATENTS

The Contractor agrees to protect, to defend (if MERC requests) and save the agency harmless against any demand for payment for wrongful or unauthorized use of any patented material, process, article, or device that may enter into manufacture, construction, or forms a part of the work covered by this contract.

Request for Bids (RFB) (Goods and Supplies)

INVOICES

Invoices shall be prepared and submitted as per Contract Documents unless otherwise specified. Invoices shall contain the following information: Contract or Purchase Order number (if any), item numbers, description of supplies or services, sizes, quantities, unit prices and extended totals. Invoice should also include all detail of work performed, labor and percentage complete per billing and also state name of the unit or department to which the merchandise was shipped or delivered. Invoices may be submitted no more than one time per 30 days. *For all prevailing wage projects, invoices shall be accompanied by certified payroll.*

LAW OF STATE OF OREGON

This contract is entered into within the state of Oregon, and the law of said State, whether substantive or procedural, shall apply and be followed with respect to this contract.



Request for Bids (RFB) (Goods and Supplies)

SPECIAL CONDITIONS

MINORITY, WOMEN AND EMERGING SMALL BUSINESS PROGRAM

In the event that any subcontracts are to be utilized in the performance of this agreement, the Bidder's attention is directed to Metro Code provisions 2.04.100, which encourages the use of minority, women, and emerging small businesses (MWESB) to the maximum extent practical. Copies of these MWESB requirements are available from the Metro Procurement Office, 600 NE Grand Avenue, Portland, OR 97232, (503) 797-1816.

Request for Bids (RFB) (Goods and Supplies)



NOTICE TO ALL BIDDERS

The public contract included herein (see Appendix "A") is a standard agreement approved for use by MERC's General Counsel. This is the contract the successful Bidder will enter into with MERC; it is included for your review prior to submitting a Bid.

APPENDIX “A”

BIDDERS'S CHECKLIST

FIRM _____
NAME _____
MAILING ADDRESS _____
PHONE _____ FAX _____ E-MAIL _____

BIDDER REPRESENTS/CERTIFIES/ACKNOWLEDGES AS PART OF THIS OFFER THAT:

(Contractor shall check or complete all applicable boxes)
(To Be Submitted by 2:00 p.m. on Bid Due Date)

(BID WILL BE CONSIDERED NON-RESPONSIVE WITHOUT THE FOLLOWING DOCUMENTS*)

1. **MERC BID FORMS AND ATTACHED SIGNATURE SHEET***
2. **BID BOND***: Bidder has complied with MERC's requirements for bid surety and guarantees that this Bid is irrevocable for the period specified herein. *Located in the Bid Forms*
3. **CONFLICT OF INTEREST*** Bidder hereby certifies that no officer, agent, or employee of MERC has participated on behalf of MERC in preparation of this Bid, that the Bid is made in good faith without fraud, collusion, or connection of any kind with any other Bidder for the same work, and the Bidder is competing solely in its own behalf without connection or obligation to any undisclosed person or firm. _____ (signature)
4. **NON-COLLUSION AFFIDAVIT*** *Located in Bid Forms*
5. **RESIDENT/NON-RESIDENT***: Undersigned Bidder states that it is a resident or non-resident of the state of Oregon. State in which Bidder resides: _____
6. **TYPE OF BUSINESS ORGANIZATION***: Prosper operates as an individual, a corporation, incorporated under the laws of the state of _____, a non-profit organization, a partnership. (If partnership, attach names of the partners)
7. **OREGON LICENSE***: If a corporation, it is, or is not, licensed with Oregon Corporation Commission
8. **DOING BUSINESS AS***: Provide any assumed names utilized. _____
9. **OREGON RECYCLING CERTIFICATE OF COMPLIANCE*** *Located in Bid Forms*
10. **SIGNED BIDDERS CHECKLIST*** (This Document)

PRIOR TO AWARD:

- Financial records and other information in accordance with ORS 279C at the option of MERC's Project Manager
- Performance Bond: *Cost of the Bond shall be included in the Bid.***
- Labor and Materials Bond: *Cost of the Bond shall be included in the Bid***
Bond amounts shall each equal 100% of contract total, or as stated in RFB.
(Below \$50K Performance and Labor, and Materials Bonds may be combined)

By signing this document, Bidder certifies that Bidder has secured and considered all addenda and clarifications to this Request for Bids Document

NAME AND TITLE OF PERSON AUTHORIZED TO
CONTRACT/SIGN OFFER (TYPE OR PRINT)

SIGNATURE OF AUTHORIZED PERSON

Bids must be enclosed in a sealed envelope, endorsed on the outside, indicate the Bid subject, and opening date, and delivered to MERC on or before the date and time the Bid is due. (See Instructions to Bidders).

BID FORMS

OCC *Automatic Hand Dryers Purchase*

BIDDER'S REPRESENTATIVE/CONTACT: NOTE TO BIDDER: Bidders must provide all of the information requested in this bid. Bidder should preferably type or use **BLACK** ink for completing this bid.

TO: MERC
Attention: *Heather Peck – Construction/Capital Projects*

ADDRESS: Metro Regional Center
600 NE Grand Ave., Portland, OR 97232-2736

PROJECT: OCC – Automatic Hand Dryers Purchase

BIDDER: _____

ADDRESS: _____

NAME: _____

TITLE: _____

PHONE: _____

TAX ID NUMBER: _____

OREGON CONTRACTOR'S BOARD NUMBER: _____

THE UNDERSIGNED BIDDER, HEREBY DECLARES THAT:

It has:

- *No knowledge of any undeclared bidding interests, fraud, or collusion in the submission or administration of this Bid.
- *Carefully examined the contract documents for the above project.
- *Secured and considered all addenda issued to date.
- *Inspected/researched the conditions of the proposed work site.
- *Full knowledge of the work and access to all means for completion.

It intends:

- *This bid to be irrevocable for sixty (60) days after Bid opening.
- *To submit a fair and independent Bid without collusion with any official, agent, or employee of Metro or any other Bidder.
- *To execute a contract and provide all bonding and insurance without delay or modification to the documents herein.

- *To commence work in accordance with the Project Schedule and secure full completion within the time specified by the contract documents.
- *To furnish all labor, materials, and equipment as necessary to pursue and complete the work, and in strict compliance with the project plans and specifications of record.
- * This document to be the full and complete Bid without any unsolicited additions, deletions, or conditions made or attached.

It certifies that:

- * It is ___ or is not ___ an Oregon Resident Bidder (ORS 279.029)¹.
- * All federal, state and local sales and use taxes are included in the stated Bid price(s).
- * It and all subcontractors performing construction work as defined in ORS 701.005 (2) are/will continue to be registered with the Construction Contractor's Board (ORS 701.035 - 701.0050).
- * It has included in the Bid amount, will pay prevailing wages and comply with all provisions of ORS 279.350.
- * It has not/will not discriminate against minorities, women, or emerging small business enterprises in obtaining any required subcontracts for goods or services (ORS 279.111).

Now therefore, based upon acts, intentions and certifications herein above, and in full and complete compliance with all terms and conditions of the attached plans and specifications, and all applicable local, state and federal requirements, I declare my BASE BID to be:

Oregon Convention Center – Automatic Hand Dryers Purchase - Total LUMP SUM BID

_____ Dollars
 (Written Amount)
 \$ _____ (Numerical Amount)

IN WITNESS hereto the undersigned has set his/her hand this ___ day of _____, 2011.

If Individual

 Signature of Bidder

 Printed Name of Bidder

 Title

If Partnership or Joint Venture

 Name of Partnership or Joint Venture
 By: _____

 Printed Name of Person Signing

 Title

If Corporation

IN WITNESS WHEREOF the undersigned Corporation has caused this instrument to be executed and its seal affixed by its duly authorized officers this _____ day of _____, 2011.

Name of Corporation

State of Incorporation

By: _____

Printed Name of Person Signing

The names of the principal officers of the Corporation submitting this bid, or of all of the partners, if the Bidder is a partnership or joint venture, or of all persons interested in this bid as individuals are as follows:

_____	_____
_____	_____
_____	_____

SURETY

If the bidder is awarded a Contract on this bid, the surety or sureties who provide(s) the Performance Bond and Labor and Material Payment Bond will be:

SURETY	ADDRESS
1. _____	_____

2. _____	_____

SCHEDULE OF BID PRICES

The Bidder, whose legal signature binding the Bidder to the Bid prices indicated on these pages is found on the signature page, hereby bids as follows:

<u>Item #</u>	<u>Description</u>	<u>Quantity (each)</u>	<u>Unit Price (each)</u>	<u>Total Price</u>
1	Electric Automatic Hand Dryers	91	\$	\$
Item total				\$
Shipping				\$
Lump Sum Total NUMERIC			\$	
Lump Sum Total WRITTEN				

Note: If any of the items listed on the Bid Schedule contain recycled product (see attached), the Bidder shall specify the amounts of such product in an attachment to the Bid Form. If no attachment is included, the amount of recycled product in the items listed will be considered to be zero for the purpose of this Bid. MERC reserves the right to reject any or all Bids.

Bidder Signature _____

Print Name of Bidder _____

Print Name of Company _____

Signature _____

Print Name and Title _____

RESIDENT/NON-RESIDENT BIDDER STATUS

Oregon law requires that MERC, in determining the lowest responsive Bidder, must add a percent increase on the Bid of a non-resident Bidder equal to the percent, if any, of the preference given to that Bidder in the state in which that Bidder resides. Consequently, each Bidder must indicate whether it is a resident or non-resident Bidder. A resident Bidder is a Bidder that has paid unemployment taxes or income taxes in the state of Oregon during the twelve (12) calendar months immediately preceding submission of this Bid, has a business address in Oregon, and has stated in its Bid that the Bidder is a "resident Bidder." A "non resident Bidder" is a Bidder who is not a Resident Bidder (ORS 279.029).

The undersigned Bidder states that it is: (check one)

- 1. _____ A resident Bidder
- 2. _____ A non-resident Bidder

Indicate state in which Bidder resides: _____

NON-COLLUSION AFFIDAVIT

STATE OF _____

COUNTY OF _____

I state that I am _____(Title) of _____(Name of Bidder) and that I am authorized to make this Affidavit on behalf of the Bidder. I am the person authorized by the Bidder and responsible for the price(s) and the amount of this Bid.

I state that:

(1) The price(s) and amount of this Bid have been arrived at independently and without consultation, communication or agreement with any other contractor, Bidder or potential Bidder, except as disclosed in the attached appendix.

(2) Neither the price(s) nor the amount of this Bid, and neither the approximate price(s) nor approximate amount of this Bid, have been disclosed to any other person who is a bidder or potential Bidder, and they will not be disclosed before Bid opening.

(3) No attempt has been made or will be made to induce any person to refrain from bidding on this contract, or to submit a Bid higher than this Bid, or to submit any intentionally high or non-competitive Bid or other form of complementary Bid.

(4) This Bid is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any person to submit a complementary or other noncompetitive Bid.

(5) _____(Name of Bidder), its affiliates, subsidiaries, officers, directors and employees (as applicable) are not currently under investigation by any governmental agency and have not in the last four years been convicted of or found liable for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.

I state that I and _____ (Name of Bidder) understand and acknowledge that the above representations are material and important, and will be relied on by MERC in awarding the contract for which this Bid is submitted. Any misstatement in this affidavit will be treated as fraudulent concealment from MERC of the true facts relating to the submission of Bids for this contract.

Signature of Affiant

Printed Name of Affiant

Sworn to and subscribed before this _____ day of _____, 2011

Notary Public

(SEAL)

My Commission Expires:_____

BID BOND

(NOTE: BIDDERS MUST USE THIS FORM, NOT A SURETY COMPANY FORM)

KNOW ALL MEN BY THESE PRESENTS:

We the undersigned, _____, as PRINCIPAL, and _____, a corporation organized and existing under and by virtue of the laws of the state of _____ and duly authorized to do surety business in the state of Oregon and name on the current list of approved surety companies acceptable on federal bonds and conforming with the underwriting limitations as published in the he Federal Register by the audit staff of the Bureau of Accounts and the U.S. Treasury Department and is of the appropriate class for the bond amount as determined by Best's Rating System, as SURETY, hereby hold and firmly bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, unto the MERC, as OBLIGEE, in the sum of \$_____ in lawful money of the United States of America, for the payment of which sum, well and truly to be made as agreed and liquidated damages.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT whereas the PRINCIPAL has submitted to the MERC a certain bid for work required for the OCC - Automatic Hand Dryers Purchase, which work is specifically described in the accompanying Bid;

NOW, THEREFORE, if MERC does not award a contract to the PRINCIPAL within the time specified in the Instructions to Bidders for the work described in said Bid, or in the alternate, if said bid shall be accepted and the PRINCIPAL, within the time and in the manner described under the Contract Documents, enters into a written contract in accordance with the BID, files the two bonds, one guaranteeing faithful performance of the work to be done and the other guaranteeing payment for labor and materials as required by the law, and files the required certified copies of insurance policies and certificates of insurance, then the obligation shall be null and void; otherwise, the same shall remain in full force and effect.

THE SURETY, for value received, hereby stipulates and agrees that the obligation of said SURETY and this bond shall be in no way impaired or affected by any extension of the time within which MERC may accept such Bid; and said SURETY does hereby waive notice of any such extension.

If more than one SURETY is on this bond, each surety hereby agrees that it is jointly and severally liable for all obligation on this bond.

INWITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 2011.

SURETY

PRINCIPAL

BY: _____

BY: _____

TITLE: _____

TITLE: _____

**OREGON RECYCLING
CERTIFICATE OF COMPLIANCE**

I, the undersigned duly authorized representative of the Bidder, hereby certify that the products offered in this bid contain the following minimum percentages:

- (A) _____ Percentage of post-consumer waste as defined in ORS 279.545 (1)
(formerly ORS 279.731 (1));

- (B) _____ Percentage of secondary waste materials as defined in ORS 279.545(6)
(formerly ORS 279.731(6));

It is the bidder's responsibility to provide additional signed copies of this Certification of Compliance for each item which contains a different percentage of recycled materials than listed above.

DEFINITIONS:

ORS 279.545(1): "Post Consumer Waste' means finished materials which would normally be disposed of as solid waste, having completed its life cycle as a consumer item. 'Post-consumer waste' does not include manufacturing waste."

ORS 279.545(6): "Secondary Waste Materials' is defined as fragments of products or finished products of a manufacturing process which has converted a virgin resource into a commodity of real economic value, and includes post-consumer waste, but does not include excess virgin resources of the manufacturing process. For paper, 'Secondary Waste Materials' does not include fibrous waste generated during the manufacturing process such as fibers recovered from waste water or trimmings of paper machine rolls, mill broke, wood slabs, chips, sawdust or other wood residue from a manufacturing process."

I, the undersigned duly authorized representative of the bidder, understand that the bid must be signed in ink by the bidder or an authorized representative of the bidder and that any alterations or erasures must be initialed in ink by the person signing the bid. Further, I acknowledge that I have read and understand all bid instructions, specifications, terms and conditions (including the attachments indicated above) and agree, on behalf of myself and the bidder to be bound by them.

I, the undersigned duly authorized representative of the bidder certify that the information provided in this bid is true and accurate. Further, I understand and acknowledge that providing incorrect or incomplete information may be cause for bid rejection or contract termination.

Signature: _____

Title: _____

Company: _____

Phone: _____

SAMPLE
Standard Public Contract



For Public Contracts Greater than \$50,000

CONTRACT NO. _____

PUBLIC CONTRACT

THIS Contract is entered into between Metropolitan Exposition-Recreation Commission ("MERC"), whose address is 777 NE Martin Luther King, Jr., Blvd., Portland, Oregon 97232-2742, and _____, whose address is _____, hereinafter referred to as the "CONTRACTOR." Work is to be take place at _____, located at _____.

THE PARTIES AGREE AS FOLLOWS:

ARTICLE I
TERM OF CONTRACT

The term of this Contract shall be for the period commencing _____, 2011 through and including _____, 2011, with substantial completion by _____, 2011, unless terminated as provided in this Contract.

ARTICLE II
CONTRACT SUM AND TERMS OF PAYMENT

MERC shall compensate the CONTRACTOR for work performed and/or goods supplied as described in the Scope of Work. MERC shall not be responsible for payment of any materials, expenses or costs other than those which are specifically included in the Scope of Work, in an amount not to exceed (written amount) _____ Dollars and /100 (\$ _____). Payment shall be on a unit price only for those goods or services received in a condition or manner acceptable to MERC. CONTRACTOR'S invoice shall include an itemized statement of items purchased or services provided, and shall be sent to MERC, Attention: Accounts Payable, 777 NE Martin Luther King, Jr. Blvd., Portland, Oregon 97232-2742. MERC will pay Contractor within 30 days of receipt of an approved invoice.

ARTICLE III
SCOPE OF WORK

CONTRACTOR shall perform the work and/or deliver to MERC the goods described in the Scope of Work attached hereto as Attachment A. All services and goods shall be of good quality and, otherwise, in accordance with the Scope of Work. Contractor agrees to provide all labor, tools, equipment, machinery, supervision, transportation, permits and every other item and service necessary to perform the work described in the contract documents. Contractor agrees to comply with each and every term, condition and provision of the contract documents.

The Contract Time shall commence upon issuance of the Notice to Proceed which is anticipated to be issued following execution of the contract. Contractor shall commence work under this Contract within no more than ten (10) calendar days after issuance of written Notice to Proceed. Contractor shall bring the Work to **substantial completion no later than _____, or at such date as may be extended by Change Order approved by Contractor and Owner.** By executing this Contract, Contractor confirms and accepts that the Contract Time so stated is a reasonable period for performance of all of the Work.

The end date of the Contract Term is intended to allow for finalization of all closeout requirements, receipt of warranties, manuals and final payment, but does not alter requirements for substantial completion of the work by the date specified.

A preliminary facility events schedule for _____ will be provided the duration of the contracted services This schedule indicates the dates and approximate shifts that are currently available and unavailable to the Contractor to perform the required work, depending on the location in the building of the scheduled event, the type of event and the Work being conducted simultaneously with the event. **Due to the likely possibility of additional "bookings" or cancellations of events in the building, this schedule may be modified, which may positively or negatively impact the work schedule. It is not anticipated however, that the net number of days available to the Contractor as indicated on the schedule included as part of these documents will be lessened. In the event of a schedule change, the Owner will notify the Contractor directly following the implementation of the change so that work plans may be modified accordingly.** Due to the nature of the Public Events Facility industry, it will be necessary for the Contractor to work closely with the Project Manager and applicable building staff to coordinate day-to-day logistical requirements for the benefit of the Contractor and to afford Owner Staff the necessary time to perform event or non-event related functions.

ARTICLE IV LIABILITY AND INDEMNITY

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

ARTICLE V TERMINATION

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

ARTICLE VI INSURANCE

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

- A. Broad form comprehensive general liability insurance covering personal injury, property damage, and bodily injury with automatic coverage for premises and operation and product liability shall be a minimum of \$1,000,000 per occurrence. The policy must be endorsed with contractual liability coverage. **MERC, Metro, and their elected and appointed officials, departments, employees and agents shall be named as an ADDITIONAL INSURED.**
- B. Automobile bodily injury and property damage liability insurance. Insurance coverage shall be a minimum of \$1,000,000 per occurrence. **MERC, Metro and their elected and appointed officials, departments, employees, and agents shall be named as an ADDITIONAL INSURED.** Notice of any material change or policy cancellation shall be provided to MERC thirty (30) days prior to the change.

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

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

CONTRACTOR shall not be required to provide the liability insurance described in this Article only if an express exclusion relieving CONTRACTOR of this requirement is contained in the Scope of Work.

ARTICLE VII PUBLIC CONTRACTS

All applicable provisions of ORS chapters 187 and 279A & B, and all other terms and conditions necessary to be inserted into public contracts in the State of Oregon, are hereby incorporated as if such provision were a part of this Agreement. Specifically, it is a condition of this contract that Contractor and all employers working under this Agreement are subject employers that will comply with ORS 656.017 as required by 1989 Oregon Laws, Chapter 684.

All applicable provisions of ORS Chapters 187 and 279A & B, and all other terms and conditions necessary to be inserted into public contracts in the State of Oregon, are hereby incorporated as if such provision were a part of this Agreement including, but not limited to, ORS 279B.220 to 279B.235.

For public work subject to ORS 279C.800 to 279C.870, the contractor shall pay Prevailing Wage Rates as per the *Oregon Bureau of Labor and Industries (BOLI) "Prevailing Wage Rates for Public Contract Works Contracts in Oregon - Effective July 1, 2010"*, pursuant to the administrative rules established by the Commissioner of Labor and Industries. Contractor must provide a written schedule to employees showing the number of hours per day and days per week the employee may be required to work; and must pay daily, weekly, weekend and holiday overtime in accordance with, and as required by ORS 279C.520.

Contractors must promptly pay, as due, all persons supplying to such contractor labor or material used in this contract. If the contractor fails to pay for labor or services, the contracting agency can pay and withhold these amounts due the contractor. Additionally, if the contractor or first-tier subcontractor fails, neglects, or refuses to make payment to a person furnishing labor or materials in connection with the public contract for a public improvement within 30 days after receipt of payment from the public contracting agency or a contractor, the contractor or first-tier subcontractor shall owe the person the amount due plus shall pay interest in accordance with ORS 279C.515. If the contractor or first-tier subcontractor fails, neglects, or refuses to make payment, to a person furnishing labor or materials in connection with the public contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580. Contractor must promptly pay for any medical services they have agreed to pay in accordance with ORS 279C.530. Contractor must pay any and all contributions and amounts due to the Industrial Accident Fund from contractor or subcontractor and incurred in the performance of the contract.

Contractor is required to turn in Certified Payroll Reports each month to Contracting Public Agency. In addition to any other retainage obligated by the Public Contracting Code, the Prevailing Wage Requirement Law requires public agencies to withhold 25 percent of any amount earned by the prime contractor if the prime contractor does not submit certified payroll reports. Once the certified payroll reports have been submitted, the public agency must pay the 25 percent withheld within 14 days. ORS 279C.845(7)

Contractor and every subcontractor must have a Public Works Bond filed with the Construction Contractors Board prior to starting work on the Contract, unless exempt, in accordance with ORS 279C.830(3). Contractors are required to pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

CONTRACTOR shall meet MERC Bonds and Bid Security requirements as follows:

1. Bid Security not exceeding 10 percent of the amount bid for the contract is required unless the contract is for \$50,000 or less.
2. For public improvements, a labor and material bond and a performance bond, both in the amount equal to 100 percent of the contract price are required for contracts over \$50,000.
3. Bid security, labor and material bond and performance bond may be required even though a contract is of a class not identified above, if the General Manager determines it is in the public interest.

For public improvement work all contractors must demonstrate that an employee drug-testing program is in place.

ARTICLE VIII QUALITY OF GOODS AND SERVICES

Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of the highest quality. All workers and subcontractors shall be skilled in their trades. CONTRACTOR guarantees all work against defects in material or workmanship for a period of one (1) year from the date of acceptance or final payment by MERC, whichever is later. All guarantees and warranties of goods furnished to CONTRACTOR or subcontractors by any manufacturer or supplier shall be deemed to run to the benefit of MERC.

ARTICLE IX OWNERSHIP OF DOCUMENTS

Unless otherwise provided herein, all documents, instruments and media of any nature produced by Contractor pursuant to this agreement are Work Products and are the property of MERC, including but not limited to: drawings, specifications, reports, scientific or theoretical modeling, electronic media, computer software created or altered specifically for the purpose of completing the Scope of Work, works of art and photographs. Unless otherwise provided herein, upon MERC request, Contractor shall promptly provide MERC with an electronic version of all Work Products that have been produced or recorded in electronic media. MERC and Contractor agree that all work Products are works made for hire and Contractor hereby conveys, transfers, and grants to MERC all rights of reproduction and the copyright to all such Work Products.

ARTICLE X SUBCONTRACTORS

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

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

ARTICLE XI
RIGHT TO WITHHOLD PAYMENTS

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

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

ARTICLE XII
SAFETY

If services of any nature are to be performed pursuant to this agreement, CONTRACTOR shall take all necessary precautions for the safety of employees and others in the vicinity of the services being performed and shall comply with all applicable provisions of federal, state and local safety laws and building codes, including the acquisition of any required permits. Contractor shall supply a written safety program/policy that all employees must follow. Workplace safety MUST be in compliance with OSHA regulations at all times

ARTICLE XIII
INTEGRATION OF CONTRACT DOCUMENTS

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

ARTICLE X
JURISDICTION

The Contract was entered into in the State of Oregon. This Contract will be interpreted, construed and enforced in accordance with the laws of the State of Oregon. Both parties agree that exclusive jurisdiction for any claim under this Contract will be in Multnomah County, Oregon.

ARTICLE XI
SEVERABILITY

The parties agree that any provision of this Contract that is held to be illegal, invalid, or unenforceable under present or future laws shall be fully severable. The parties further agree that this Contract shall be construed and enforced as if the illegal, invalid, or unenforceable provision had never been a part of them and the remaining provisions of the Contract shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Contract. Furthermore, a provision as similar to the illegal, invalid, or unenforceable provision as is possible and legal, valid, and enforceable shall be automatically added to this Contract in lieu of the illegal, invalid or unenforceable provision. Any failure by MERC to enforce a provision of the Contract is not to be construed as a waiver by MERC of this right to do so.

ARTICLE XIII
BINDING ON ASSIGNS AND SUCCESSORS

This Contract is binding upon the parties hereto and upon the heirs, administrators, representatives, executors, successors, and assigns, and will inure to the benefit of said parties and each of them and to their heirs, administrators, representatives, executors, successors and assigns.

ARTICLE XIV
COMPLIANCE

CONTRACTOR shall comply with federal, state, and local laws, statutes, and ordinances related to the execution of the work. This requirement includes, but is not limited to, non-discrimination, safety and health, environmental protection, waste reduction and recycling, fire protection, permits, fees and similar subjects.

ARTICLE XVII
COUNTERPARTS

This Contract may be executed in counterparts or multiples, any one of which will have the full force of an original.

ARTICLE XIX
DELIVERY OF NOTICES

Any notice, request, demand, instruction, or any other communications to be given to any party hereunder shall be in writing, sent by registered or certified mail or fax as follows:

To: Commission _____, Executive Director, _____
Heather Peck, Division Managers, Construction/Capital Projects MERC
777 NE Martin Luther King Jr. Blvd.
Portland, Oregon 97232

To: Contractor _____

ARTICLE XV
ASSIGNMENT

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

CONTRACTOR

Signature: _____
Printed Name _____
Date: _____
Company: _____
Address _____

Tax I.D. or SS#: _____
Telephone/Fax: _____
CCB _____

**METROPOLITAN EXPOSITION-RECREATION
COMMISSION**

Signature: _____
Printed Name _____
Date: _____
Title: _____
Signature: _____
Printed Name _____
Date: _____
Title _____
Division: _____
Telephone: _____
Project Manager: _____
Telephone/Fax: _____

Copy 1 - MERC Contracts

Copy 2 - Facility

Copy 3 - Contractor