



**METRO**

PEOPLE PLACES

OPEN SPACES

**RFP - 11 - 1712 - FRS**

**OTHER POST EMPLOYMENT BENEFITS**

**Finance and Regulatory Services**

600 N.E. Grand Avenue  
PORTLAND, OR 97232  
(503) 797-1700

**Project Manager**

Margo Norton, Director  
Finance and Regulatory Services  
(503) 797-1934

[margo.norton@oregonmetro.gov](mailto:margo.norton@oregonmetro.gov)

**Procurement Services**

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Procurement Analyst  
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Notice is hereby given that proposals for RFP-11-1712-FRS OTHER POST EMPLOYMENT BENEFITS shall be received by Metro, 600 N.E. Grand Avenue, Portland OR 972327 until 3:00 p.m., July 12, 2010. It is the sole responsibility of the proposer to ensure that Metro receives the Proposal by the specified date and time. All late Proposals shall be rejected. PROPOSERS SHALL REVIEW ALL INSTRUCTIONS AND CONTRACT TERMS AND CONDITIONS.

# Request for Proposals

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## I. INTRODUCTION

**Metro, a metropolitan service district organized under the laws of the State of Oregon and the Metro Charter, located at 600 NE Grand Avenue, Portland, OR 97232-2736, is requesting proposals for**

### **OTHER POST EMPLOYMENT BENEFITS ACTUARIAL VALUATION**

**Proposals will be due no later than July 12, 2010, in Metro's business offices at 600 NE Grand Avenue, Portland, OR 97232-2736. A draft report will be due no later than August 30, 2010, with a final report submitted no later than September 10, 2010.**

Details concerning the project and proposal are contained in this document.

## GENERAL PURPOSE

The purpose of this Request for Proposal (RFP) is to solicit offers from qualified health benefits actuaries to provide actuarial studies to METRO, a local government, for “other post-employment benefits” in accordance with Governmental Accounting Standards Board (GASB) Statements 43 and 45.

Metro complies with ORS 243.303 which requires local governments in Oregon to offer pre-Medicare retirees the same plans that they had as employees. Rates for the retiree population may not be calculated separately from the active group, creating an “implicit subsidy.” In addition Metro is a member of the Oregon Public Employee Retirement System (PERS) which by law maintains a Retirement Health Insurance Account (RHIA).

Metro was first required to comply with GASB Statements 43 and 45 for the year ending June 30, 2008, when a complete actuarial evaluation was performed as of July 1, 2007. For the FY 2008-09, Metro obtained an updated Annual Required Contribution (ARC), based on the prior evaluation, as permitted under the statements.

Metro has a conventional, single employer benefit plan as well as the PERS/RHIA participation. The actuary will be asked to perform a new evaluation sufficient to assure compliance with GASB 43 and 45 for the year ending June 30, 2010, and to perform an interim ARC for the year ending June 30, 2011. Proposers also will be offered the opportunity to bid on two future evaluations and updates.

## II. BACKGROUND

### What is Metro?

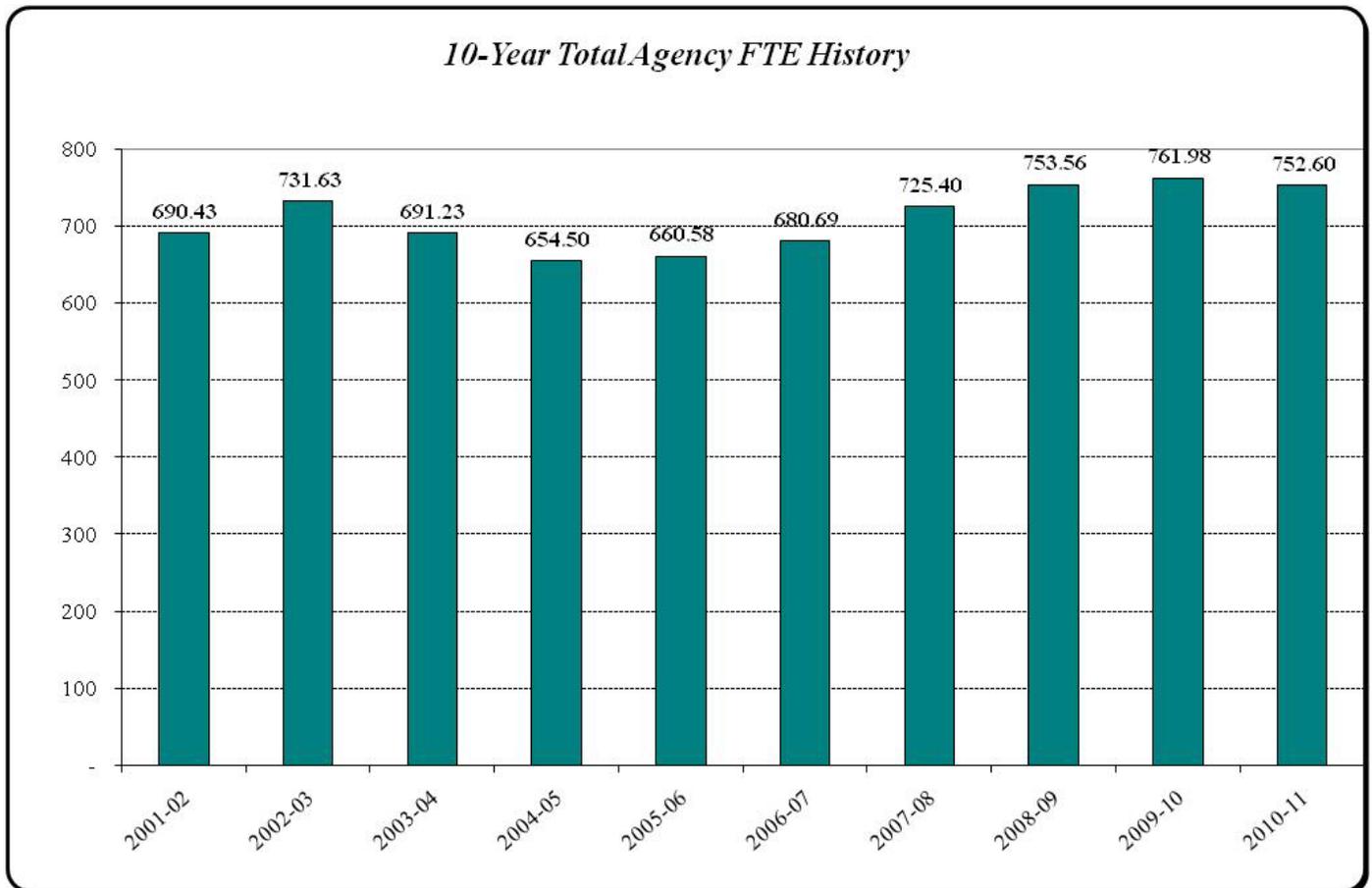
Metro is the directly elected regional government that serves more than 1.6 million residents in Clackamas, Multnomah and Washington Counties, and the 25 cities in the Portland, Oregon metropolitan area. Metro is the only directly elected regional governing body in the United States. Its home rule charter, approved by the voters in 1992 and amended in 2000, grants broad powers, primarily for regional land use and transportation planning, but also for issues of metropolitan concern. Metro symbolizes the region’s commitment to maintain and enhance the livability of the region. A regional approach makes sense when it comes to protecting open space,

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caring for parks, planning for the best use of land, managing garbage disposal and increasing recycling. Metro oversees world-class visitor venues such as the Oregon Zoo, which contributes to conservation and education; and the Oregon Convention Center, Portland Exposition Center and the Portland Center for the Performing Arts, which benefit the region's economy.

## Workforce

In reporting its workforce, Metro counts as "full time equivalent" employees only those employees who work in permanent full-time or part-time positions and who are benefit eligible. The graph below indicates Metro's FTE workforce over time. Temporary and seasonal staff at the Zoo and Regional Parks and event-related staff at MERC are not benefit eligible and are not reflected in the FTE count. Much of Metro's workforce is represented by one of five labor organizations, the largest of which is AFSCME. Metro's Human Resources Department reports that the average length of service for a Metro employee is eight years.



The Oregon Zoo Foundation is a component unit of Metro. By agreement, OZF staff is eligible to participate in Metro's health plan but not in PERS. There are currently 15 OZF employees; at the last census there were no participating retirees. These employees are not reflected in the chart above.

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## Plan Design

Metro currently offers its benefit-eligible employees four comprehensive medical plan choices provided by two carriers, Kaiser Permanente and CIGNA; a majority of Metro employees participates in one of the Kaiser plans. Metro offers two dental plans, one with Kaiser and one with ODS. The benefit plans generally are effective for one year. Employees pay a portion of the premium. In some years the plan does not change, but the premium share between Metro and employees is adjusted; in other years there may be changes in the coverage or carrier. The benefit plans for the past two years and for FY 2010-11 will be available to the selected actuary. Proposers may look at Metro's website for an example of a prior plan at [www.oregonmetro.gov/jobs](http://www.oregonmetro.gov/jobs). Click on employee benefits and look at the related links.

Metro is also a PERS employer. The PERS system is required to maintain a Retirement Health Insurance Account (RHIA).

## Retiree participation and "Implicit Subsidy"

Metro complies with ORS 243.303 which requires local governments to offer pre-Medicare retirees the same plans that they had as employees. Rates for the retiree population may not be calculated separately from the active group. Metro retirees choosing to participate in Metro's group plan pay 100% of the premium for their selected coverage.

Metro is required to contribute continuously to the RHIA at a rate determined by PERS.

## Pay as You Go Basis

Metro currently funds benefits on a pay-as-you-go basis.

## Available Employment Data

For the purposes of this study, Metro can provide, or can obtain from its third-party administrator, the following information for the successful bidder:

- Employee demographic data by gender/age/length of service/plan choice, PERS status
- Census of retirees electing Metro's benefit plan (currently less than 25 members)
- Benefit handbook for the current and prior year plan choices
- Utilization Data: available from Cigna for the Metro group; not available from Kaiser on an individual group basis, only on a community basis

Metro will work with the selected contractor to provide as much available data in electronic format as possible.

In addition, Metro may provide its FY 2007-08 evaluation and FY 2008-09 update to proposers who enter into a strict confidentiality agreement.

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## III. SCOPE OF WORK

The actuarial study performed by the selected firm shall:

- Provide fund-specific information needed to comply with Governmental Accounting Standards Board Accounting Standard 12 (GASB 12) and with the GASB 43 and 45 accounting standards related to “other post employment benefits” (OPEB);
- Provide information to enable Metro to communicate the financial implications of OPEB to internal staff, the governing body, the external auditor and other external parties;
- Provide fund-specific information to enable Metro to manage the costs and liabilities associated with its retiree health benefits;
- provide general advice and guidance about establishment of trusts for implicit-subsidy only entities;
- Provide a template for inputting data for future actuarial valuations.

### Minimum Requirements of Actuarial Studies

The actuarial study shall include the following:

- Actuarial value of benefits, separately identifying amounts for actives and retirees, including
  - Present Value of Future Benefits;
  - Actuarial Accrued Liability by fund;
  - Plan Assets and Unfunded Actuarial Accrued Liability (UAAL) by fund; and Normal Cost
- GASB 45 fund accounting information and draft footnote, including
  - Annual Required Contribution (ARC), as a dollar amount and percentage of payroll, identifying (1) Normal Cost and (2) the outstanding balance and amortization amount for each component of the UAAL;
  - Annual OPEB Cost, as a dollar amount and percentage of payroll; and
  - Reconciliation of Net OPEB Obligation (NOO) during the current year, and projected NOO at end of year.
- Information to assist Metro in future budgeting, including:
  - The ten-year “pay-as-you-go” cost;
  - Annual Required Contribution to fund retiree benefits over the working lifetime of eligible employees; and
  - Recommendations (as appropriate) on managing the liability.
- Description of:
  - Plan provisions, including group(s) covered and benefits valued;
  - Actuarial methods, including actuarial funding method and UAAL amortization policy;
  - Actuarial assumptions; and
  - Data used in the valuation, including age/service distribution table(s).
- Actuarial certification, including indication of compliance with Actuarial Standards of Practice No. 41 “Actuarial Communications” and American Academy of Actuaries “Prescribed Statement of Actuarial Opinion”.

All cost and liability estimates should be separated between active employees and current retirees and between pre-65 and post-65, where applicable. In addition, it may be necessary for the actuary to further

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break down results internally to facilitate calculations, such as to separate current and/or future retirees between different groups such as collective bargaining units.

- Reports: Metro will receive copies of all studies performed by the firm as a result of this engagement.

## IV. REQUIRED QUALIFICATIONS/EXPERIENCE

Proposers must be independent, certified actuaries with recent experience in conducting other post employment benefit actuarial valuations for government entities in full compliance with GASB Statements 12, 43 and 45. Proposers who have not completed GASB-compliant valuations will not be considered. Familiarity with the Oregon Public Employment Retirement System (PERS) is desirable.

## V. PROJECT ADMINISTRATION

Metro's Director of Finance and Regulatory Services will serve as the Project Manager and will manage the resulting contract. All work products provided under the contract are subject to the Project Manager's approval. The selected actuarial firm will also work with Metro's Human Resources Department to secure workforce data necessary for this study.

## VI. PROPOSAL INSTRUCTIONS

### A. Submission of Proposals

Two methods of submission will be considered.

#### 1. Written Submission

One (1) original and three (3) copies of the proposal shall be furnished to Metro, addressed to:

Finance and Regulatory Services  
METRO  
Attention: Margo Norton  
600 NE Grand Avenue  
Portland, OR 97232-2736

Please mark the envelope: **“RFP-11-1712-FRS Other Post Employment Benefit Actuarial Evaluation”**

#### 2. Electronic Submission

Proposals may also be e-mailed to [margo.norton@oregonmetro.gov](mailto:margo.norton@oregonmetro.gov). It is the proposer's sole responsibility to determine that an electronically submitted response has been received. Please label the subject line **“RFP-11-1712-FRS : Other Post Employment Benefit Actuarial Evaluation.”**

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## B. Proposal Deadline

Proposals must be received no later than **3:00 p.m., Pacific Daylight Time, July 12, 2010**. Facsimile proposals will not be accepted. Late proposals will not be considered.

## C. RFP as Basis for Proposals:

This Request for Proposals represents the most definitive statement Metro will make concerning the information upon which Proposals are to be based. Any verbal information which is not addressed in this RFP will not be considered by Metro in evaluating the Proposal. All questions relating to this RFP should be addressed to [margo.norton@oregonmetro.gov](mailto:margo.norton@oregonmetro.gov). Any questions, which in the opinion of Metro, that warrant a written reply or RFP amendment will be furnished to all parties receiving this RFP. Metro will not respond to questions received after June 30, 2010.

## D. Information Release

All Proposers are hereby advised that Metro may solicit and secure background information based upon the information, including references, provided in response to this RFP. By submission of a proposal all Proposers agree to such activity and release Metro from all claims arising from such activity. In accordance with Oregon Public Records Law (ORS 192), proposals submitted will be considered part of the public record, except to the extent they are exempted from disclosure.

## E. Minority, Women and Emerging Small Business Program

In the event that any subcontracts are to be utilized in the performance of this agreement, the Proposer'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.

## VII. **Proposal Contents**

The proposal should contain not more than 10 pages of written material (excluding biographies and brochures, which may be included in an appendix), describing the ability of the consultant to perform the work requested, as outlined below. The proposal should be submitted on recyclable, double-sided recycled paper (post consumer content). No waxed page dividers or non-recyclable materials should be included in the proposal.

### A. Transmittal Letter

Please provide the following information as a transmittal letter to your proposal, in the following order:

Firm Name

- Mailing Address
- Web site address
- Business Account representative (name, phone and email address)
- Project manager assigned, if applicable (name, phone and email address)
- State certification, if any, as a minority-owned, women-owned or emerging small business

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B. Approach/Project Work Plan

Describe how the work will be done within the given timeframe. Describe fully all data that Metro will be required to provide.

C. Staffing/Project Manager Designation

Identify specific personnel assigned to major project tasks, their roles in relation to the work required, percent of their time on the project, and credentials, licenses and special qualifications they may bring to the project. Include resumes of individuals proposed for this contract in an appendix.

D. Experience and Representative Engagements

Indicate how your firm meets the experience requirements listed in section IV of this RFP. Provide at least 5 OPEB actuarial valuations conducted over the past five years which involved local government entities, subject to GASB, with direct and implicit subsidies comparable to Metro. For each of these actuarial studies, include the name of the customer contact person, his/her title, role on the project, and telephone number. Identify persons on the proposed project team who worked on each of the other projects listed, and their respective roles.

E. Staffing/Project Manager Designation

Metro intends to award this contract to a single firm to provide the services required. Proposals must identify a single person as project manager to work with Metro. The consultant must assure responsibility for any subconsultant work and shall be responsible for the day-to-day direction and internal management of the consultant effort.

F. Diversity in Contracting and Employment Practices

Describe the firm's business practices as they relate to supporting minority-owned, women-owned and emerging small businesses in the firm's contracting and purchasing practices. Examples include written purchasing and contracting policies, joint ventures with state certified MWESB firms, participation as a minority-owned, women-owned or emerging small business. Also include the firm's practices and policies as they related to diversity in employment. Examples include non-discrimination policies, annual or periodic reports on workforce demographics, outreach and support to organizations that promote the use of women and minorities in the workforce.

G. Cost Proposal

Present the proposed cost of the project and the proposed method of compensation. List hourly rates for personnel assigned to the project, total personnel expenditures, support services, and subconsultant fees (if any). Requested expenses (if any) should also be listed.

1. All proposers must submit a proposed cost for the actuarial evaluation for the year ending June 30, 2010, and an updated ARC for the year ending June 30, 2011 [Evaluation 1].
2. At the proposer's option, the proposer may submit a proposed cost for either or both the following elements:
  - a. Actuarial evaluation for the year ending June 30, 2012 and an updated ARC for the year ending June 30, 2013 [Evaluation 2]

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b. Actuarial evaluation for the year ending June 30, 2014 and an updated ARC for the year ending June 30, 2015 [Evaluation 3]

Metro will engage a successful bidder for the first evaluation period and its succeeding update [Evaluation 1]. At its sole option Metro also may elect to engage the successful bidder for Evaluation 2 or both Evaluations 2 and 3, based on the proposals it receives.

## H. Exceptions and Comments

To facilitate evaluation of proposals, all responding firms will adhere to the format outlined within this RFP. Firms wishing to take exception to, or comment on, any specified criteria within this RFP are encouraged to document their concerns in this part of their proposal. Exceptions or comments should be succinct, thorough and organized.

## VIII. GENERAL PROPOSAL/CONTRACT CONDITIONS

- A. Limitation and Award: This RFP does not commit Metro to the award of a contract, nor to pay any costs incurred in the preparation and submission of proposals in anticipation of a contract. Metro reserves the right to waive minor irregularities, accept or reject any or all proposals received as the result of this request, negotiate with all qualified sources, or to cancel all or part of this RFP.
- B. Billing Procedures: Proposers are informed that the billing procedures of the selected firm are subject to the review and prior approval of Metro before reimbursement of services can occur. Contractor's invoices shall include an itemized statement of the work done during the billing period, and will not be submitted more frequently than once a month. Metro shall pay Contractor within 30 days of receipt of an approved invoice.
- C. Validity Period and Authority: The proposal shall be considered valid for a period of at least ninety (90) days and shall contain a statement to that effect. The proposal shall contain the name, title, address, and telephone number of an individual or individuals with authority to bind any company contacted during the period in which Metro is evaluating the proposal.
- D. Conflict of Interest. A Proposer filing a proposal thereby certifies that no officer, agent, or employee of Metro or Metro has a pecuniary interest in this proposal or has participated in contract negotiations on behalf of Metro; that the proposal is made in good faith without fraud, collusion, or connection of any kind with any other Proposer for the same call for proposals; the Proposer is competing solely in its own behalf without connection with, or obligation to, any undisclosed person or firm.
- E. Equal Employment and Nondiscrimination Clause Metro 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. Metro fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations in all programs and activities. For more information, or to obtain a Title VI Complaint Form, see [www.oregonmetro.gov](http://www.oregonmetro.gov).

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## **IX. EVALUATION OF PROPOSALS**

- A. Evaluation Procedure: Proposals received that conform to the proposal instructions will be evaluated. The evaluation will take place using the evaluation criteria identified in the following section. Interviews may be requested prior to final selection of one firm.
- B. Evaluation Criteria: This section provides a description of the criteria which will be used in the evaluation of the proposals submitted to accomplish the work defined in the RFP.

|   |     |
|---|-----|
| Project Work Plan/Approach                        | 25% |
| Firm and Project Staffing Experience              | 30% |
| Diversity in Employment and Contracting Practices | 15% |
| Budget/Cost Proposal                              | 30% |

## **X. APPEAL OF CONTRACT AWARD**

Aggrieved proposers 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 Metro. Appeals must be submitted to Darin Matthews, Procurement Officer, 600 NE Grand, Portland, Oregon 97232 and must state the specific deviation of rule or statute in the contract award. Metro will issue a written response to the appeal in a timely manner.

## **XI. NOTICE TO ALL PROPOSERS -- STANDARD AGREEMENT**

The attached personal services agreement is a standard agreement approved for use by the Office of Metro Attorney. This is the contract the successful Proposer will enter into with Metro; it is included for your review prior to submitting a proposal.



**Personal Services Agreement**

Contract # \_\_\_\_\_

THIS AGREEMENT is between Metro, a metropolitan service district organized under the laws of the State of Oregon and the Metro Charter, located at 600 N.E. Grand Avenue, Portland, OR 97232-2736, and \_\_\_\_\_, referred to herein as "Contractor," located at \_\_\_\_\_.

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. The general purpose of this agreement is to provide actuarial studies to Metro for "other post-employment benefits" in accordance with Governmental Accounting Standards Board (GASB) Statements 43 and 45. 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 \_\_\_\_\_ AND \_\_\_\_\_/100THS DOLLARS (\$\_\_\_\_\_).
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, shall be a minimum of \$1,000,000 per occurrence. The policy must be endorsed with contractual liability coverage; and
    - (2) automobile bodily injury and property damage liability insurance coverage shall be a minimum of 1,000,000 per occurrence.
  - b. Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS on Contractor's general liability policy. Notice of any policy cancellation shall be provided to Metro 30 days prior to the cancellation.
  - c. 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.
  - d. 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, unless such claims are covered by another policy required herein. 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 cancellation.



## ***Personal Services Agreement***

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e. Contractor shall provide Metro with a Certificate of Insurance complying with this article, and naming Metro as an additional insured on its general liability policy within fifteen (15) days of execution of this contract, or twenty-four (24) hours before services under this contract commence, whichever date is earlier.

5. Indemnification. Contractor shall indemnify and hold Metro, its agents, employees and elected officials harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Agreement, or with any patent infringement or copyright claims arising out of the use of Contractor's designs or other materials by Metro and for any claims or disputes involving subcontractors.

6. Maintenance of Records. Contractor shall maintain all of its records relating to the Scope of Work on a generally recognized accounting basis and allow Metro the opportunity to inspect and/or copy such records at a convenient place during normal business hours. All required records shall be maintained by Contractor for six years after Metro makes final payment and all other pending matters are closed.

7. Ownership of Documents.

(a) Subject to Sections 7(b) (Tool Development) and 7(c) Limited Distribution), all deliverables developed for Metro including, but not limited to, reports, drawings, works of art and photographs, pursuant to this Agreement are the property of Metro, and it is agreed by the parties that such documents are works made for hire. Contractor hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such documents.

(b) Tool Development. Contractor shall retain all rights, title and interest (including, without limitation, all copyrights, patents, service marks, trademarks, trade secret and other intellectual property rights) in and to all technical or internal designs, methods, ideas, concepts, know-how, techniques, generic documents and templates that have been previously developed by Contractor or developed during the course of the provision of the services ("Contractor Tools") provided such Contractor Tools do not contain any confidential information or proprietary data of Metro. To the extent that Contractor may include in the materials any Contractor Tools, Contractor agrees that Metro shall be deemed to have a fully paid up license to make copies of the Contractor Tools as part of this engagement for its internal business purposes and provided that such materials cannot be modified or distributed outside Metro without the written permission of Contractor or except as otherwise permitted in Section 7(c) (Limited Distribution).

(c) Limited Distribution. Contractor's work is prepared solely for the use and benefit of Metro in accordance with its statutory and regulatory requirements. Contractor recognizes that materials it delivers to Metro may be public records subject to disclosure to third parties, however, Contractor does not intend to benefit and assumes no duty or liability to any third parties who receive Contractor's work and may include disclaimer language on its work product so stating. Metro agrees not to remove any such disclaimer language from Contractor's work. To the extent that Contractor's work is not subject to disclosure under applicable public records laws, Metro agrees that it shall not disclose Contractor's work product to third parties without Contractor's prior written consent, which consent shall not be unreasonably withheld; provided, however, that Metro may distribute Contractor's work to (i) its professional service providers who are subject to a duty of confidentiality and who agree to not use Contractor's work product for any purpose other than to provide services to Metro, or (ii) any applicable regulatory or governmental agency, as required.

8. Project Information. Contractor shall share all project information and fully cooperate with Metro, informing Metro of all aspects of the project including actual or potential problems or defects. Contractor shall abstain from releasing any information or project news without the prior and specific written approval of Metro.

9. Independent Contractor Status. Contractor shall be an independent contractor for all purposes and shall be entitled only to the compensation provided for in this Agreement. Under no circumstances shall Contractor be considered an employee of Metro. Contractor shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified in the Scope of Work. Contractor is solely responsible for its performance under this Agreement and the quality of its work; for obtaining and maintaining all licenses and certifications



**METRO**

600 NE Grand Ave.  
Portland, OR 97232-2736  
(503) 797-1700

## ***Personal Services Agreement***

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necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified in the Scope of Work; and for meeting all other requirements of law in carrying out this Agreement. Contractor shall identify and certify tax status and identification number through execution of IRS form W-9 prior to submitting any request for payment to Metro.

10. Right to Withhold Payments. Metro shall have the right to withhold from payments due to Contractor such sums as necessary, in Metro's sole opinion, to protect Metro against any loss, damage, or claim which may result from Contractor's performance or failure to perform under this Agreement or the failure of Contractor to make proper payment to any suppliers or subcontractors.

11. State and Federal Law Constraints. Both parties shall comply with the public contracting provisions of ORS chapters 279A, 279B and 279C and the recycling provisions of ORS 279B.025 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.



***Personal Services Agreement***

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14. Termination. This Agreement may be terminated by mutual consent of the parties. In addition, Metro may terminate this Agreement by giving Contractor seven days prior written notice of intent to terminate, without waiving any claims or remedies it may have against Contractor. Termination shall not excuse payment for expenses properly incurred prior to notice of termination, but neither party shall be liable for indirect or consequential damages arising from termination under this section.

15. No Waiver of Claims. The failure to enforce any provision of this Agreement shall not constitute a waiver by Metro of that or any other provision.

16. Modification. Notwithstanding and succeeding any and all prior agreement(s) or practice(s), this Agreement constitutes the entire Agreement between the parties, and may only be expressly modified in writing(s), signed by both parties.

\_\_\_\_\_  
 By \_\_\_\_\_  
 Title \_\_\_\_\_  
 Date \_\_\_\_\_

METRO  
 By \_\_\_\_\_  
 Title \_\_\_\_\_  
 Date \_\_\_\_\_