



METRO

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RFP 11-1716

WASTE REDUCTION ASSEMBLY PROGRAM FOR ELEMENTARY SCHOOLS

Metro Sustainability Center

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

Project Manager:

Freda Sherburne
Education Coordinator
(503) 797-1522

freda.sherburne@oregonmetro.gov

Procurement Analyst:

Sharon Stiffler
Procurement Analyst
(503) 797-1613

sharon.stiffler@oregonmetro.gov

Notice is hereby given that proposals for RFP 11-1716 for: Waste Reduction Assembly Program for Elementary Schools shall be received by Metro, 600 N.E. Grand Avenue, Portland OR 97232 until 3:00 p.m., August 11, 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.

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FOR

Waste Reduction Assembly Program for Elementary Schools

I. INTRODUCTION

The Sustainability Center of 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 a waste reduction assembly program for elementary schools.

Sealed proposals shall be due no later than 3:00 p.m., August 11, 2010 in Metro's business offices at 600 NE Grand Avenue, Portland, OR 97232-2736.

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

II. BACKGROUND/HISTORY OF PROJECT

Metro provides free classroom presentations, puppet shows, educational theatre assemblies and other educational materials on waste reduction, recycling, composting and household hazardous waste to regional schools. Our programs help students understand the connection between their personal choices and our world's diminishing resources.

Over the past 30 years, the Metro region has constructed a highly effective recycling system that continues to provide strong environmental benefits. However, waste generation and the use of toxic chemicals continues to grow. Metro Sustainability Center strives to shift the region towards more sustainable consumer choices that will reduce environmental and human health impacts associated with the generation and disposal of waste.

The goal of this assembly program is to engage elementary school students in thinking about the choices they make every day and how those choices impact the environment. At the end of the show, students should understand how our consumer choices and how we dispose of materials impacts natural resources. They should come away with concrete ideas of what they can do to have a positive impact on the environment and the motivation to put their ideas into action at home and at school.

Metro is open to proposals that may include storytelling, theater, music, or other dramatic mediums that will capture the attention of up to 600 students at a time to convey the waste prevention message. The successful applicant shall design the program, but shall have the support of Metro's waste reduction education staff to ensure the waste prevention messages are delivered clearly in an age-appropriate and accurate fashion.

This assembly shall complement other Metro programs currently being offered to schools including classroom presentations and puppet shows. Descriptions of these programs can be found on Metro's website: www.oregonmetro.gov/schoolrecycling.

III. PROPOSED SCOPE OF WORK/SCHEDULE

Metro is seeking proposals from qualified firms to perform the following services and to deliver the products described:

Goals of the Program

The following are long-term goals or outcomes that Metro hopes to reach through teaching students about sustainability and waste reduction.

1. Students are introduced to the basic concept of sustainability: meeting present needs without compromising the ability of future generations to meet their needs.
2. Students are able to distinguish between personal wants and needs and identify how culture, marketing and advertising inform their consumption patterns.
3. Students understand how their choices and actions have an impact on the environment and begin to change behaviors to lessen their earth footprint.

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Objectives of the Program

These are specific things that students should know or be able to do during or after the assembly program.

1. Students can identify natural resources and where they come from, distinguish between natural resources and resulting products made by humans and identify renewable and nonrenewable natural resources.
2. Students are able describe the life cycle of a commonly used item.
3. Students are able to describe choices and actions to take that lessen their impact on the environment.
4. Students are motivated to take action to reduce their earth footprint.
5. Students enjoy the show.

General Considerations

1. Upon award of contract, Contractor shall meet with Metro representative to discuss project development, strategy and timelines. Contractor shall also meet with Metro representative at mutually agreed upon intervals/key development phases for review, comment and approval on the work in progress.

2. Standard Metro contracts require that Metro shall own in its entirety all products, including, but not limited to: props, costumes, sets, script, characters, original music, jingles, etc. created by the Contractor for this assembly.

Contractor retains no creative or artistic rights to any of the work. However, Metro shall consider proposals with alternative arrangements other than full Metro ownership of all products and artistic rights for programs that have already been developed and performed elsewhere.

- a. Contractor shall describe in detail the requested alternative arrangements to ownership in the proposal that is submitted to Metro.
- b. It is expected that these changes to standard Metro contract procedures for programs that are already developed and/or alternative ownership arrangements shall be reflected in lower development costs.

3. This is a multi-year project with all development (scripts, props, stages, music, etc.) of the assembly program to be completed by January 31, 2011.

4. Contractor shall provide the following information to Metro:

- a. Prior to performances: performance schedule, including names of schools, name of school representative and contact information
- b. Included on monthly invoice: school name and number of students and staff attending each show
- c. Within one month of the close of each school year: a summary report including photos of assembly program (digital preferred) and suggestions for improving future assemblies.

Program Development

Contractor shall develop script for an assembly program to be performed in elementary schools (libraries, gymnasiums, auditoriums, cafeterias) that is appropriate in content and format for students in grades 3-5, is approximately 35 minutes in duration and addresses the goals/concepts described in the background information of this RFP.

Contractor shall create/provide/maintain/store all props, costumes, puppets, sets, stages, sound systems, etc., necessary for the assembly program. Contractor is responsible for transporting performers, sound equipment, props, etc. to school sites.

Metro welcomes and encourages program proposals reflecting the rich cultural diversity among the region's population.

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Possible themes, talking points and other ideas

1. Lifecycle impacts of consumer goods: Trace the path of everyday items (food, shelter, clothing) from natural resources to human-made products to disposal (i.e., paper comes from trees; energy and water are used and pollution may be created in harvesting, manufacturing, transporting, packaging; once in the landfill, these materials can't be used again.) Discuss how to lessen these impacts.
2. The frog does not drink up the pond in which he lives – Native American proverb
3. Go through a child's day and talk about needs and wants and choices they can make to conserve resources and make less waste. Simple things kids can do to reduce:
 - Avoid buying the newest cell phone, video game/computer if your current one still works
 - check books/DVD's out from the library rather than buying new
 - repair toys, bicycles, clothes, etc.
 - choose items with less packaging
 - shop at and donate to thrift stores
 - buy locally produced and/or organic goods
 - food waste: "take what you want, eat what you take" at home, school, restaurants
4. Illustrate the effect that advertising has on our purchasing. Think: thoughtful consumption.
5. Be resourceful; choose experiences over "things."
6. Demonstrate how nature "recycles" materials – no waste in nature, we can keep things in the loop too.
7. Protect nature in your back yard – garden naturally
8. How does waste reduction help the environment? (conserves natural resources including energy; prevents pollution, helps protect habitat)
9. Ideas for reducing your earth footprint at school:
 - buy recycled school notebooks, pencils paper
 - have "scrap" bin for reusable paper, construction paper scraps
 - pack no-waste lunches
 - byo water bottle
 - conserve water and energy
 - compost
 - recycle paper, crayons, etc.
10. Engage students in games/quizzes such as: matching natural resources to human-made item; how to reuse items; least impactful shopping choices, etc.
11. Short skits, each with its own theme or topic: natural gardening, earth footprint, natural resources, advertising, etc.

Performances

1. Contractor shall perform (or cause to be performed) the assembly program for 20 schools the first year and 40 schools in each of the subsequent years in the Portland metropolitan area with a goal of reaching 35,000 students over a possible 4-year run.
2. Contractor shall market and schedule assembly program with school representatives, targeting 40% of programs to schools in Portland/E Multnomah Co., 40% to schools in Washington Co., and 20% to schools in Clackamas Co. Metro shall provide Contractor with list of target schools each year. Schools receiving assemblies shall be within the Metro urban growth boundary and shall be both public and private.
3. Contractor shall distribute follow-up materials and program evaluations to teachers/students. Metro and the Contractor shall work together to develop strategies that ensure that teachers are completing and returning evaluations. Metro education staff shall develop and print (as necessary) follow-up materials.

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IV. QUALIFICATIONS/EXPERIENCE

Proposers shall have the following experience:

1. Knowledge of 3-5th grade audiences (attention span, level of understanding, etc.)
2. Developing creative, engaging scripts for educational school performances
3. Creating appropriate props, costumes, stages, etc. as required by script
4. Providing performances for audiences of 150-600 students and teachers
5. Organizational ability to schedule presentations and collect data for summary report.

V. PROJECT ADMINISTRATION

Metro's waste reduction assembly program project shall be administered by Project Manager, Freda Sherburne, elementary waste reduction educator.

VI. PROPOSAL INSTRUCTIONS

A. Submission of Proposals:

One hard copy (signed and sealed) and one electronic copy of the proposal shall be furnished to Metro, addressed to:

Metro Procurement Office
Sharon Stiffler, RFP 11-1716
600 NE Grand Avenue
Portland, OR 97232-2736

B. Deadline:

Proposals shall not be considered if received after 3:00 p.m., August 11, 2010.

C. RFP as Basis for Proposals:

This Request for Proposals represents the most definitive statement Metro shall make concerning the information upon which Proposals are to be based. Any verbal information which is not addressed in this RFP shall not be considered by Metro in evaluating the Proposal. All questions relating to this RFP should be addressed to Sharon Stiffler at 503-797-1613 or Sharon.stiffler@oregonmetro.gov. Any questions, which in the opinion of Metro, warrant a written reply or RFP amendment shall be furnished to all parties receiving this RFP. Metro shall not respond to questions received after August 4, 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 shall 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.

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VII. PROPOSAL CONTENTS

The proposal should contain not more than 5 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: Indicate who shall be assigned to the project, who shall be project manager, and that the proposal shall be valid for ninety (90) days.
- B. Approach/Project Work Plan: Describe your approach (format, possible storyline, techniques used to engage students, etc.) to the project and how the work shall be done within the given timeframe and budget. Include a proposed work plan, budget and schedule.
- 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 special qualifications they may bring to the project. Include resumes of individuals proposed for this contract.

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.

- D. Experience: Indicate how your firm meets the experience requirements listed in section IV. of this RFP. List projects conducted over the past five years which involved services similar to the services required here. For each of these other projects, 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. Cost/Budget: 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 should also be listed. Metro has established budget not to exceed \$105,000.00 for this project. (Up to \$30,000 for year 1 and up to \$25,000 for each subsequent year)
- F. Diversity in Employment and Contracting: Metro values diversity in its workforce and in the workforce of those who contract with Metro. Metro encourages firms contracting and subcontracting with Metro to do the same. Please describe the following in your proposal:
 - 1. How you would employ a diverse workforce for this project
 - 2. Innovative or successful measures your firm has employed to promote diversity on prior projects.
- G. Exceptions and Comments: To facilitate evaluation of proposals, all responding firms shall adhere to the format outlined within this RFP and attached personal services agreement. 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.

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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 shall 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 shall 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.
- F. Intergovernmental Cooperative Agreement (Requires competitive solicitation) – Pursuant to ORS 279A and the Metro public contract code, Metro participates in an Intergovernmental Cooperative Purchasing program by which other public agencies shall have the ability to purchase the goods and services under the terms and conditions of this awarded contract. Any such purchases shall be between the Contractor and the participating public agency and shall not impact the Contractor's obligation to Metro under this agreement. Any estimated purchase volumes listed herein do not include volumes for other public agencies, and Metro makes no guarantee as to their participation in any purchase. Any bidder may decline to extend the prices and terms of this solicitation to any or all other public agencies upon execution of this contract. Unless the bidder specifically declines to participate in the program by marking the box on the contract declining to participate, the bidder agrees to participate in the Intergovernmental Cooperative Purchasing program.

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IX. EVALUATION OF PROPOSALS

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

| | <u>Percentage of Points</u> |
|---|-----------------------------|
| Project Work Plan/Approach | 35% |
| 1. Demonstration of understanding of the project objectives <ul style="list-style-type: none">• Approach reflects understanding of resource conservation, natural resources, waste reduction, toxics reduction, eco-footprint and other relevant topics• Metro goals and objectives would be met using this plan | |
| 2. Performance methodology <ul style="list-style-type: none">• Appropriate format/content/storyline for 3rd through 5th grade students• Appropriate for all-school assembly (average audience of 250-500 students)• Approach is creative and engaging | |
| Project Staffing Experience | 35% |
| 1. Project consultant demonstrates: <ul style="list-style-type: none">• Successful past experiences that are similar in nature to this project• Ability to complete the project within time allowed• Personal commitment to waste reduction and recycling | |
| 2. Commitment to project <ul style="list-style-type: none">• Shows strong interest in project• Willingness to work with Metro in developing assembly | |
| Budget/Cost Proposal | 25% |
| 1. Projected cost/benefit of proposed work plan/approach <ul style="list-style-type: none">• Reasonable cost/benefit of proposed work plan/approach• Costs reflect description of work plan/approach | |
| 2. Commitment to budget and schedule parameters <ul style="list-style-type: none">• Proposed staff and materials expenses are described in detail | |
| Diversity in Workforce | 5% |
| 1. Diversity in workforce | |
| 2. Innovative or successful measures to promote diversity | |
| Total | 100% |

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 shall 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 shall enter into with Metro; it is included for your review prior to submitting a proposal.

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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. 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. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or 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 shall 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. Coverage shall be in the minimum amount of \$500,000. Contractor shall provide to Metro a certificate of this insurance, and 30 days' advance notice of material change or cancellation.
 - e. Contractor shall provide Metro with a Certificate of Insurance complying with this article, and naming Metro as an additional insured 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. Ownership of Documents and Maintenance of Records. 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 Metro, 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 Metro request, Contractor shall promptly provide Metro with an electronic version of all Work Products that have been produced or recorded in electronic media. Metro and Contractor agree that all work Products are works made for hire and Contractor hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such Work Products.
 - a. Contractor and subcontractors shall maintain all fiscal records relating to such contracts in accordance with generally accepted accounting principles. In addition, Contractor and subcontractors shall maintain any other records necessary to clearly document:

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- (1) The performance of the Contractor, including but not limited to the Contractor's compliance with contract plans and specifications, compliance with fair contracting and employment programs, compliance with Oregon law on the payment of wages and accelerated payment provisions; and compliance with any and all requirements imposed on the Contractor or subcontractor under the terms of the contract or subcontract;
 - (2) Any claims arising from or relating to the performance of the Contractor or subcontractor under a public contract;
 - (3) Any cost and pricing data relating to the contract; and
 - (4) Payments made to all suppliers and subcontractors.
- b. Contractor and subcontractors shall maintain records for the longer period of (a.) six years from the date of final completion of the contract to which the records relate or (b.) until the conclusion of any audit, controversy or litigation arising out of or related to the contract.
- c. Contractor and subcontractors shall make records available to Metro and its authorized representatives, including but not limited to the staff of any Metro department and the staff of the Metro Auditor, within the boundaries of the Metro region, at reasonable times and places regardless of whether litigation has been filed on any claims. If the records are not made available within the boundaries of Metro, the Contractor or subcontractor agrees to bear all of the costs for Metro employees, and any necessary consultants hired by Metro, including but not limited to the costs of travel, per diem sums, salary, and any other expenses that Metro incurs, in sending its employees or consultants to examine, audit, inspect, and copy those records. If the Contractor elects to have such records outside these boundaries, the costs paid by the Contractor to Metro for inspection, auditing, examining and copying those records shall not be recoverable costs in any legal proceeding.
- d. Contractor and subcontractors authorize and permit Metro and its authorized representatives, including but not limited to the staff of any Metro department and the staff of the Metro Auditor, to inspect, examine, copy and audit the books and records of Contractor or subcontractor, including tax returns, financial statements, other financial documents and any documents that may be placed in escrow according to any contract requirements. Metro shall keep any such documents confidential to the extent permitted by Oregon law, subject to the provisions of section E.
- e. Contractor and subcontractors agree to disclose the records requested by Metro and agree to the admission of such records as evidence in any proceeding between Metro and the Contractor or subcontractor, including, but not limited to, a court proceeding, arbitration, mediation or other alternative dispute resolution process.
- f. Contractor and subcontractors agree that in the event such records disclose that Metro is owed any sum of money or establish that any portion of any claim made against Metro is not warranted, the Contractor or subcontractor shall pay all costs incurred by Metro in conducting the audit and inspection. Such costs may be withheld from any sum that is due or that becomes due from Metro.
- g. Failure of the Contractor or subcontractor to keep or disclose records as required by this document or any solicitation document may result in debarment as a bidder or proposer for future Metro contracts as provided in ORS 279B.130 and Metro Code Section 2.04.070(c), or may result in a finding that the Contractor or subcontractor is not a responsible bidder or proposer as provided in ORS 279B.110 and Metro Code Section 2.04.052.
7. 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.
8. 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 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.
9. 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.
10. 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

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requirements of federal and state civil rights and rehabilitation statutes, rules and regulations including those of the Americans with Disabilities Act.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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 _____