



Sustainable Building & Landscaping: Redefining Metro's Role

RFP 11-1901

Metro Sustainability Center

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

Project Manager

Heather Nelson Kent
heather.kent@oregonmetro.gov
503-797-1739

Notice is hereby given that proposals for RFP 11-1901 for Sustainable Building & Landscaping: Redefining Metro's Role shall be received by Metro, 600 NE Grand Avenue, Portland OR 97232 until close of business on June 15, 2011. It is the sole responsibility of the proposer to ensure that Metro receives the Proposal by the specified date and time. Proposals may be mailed, delivered, faxed or emailed. Proposers shall review all instructions and contract terms and condition.

Request for Proposals (RFP 11-1901)

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 Sustainable Building & Landscaping: Redefining Metro's Role. Proposals will be due as indicated on the RFP cover page.

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

II. BACKGROUND/HISTORY OF PROJECT

What's the Problem?

Construction and maintenance practices in our region are causing:

- Toxic waste
- Habitat destruction
- Stormwater runoff
- Stream corridor impacts
- Green house gas (GHG) emissions
- Solid waste
- Inequity
- Biodiversity impacts
- Air and water quality impacts

The construction, maintenance, renovation or demolition of a building and its surrounding landscape require water, raw materials, energy and land. Too few construction and remodeling projects are using green building practices, including nature-friendly design practices. Too many property managers and homeowners are using toxic materials in the maintenance of their homes and businesses. Too much polluted stormwater is entering our rivers and streams.

What's stopping deeper and more widespread adoption of sustainable building and landscaping practices? How can Metro motivate change and remove barriers to change? Opportunities to reduce environmental and human health impacts exist at each stage in the lifecycle of building and landscaping activities.

Metro's current efforts

Metro has led and/or supported a number of programs and projects that encourage the adoption of sustainable building and landscaping practices.

Specific sustainable building and landscaping programs or initiatives undertaken at Metro include:

- Resource Conservation and Recycling:
 - Waste prevention, recycling and reuse in construction, alteration and demolition of the built environment
 - Reduction in the use of household garden, yard care and related items that contain toxic chemicals

Request for Proposals (RFP 11-1901)

- Nature in Neighborhoods:
 - Promoting the use of low-impact development practices by designers, developers, builders and residents
 - Support for community and residential scale habitat restoration and enhancement activities.

Metro's roles have included providing technical assistance, supporting or sponsoring pilot and demonstration projects, providing grants, participating on industry councils (e.g., Homebuilders Association of Metropolitan Portland's Building Green Council), working with independent organizations to develop standards or certifications (e.g., Salmon Safe certification for residential development and golf course management and operations) and convening experts by topic or by groups. Metro's program outreach includes direct contact with target audiences (e.g., Garden of Natural Delights tours) and outreach to audiences through "third party" sponsorships (e.g., Earth Advantage, Energy Trust) or partnerships with other organizations including non-profits and local governments (e.g., Recycle at Work).

Resource Conservation and Recycling - Built Environment and Landscapes

Metro's Resource Conservation and Recycling (RCR) Program Strategic Action Plan identifies sustainability in our region's built environment and landscape as a focus area to achieve State-mandated and other policy goals. This project will help determine how best to focus the RCR Division's role in encouraging the adoption of building material waste prevention and sustainable landscaping practices in this region and identify potential partners in the implementation of these activities.

Nature in Neighborhoods – Habitat-friendly Development

This project also integrates the Metro Council's Nature in Neighborhoods mandate to conserve, protect and restore a continuous, ecologically-viable regional streamside system, reduce the impacts of growth on habitat and improve water quality. The Metro Council has directed that it will achieve this by encouraging the use of habitat-friendly or low-impact development practices, habitat restoration and conservation education.

In 2009-2010 Metro's Resource Conservation and Recycling (RCR) Program staff undertook a strategic planning process. After consulting with stakeholders and policy makers, the plan identified that Metro should grow into a larger role as a regional goal-setter and leader. Stakeholders support the agency shifting from being "project-oriented" to focusing on setting a broader regional agenda and shifting the focus "upstream" to impact policies and standards to achieve the desired outcomes of reducing the amount and toxicity of our region's waste. This is consistent with the focus of Metro's Nature in Neighborhoods initiatives to reduce barriers to the use of low-impact and habitat-friendly development practices through partnerships, education and technical assistance to local governments, industry and other organizations involved in the business of building and landscaping.

This project also embraces the Metro Council's value of ensuring that the benefits of sustainability are available to all members of the community. This requires the fair treatment and meaningful involvement of all people regardless of race, color, national origin or income.

III. PROPOSED SCOPE OF WORK/SCHEDULE

Metro is seeking proposals from qualified firms to perform the following:

Task 1: Best "Change" Practices Literature Review

The Contractor shall perform a literature review of national and international programs that are reporting and measuring success in changing behaviors or systems in the area of sustainable buildings and landscaping. The Contractor shall identify best practices and prepare a summary and synthesis of information. With the assistance of Metro staff,

Request for Proposals (RFP 11-1901)

Contractor shall identify relevant sources, evaluate materials and, where applicable, give a new interpretation of old material or combine new with old interpretations.

Task 1 Deliverables:

- Draft outline for final memo and annotated bibliography of source materials for review by Metro.
- Draft memo documenting relevant findings and best “change” practices for review by Metro, including recommendations for further research or identification of important gaps in information.
- Final memo of relevant findings and best practices.
- Final annotated bibliography of source materials.

Percent of budget estimated: 15%

Task 2: Sustainable Building and Landscaping Programs Review and Analysis

1. With the assistance of Metro staff, identify relevant program service partners to participate in a series of focus groups. Metro estimates that approximately 40-50 engaged participants are needed to gather input from the full range of topic areas and actors.
2. Conduct a series of focus groups about efforts to increase the adoption of sustainable building and landscaping practices in the Metro region in order to:
 - Identify trends, barriers, overlapping services or gaps in existing services and opportunities and challenges for these program areas over the next five years
 - Solicit suggestions for the best role(s) that Metro could play in these efforts.

Draft survey questions for partners/peers in sustainable building and landscaping

1. Identify the most strategic roles and actions Metro (with partners) can take in the next five years to effect widespread adoption of sustainable building and landscaping practices in the greater Portland metropolitan region.
2. What are the greatest opportunities to achieving these goals?
3. What are the greatest barriers to achieving these goals?
4. What trends are you seeing that might change or alter our approach over the next five years?
5. In general, what do you think is Metro’s greatest strength in this area?
6. In general, what do you think is Metro’s most effective role in this area?
7. How can these programs contribute to greater equity in the region, in addition to meeting environmental objectives?

As background, Metro staff will provide Contractor with a preliminary list of programs and services offered in the Metro area by Metro and other local governments, NGO’s, non profits and private organizations, whose missions include encouraging the adoption of sustainable building and landscaping practices.

Also, see [Metro Sustainability Center Web Research Project report from EnviroIssues, 2010](#) for research on these types of programs.

Request for Proposals (RFP 11-1901)

Task 2 Deliverables: Summary and matrix of services and programs

The Contractor will document the information collected through research and focus groups and provide a memo summarizing the trends, barriers, overlapping services or gaps in existing services and opportunities and challenges identified through Task 2 for these program areas over the next five years. Contractor will also provide a summary of partners and peers views of Metro's strengths related to the identified potential roles.

In addition, a visual product such as a "map," venn diagram, or other conceptual illustration will be produced that provides at-a-glance information about the current efforts by Metro and its partners/peers in affecting the adoption of sustainable building and landscaping practices.

Meet with Metro project team to review draft document.

Percent of budget estimated: 25%

Task 3: Sustainable Building and Landscaping Industry Engagement

The Contractor shall conduct one-on-one interviews or focus group research exploring the findings from Tasks 1 & 2 with industry professionals and practitioners. The purpose of these interviews is to verify the barriers and potential new approaches identified by Metro and partners and to identify more effective ways to engage target audiences, reduce barriers or provide transformative education, incentives and/or regulations. Industry audiences include architects, designers, builders, developers, CDC's, landscaping contractors, wholesale and retail nursery owners, building materials suppliers and others that adopt or may adopt sustainable, regenerative building and landscaping practices. Representatives of regulating agencies may also be included in this group, including planning, building codes and pest management.

Metro estimates that approximately 40-50 participants are needed from this group to gather input from the full range of topic areas and actors.

Task 3 Deliverable: The Contractor will document the information collected through the interviews and focus groups and provide a memo summarizing the trends, barriers, opportunities and challenges industry representatives identified for potential new programs or strategies over the next five years.

Meet with Metro project team to review draft document.

Percent of budget estimated: 25%

Task 4: SWOT analysis on Metro roles and draft recommendations

The Contractor shall:

1. Conduct an analysis of the strengths, weaknesses, opportunities and threats (SWOT) of various roles and approaches identified through the research and input provided in Tasks 1-3. Include an analysis of any equity issues identified in the SWOT.
2. Develop a set of draft recommendations with the potential risks and rewards that these various approaches present to Metro and review with Metro staff for inclusion in final report.

Request for Proposals (RFP 11-1901)

Task 4 Deliverable: SWOT analysis, draft recommendations

Meet with Metro project team to review draft document.

Percent of budget estimated: 15%

Task 5: Final project report and recommendations

The Contractor shall:

1. Provide a draft report that documents the findings and outcomes of Tasks 1-4:
 - Sustainable building and landscaping programs and services in the Metro area.
 - Trends, opportunities and challenges across these programs over the next five years.
 - Program, service, infrastructure and regulatory gaps, and potential Metro roles, identified in interviews and stakeholder/focus group meetings and through the SWOT analysis.
 - The Contractors own conclusions regarding program, service infrastructure and regulatory gaps and potential Metro roles.
2. Meet with Metro staff to discuss findings and review the draft report.
3. Provide a final report reflecting the review and comments by Metro staff.

Task 5 Deliverable: Draft and final report approved by Metro.

Final report and appendices documenting findings from the previous tasks.

Percent of budget estimated: 15%

Task 6: Presentations

Presentations of the report findings and recommendations may be needed for stakeholder groups and/or the Metro Council. Please include a line item in your project proposal for development and delivery of three (3) presentations not to exceed 60 minutes including time for Q & A.

Task 6 Deliverable: Presentation reviewed and approved in advance of delivery to selected audiences by Metro staff.

Percent of budget estimated: 5%

Timeline

These tasks will be completed and a draft final project report and recommendations delivered to Metro 16-20 weeks after Notice to Proceed, with a final report delivered within 3 weeks after receiving comments from Metro staff. Draft presentation will be prepared for review and approved by the Metro project manager following the final project report's completion. Metro staff will provide comments on the draft report to be incorporated into the final report. All tasks to be delivered no later than December 30, 2011.

Request for Proposals (RFP 11-1901)

Estimated project timeline

Tasks	Estimated Timeline
Task 1: Best “Change” Practices Literature Review Includes project kick off meeting	3-4 weeks
Task 2: Sustainable Building and Landscaping Programs Review and Analysis	3-4 weeks
Task 3: Sustainable Building and Landscaping Industry Engagement	3-4 weeks
Task 4: SWOT analysis on Metro roles and draft recommendations	2 weeks
Task 5: Final project report and recommendations	2 – 5 weeks
Task 6: Develop basic presentation (presentation schedule TBD)	2 weeks

IV. QUALIFICATIONS/EXPERIENCE

Proposers shall have the following experience:

1. Knowledge of sustainable design, construction and landscaping industries, practices and regulatory environments including: Leadership in Energy and Environmental Design (LEED), Earth Advantage programs and certifications, low impact development practices, construction industry reuse and recycling and demolition, landscaping, natural gardening and toxics reduction.
2. Ability to effectively gather and synthesize information across large stakeholder groups including a variety of local governments, non-profit and for profit audiences.
3. Ability to effectively interview stakeholders, identify key themes and factually report findings.
4. Ability to effectively facilitate focus groups.
5. Ability to effectively analyze information based on data and interviews.
6. Knowledge and application of social change best practices, such as community based social marketing.
7. Ability to effectively communicate findings through written reports and multi-media presentations.
8. Experience with analysis of equity gaps in environmental programs.

V. PROJECT ADMINISTRATION

Heather Nelson Kent is the project manager for Metro. She will be responsible for providing direction to the Contractor, answering questions, distributing draft materials/reports for comments, and providing a set of consolidated comments back to the Contractor. She will also be responsible for approving the final work product. It is anticipated that one meeting will be held at project initiation and a meeting will be needed in association with each of the key deliverables. Other communication will occur via e-mail and telephone.

Request for Proposals (RFP 11-1901)

VI. PROPOSAL INSTRUCTIONS

A. Submission of Proposals

Four (4) copies of the proposal shall be mailed or hand-delivered to Metro, addressed to:
Metro Sustainability Center
Attention: Heather Nelson Kent RFP 11-1901
600 NE Grand Avenue
Portland, OR 97232-2736

Proposals can also be emailed to the following:

heather.kent@oregonmetro.gov

B. Deadline

Proposals will not be considered if received after the date and time indicated on the RFP cover page.

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 Heather Nelson Kent, heather.kent@oregonmetro.gov. Any questions, which in the opinion of Metro, warrants a written reply or RFP addendum will be furnished to all parties receiving this RFP. Metro may not respond to questions received after 3:00 p.m. on June 10, 2011

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, 503 797-1648.

VII. PROPOSAL CONTENTS

The proposal should contain no more than sixteen (16) 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. Submit the proposal on recyclable, double-sided recycled paper (post consumer content). No waxed page dividers or non-recyclable materials should be included in the proposal.

Request for Proposals (RFP 11-1901)

- A. Transmittal Letter: Indicate who will be assigned to the project, who will be project manager, and that the proposal will be valid for ninety (90) days.
- B. Approach/Project Work Plan: Describe how the work will be done within the given timeframe and budget. Include a proposed work plan 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 sub-consultant 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 sub-consultant fees (if any). List any requested expenses. Metro has an established budget not to exceed \$45,000.00 for this project.
- F. Diversity in Employment and Contracting:
- Work Force Diversity – Describe your work force demographics (number of employees, race and gender) and the measurable steps taken to ensure a diverse work force, including company policies and practices that promote the hiring and retention of women and ethnic minorities.
 - Diversity in Contracting – Describe your history of working with diverse firms, including any MWESB-certified firms. Describe a project for which you worked with minorities, women or emerging small businesses. Please provide the project name, method used to achieve participation – for example, joint ventures, subcontracts or purchase of equipment or supplies from a certified firm – and the dollar amount or percentage of the project budget expended on such participation.
 - Diversity of Firm – Describe the ownership of your firm and whether or not your firm is certified by the State of Oregon as an MBE, WBE or ESB. Provide certification number, if applicable.
- G. Sustainable Business Practices
Describe your business practices to reduce the environmental impacts of your operations. This may include energy efficiency, use of non-toxic products, transportation or fuel alternatives, waste prevention and recycling, water conservation, green building practices, etc.

Request for Proposals (RFP 11-1901)

- H. Exceptions to Standard Agreement and RFP: Carefully review the Standard Agreement attached hereto as Exhibit A and incorporated herein. This is the standard agreement that successful respondents to this RFP will be required to execute. RFP respondents wishing to propose any exceptions or alternative clauses to the agreement or to any specified criteria within this RFP must propose those exceptions or alternative clauses in their Proposal; Metro shall not be required to consider contract revisions proposed during contract negotiation and award. Proposed exceptions or alternative clauses should be accompanied by explanatory comments that are succinct, thorough and clear.

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. Payment shall be made by Metro on a Net 30 day basis upon approval of Contractor 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.

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. Award shall be made to the highest ranked Proposer based on the stated evaluation criteria. In the event negotiations are unsuccessful, Metro reserves the right to negotiate with the next highest ranked firms.

Request for Proposals (RFP 11-1901)

- 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.

	Percentage of Total Score
Project Work Plan/Approach	
1. Demonstration of understanding of the project objectives	10
2. Performance methodology	15
Project Staffing Experience	
1. Project consultant	10
2. Commitment to project	15
Diversity in Employment and Contracting	
1. Diversity in the workforce	5
2. Diversity in contracting	5
3. Diversity of firm	5
Sustainable Business Practices	
1. Environmental Impact	10
Budget/Cost Proposal	
1. Projected cost/benefit of proposed work plan/approach	15
2. Commitment to budget and schedule parameters	10
	100%

X. NOTICE TO ALL PROPOSERS -- STANDARD AGREEMENT

The attached agreement included herein reflects preliminary, draft contract language and selected, proposed contract terms for this procurement. Proposers should be aware that such language terms and provisions are for illustrative purposes only and that Metro reserves the right, following submission and ranking of all proposals submitted in response to this procurement, to amend, modify or negotiate over any and all such contract language, terms and provisions regarding the agreement rising from this procurement. By submitting a proposal in response to this procurement, proposers acknowledge that they are aware of and do not object to any later, potential amendment and modification of such preliminary, draft language and terms. In addition, by responding to this procurement, proposers acknowledge that they are aware of their ability to offer alternatives to any of the preliminary, draft contract language and proposed contract terms set forth herein.



Personal Services Agreement

Metro Contract No. XXXXXX

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 **Company Name**, referred to herein as "Contractor," located at **address, City, State Zip**.

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 **Month XX, 201X** and shall remain in effect until and including **Month XX, 201X**, unless terminated or extended as provided in this Agreement. **IF CONTRACT IS SUBJECT TO RENEWAL OR EXTENSION, INCLUDE SUCH LANGUAGE i.e. This agreement may be renewed or extended for XX additional one-year periods at Metro's sole discretion.**

2. **Scope of Work.** Contractor shall provide all services and materials specified in the attached "Attachment 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 **XXXXXXXX AND XX/100THS DOLLARS (\$XXXXXX.XX)**. Payment shall be made by Metro on a Net 30 day basis upon approval of Contractor invoice.

4. **Insurance.** Contractor shall purchase and maintain at the Contractor's expense, the following types of insurance, covering the Contractor, its employees, and agents:

- (a) The most recently approved ISO (Insurance Services Office) Commercial General Liability policy, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence and \$1,000,000 aggregate. The policy will include coverage for bodily injury, property damage, personal injury, contractual liability, premises and products/completed operations. Contractor's coverage will be primary as respects Metro;
- (b) Automobile insurance with coverage for bodily injury and property damage and with limits not less than minimum of \$1,000,000 per occurrence;
- (c) Workers' Compensation insurance meeting Oregon statutory requirements including Employer's Liability with limits not less than \$500,000 per accident or disease; and
- (d) If required by the Scope of Work, Professional Liability Insurance, with limits of not less than \$1,000,000 per occurrence, covering personal injury and property damage arising from errors, omissions or malpractice.

Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS on Commercial General Liability and Automobile policies.

Contractor shall provide to Metro 30 days notice of any material change or policy cancellation.

Contractor shall provide Metro with a Certificate of Insurance complying with this article upon return of the Contractor signed agreement to Metro.

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,



Personal Services Agreement

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:
 - (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.



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

Personal Services Agreement

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 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 without Metro's written consent.

13. Termination. This Agreement may be terminated by mutual consent of the parties. In addition, Metro may terminate this Agreement by giving Contractor seven (7) 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.

CONTRACTOR

METRO

By _____

By _____

Print Name _____

Print Name _____

Date _____

Date _____

Scope of Work – Attachment A

Metro Contract No. XXXXXX

1. Purpose and Goal of Work

2. Description of the Scope of Work

3. Deliverables/Outcomes

4. Payment and Billing

Contractor shall perform the above work for a maximum price not to exceed XXXXXXXX AND XX/100TH DOLLARS (\$XXXXXX.XX).

INCLUDE HOURLY RATES OR TASK BASED PAYMENTS IF APPLICABLE

The maximum price includes all fees, costs and expenses of whatever nature. Each of Metro's payments to Contractor shall equal the percentage of the work Contractor accomplished during the billing period. Contractor's billing invoices will include an itemized statement of work done and expenses incurred during the billing period, will not be submitted more frequently than once a month, and will be sent to Metro, Attention: Accounts Payable, 600 NE Grand Avenue, Portland, OR 97232-2736. Payment shall be made by Metro on a Net 30 day basis upon approval of Contractor invoice.