



Cemetery Interment Services

RFP 13-2276

Metro Cemetery Program

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

Project Manager

Rachel Fox
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Procurement Analyst

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Notice is hereby given that proposals for RFP 13-2276 for Pioneer Cemeteries Grave Opening and Closing Services shall be received by Metro, 600 NE Grand Avenue, Portland OR 97232 until close of business on December 20, 2012. 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 condition.

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I. INTRODUCTION

The Cemetery Program 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 Cemetery Interment Services. Proposals will be due as indicated on the RFP cover page.

II. BACKGROUND AND APPROACH

About Metro

Metro, the regional government, crosses city limits and county lines to build a resilient economy, keep nature close by and respond to a changing climate. Metro represents a diverse population of 1.5 million people in 25 cities and three counties, Metro's directly elected council gives voters a voice in decisions about how the region grows and communities prosper. To achieve that mission, Metro offers a wide variety of programs and services, ranging from recreation, cemetery services, solid waste disposal and recycling to land use planning.

Pioneer Cemeteries

Metro manages a system of historic pioneer cemeteries. This cemetery system represents 66 acres of 14 individual cemeteries that range 25 miles east to west in Multnomah County. The cemeteries, the final resting places of some of Oregon's founding settlers, provide an invaluable glimpse into the history and heritage of the area. They are natural, park like settings that offer community access to open space and passive recreation. The properties are diverse in habitat and in the communities that they serve. They are active facilities, offering traditional ground burial, urn burial, niche inurnment and graveside services. In recent years Metro has increased its support and awareness of the cemetery program by assessing and improving the management of 60,000 interment records. Additionally in 2011 a cemetery business, marketing and operations plan was developed that not only addressed business and marketing opportunities but also created an operations plan for improved operations for the perpetual care of these historic properties. In 2012 Metro continued to improve its operations by designing cemetery soil management and interment verification protocols that have been recognized as exceeding industry standards in the United States. Metro conducts approximately 130 interments each year.

Approach and expected budget

The intent of this RFP is to obtain a qualified contractor to provide the following goods and services to Metro's Cemetery Program and its customers: grave opening and closing, outer burial containers and vault liner sales and supply, graveside amenities for interment services and grave settling, and repair services in Metro's 14 historic cemeteries. Contractors responding to this RFP must either be capable of providing all of the above listed goods and services independently, or by associating qualified subcontractors to assemble a team that provides a good balance of skills that is responsive to this RFP. The selected Contractor will execute an agreement with Metro establishing the general contract terms and requirements.

During the term of the Contract, the selected Contractor will provide outer burial containers and vault liners to Metro for sale to their customers and will perform the above set forth services related to cemetery graves and burials at Metro cemeteries, on an on-call basis, as business warrants. Because the cemeteries require a broad range of service needs, the Contractor must maintain maximum flexibility in how and when it will provide interment services. Designated Metro staff will contact the Contractor to order goods and services specific to an

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individual grave and grave sales contract, ordinarily on at least 24-hour's notice. The Contractor will promptly perform or direct a Contractor's subcontractor to perform these individual assignments. The Contractor is not guaranteed to receive any certain number of assignments.

Additional information may be found at: <http://www.oregonmetro.gov/cemeteries>

III. PROPOSED SCOPE OF WORK/SCHEDULE

Metro is seeking a contractor to provide the necessary equipment and labor for interment services within Metro's cemeteries, which include opening and closing of graves for full body burial and cremations. Metro is seeking proposals from qualified firms to perform the following services and to deliver the products described:

The term of the contract is anticipated to be February 2013 through January 2015. This agreement may be renewed or extended for three (3) additional one (1)-year periods at Metro's sole discretion.

The expected contract award for this work is dependent on the number of burials during a calendar year. The average annual budget for this program is approximately \$103,000 per year, but the actual annual budget will be determined prior to the start of each fiscal year and will be based on the needs of the program area. The successful proposer(s) will be required to execute a Public Contract in the form attached hereto as Exhibit A.

Summary of contract goals:

- Provide excellence in customer service
- Work cooperatively in order to maintain public trust
- Provide service to customers in a respectful and consistent manner
- Document service procedures and protocols and incorporate standards in day to day operations

Principles of Work

The Contractor shall guarantee all work. As a part of the work in a cemetery the Contractor acknowledges that families of the deceased within a Metro cemetery have a right to expect that all human remains entrusted to the custody of Metro are cared for with dignity and respect at all times. To that end, it is essential that all employees, agents and those associated with the Contractor understand the unique and sensitive nature of a cemetery and conduct themselves with dignity and respect for the dead, to not discredit the cemeteries and those interred within them. The Contractor shall perform quality work in the specified time period according to professional standards of practice in the industry. The Contractor and Metro agree to work cooperatively in scheduling and conducting grave opening and closings to best serve the interest of cemetery customers while protecting the integrity of the existing graves and of those interred within them. The entire interment or cremation procedure is subject to inspection at any time by Metro. The Contractor shall understand the maps, layout and location of each cemetery, as listed in Exhibit B.

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Scheduling

Only Metro shall schedule interments in Metro's cemeteries. Metro schedules burial services seven days a week, not including the holidays referenced below. Contractor shall coordinate scheduling, services, inspections of graves, and soil transportation with Metro staff, and in accordance with Metro practices.

Excavation Services

Metro will select, measure, and mark each interment location for burial. Metro will schedule all interments on Metro's cemetery property with the Contractor. Metro is the property owner and manager and must be notified when the Contractor arrives at Metro's cemeteries prior to conducting any work. Prior to excavation, the Contractor shall properly measure gravesites and examine them for potential encroachments, and shall coordinate with Metro staff to make any necessary changes to sites. Graves shall be excavated prior to graveside services, using two personnel and any necessary equipment to complete excavation in a timely manner. One person acts as the excavator, and will operate the excavating equipment, while the other will examine the soil and grave opening for any discrepancies, safety issues, or encroachments (askew adjacent graves, inadvertent discovery of funerary objects, tree roots, rocks, curbing, etc). The Contractor must inform Metro of any issues with regard to the property and the interment services. The Contractor will promptly close the grave once the burial services have been concluded.

Metro may schedule disinterment and disinurnment and provide the Contractor with detail of location of the disinterment/inurnment and location of the reinterment/inurnment if applicable.

Graveside Services

During services, Contractor shall ensure that its staff wear uniforms, and act in a respectful and professional manner throughout. The following are services in addition to grave site excavation.

The Contractor shall safely maintain open graves and keep them neat and orderly until the graveside funeral services have concluded. Graveside services include set up, maintaining, and taking down basic funeral service amenities (e.g. tents, chairs, artificial grass greens, etc.).

Metro requires the use of outer burial containers, liners or vaults in its cemeteries. As a part of this scope of work Contractor shall secure, transport, deliver, unload, and place the outer burial container in the specified grave site. In addition, the Contractor may accept delivery of Metro approved outer burial containers and vaults purchased from third parties, and shall place said outer burial containers and vaults in the appropriate grave site within a reasonable time after delivery. The Contractor shall have the ability to transport the vault and casket to the gravesite in established burial sections to minimize damage to existing gravesites and monuments and the surrounding grounds. The Contractor shall have the equipment necessary to place the casket into an outer burial container or vault and lower the casket and container into the grave. Upon the completion of the graveside

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funeral service and placement of the container with casket into the grave, the Contractor shall fill, compact soil, level and seed the gravesite.

Metro may also request various additional services, such as 1) grave repair such as leveling, filling, or backfilling uneven graves, 2) supplying and maintaining quality nutrient rich backfill soil, 3) placing an independently ordered vault or grave liner that is delivered graveside, and 4) additional soil excavation and moving services.

Soil Transportation

Directly after the grave opening and upon approval from Metro, the Contractor shall transport surplus soil to Metro's centrally located soil storage location.

Product Specifications

The Contractor may provide outer burial containers, liners and vaults under this contract that are manufactured using a variety of different materials. However, all outer burial containers, liners and vaults must have a weight bearing surface sufficient to permanently prevent sinkage resulting from cracking and/or collapse, and be free of any defects which affect their installation or performance. The Contractor represents and warrants and guarantees that the items supplied under this contract are merchantable and fit to use for the particular purpose described in this contract. Outer burial containers, liners and vaults that collapse shall be deemed per se defective, Contractor shall be solely liable therefore, and they shall be replaced by Contractor free of charge.

Coordination

The Contractor must be available to perform interments seven (7) days a week, 365 days a year, except for the following holidays: Christmas, New Year, Memorial Day, Independence Day, and Thanksgiving Day. Metro may order a same-day interment. The hourly rate for these services shall be specified in the Cost Proposal which includes cost of labor and materials. The Contractor shall be responsive to the same-day needs of Metro Cemetery customers. Metro and the Contractor shall have quarterly meetings in order to track the Contractor's performance under the contract and address any communication issues.

IV. QUALIFICATIONS/EXPERIENCE

A qualified contractor or team will be selected to provide the scope of work set forth herein.

Preferred experience

Due to the diversity of the Metro region's population, burials conducted in Metro's 14 Pioneer Cemeteries are the subject of many different cultural rituals and beliefs. The Proposer must demonstrate cultural sensitivity and have a diverse knowledge and understanding of interment beliefs and practices. Proposers must have at least five (5) years of excavation experience. Interment excavation experience, and working in historic and pioneer cemeteries is preferred but not required.

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V. PROJECT ADMINISTRATION

Rachel Fox, Metro's project manager, will administer the project. Proposer shall indicate one (1) point of contact for the resulting contract.

VI. PROPOSAL INSTRUCTIONS

A. Submission of Sealed Proposals

Four (4) paper copies of the proposal shall be furnished to Metro in a sealed envelope and one (1) electronic version, addressed to:

Metro Procurement Services
Attn: Julie Hoffman RFP 13-2276
600 NE Grand Avenue
Portland, OR 97232-2736

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 Julie.Hoffman@oregonmetro.gov. Any questions, which in the opinion of Metro, warrant a written reply or RFP addendum will be furnished to all parties receiving this RFP. Metro will not respond to questions received after 3:00 pm on December 13, 2012.

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 Services, 600 NE Grand Avenue Portland, OR 97232. Phone: 503-797-1648.

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F. Pre-Proposal Conference

A voluntary pre-proposal conference will be held at 600 NE Grand Ave., Portland, OR 97232 on December 5th, 2012 at 1:00 p.m. Interested proposers are encouraged to attend the conference in order to gain information about the RFP requirements

VII. PROPOSAL CONTENTS

The proposal should contain no more than five (5) pages of written material (excluding biographies, resumes 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, folders, binders or non-recyclable materials should be included in the proposal.

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 your understanding of the work objectives and how your firm will perform Section III. of this RFP.

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: Attach price schedule for outer burial containers and vaults, services and list per task rates as applicable to the requested services. The price schedule shall reflect total personnel expenditures, support services, and sub-consultant fees (if any). Requested expenses should also be listed.

F. Diversity in Employment and Contracting:

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- 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

- Environment: Describe your business practices to reduce environmental impacts of your operations. This may include energy efficiency, use of non-toxic products, alternative fuel vehicles, waste prevention and recycling, water conservation, green building practices, etc.
- Economy: Describe your support of local businesses and markets within the Portland Metro region. Include what steps your company has taken in the past to support local businesses, and what steps would be taken if selected for this project.
- Community: Describe the employee compensation structure of your organization. Include wage scales for employees, including trainee, probationary, entry level, journey level, and supervisory. Also include policies regarding annual cost of living adjustments (COLA) to employee wages. Details of the healthcare program (including, medical, dental, prescriptions, preventive care, etc.) as well as out of pocket and deductibles, and employee contributions for themselves and family members. All other employee benefits are to be including, such as vacation, sick leave, pension, disability insurance, profit sharing, childcare, health memberships, company vehicle, public transportation, etc.

- H. Exceptions to Standard Agreement and RFP: Carefully review the Standard Agreement attached hereto as Attachment A and incorporated herein, and the materials provided in the Pre-proposal conference. 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

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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 the Metro contract number, 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 firm(s). Award will be made to the highest ranked proposer according to the evaluation criteria. If contract negotiations are unsuccessful with the highest ranked firm, Metro reserves the right to enter into negotiations with the next highest ranked proposer.
- 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.

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	Percentage of Total Score
Project Work Plan/Approach	
1. Demonstrate an understanding of the scope of work	10
2. Performance methodology	20
Project Staffing Experience	
1. Project consultant/staff experience	15
2. Similar project experience	15
Budget/Cost Proposal –	
1. Projected cost/benefit of proposed work plan/approach	20
Diversity	10
1. Work Force Diversity, Diversity in Contracting, Diversity of Firm	
Sustainable Business Practices	10
1. Environment, Economy, Community	
	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 Metro 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 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 before making a final determination regarding the issuance of the Notice of Intent to Award 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.

Exhibit A

For Public Contracts \$50,000 & Above

THIS Contract is entered into between Metro, a metropolitan service district organized under the laws of the State of Oregon and the Metro Charter, whose address is 600 NE Grand Avenue, Portland, Oregon 97232-2736, and **Company Name**, whose address is **address, City, State Zip**, hereinafter referred to as the "CONTRACTOR."

THE PARTIES AGREE AS FOLLOWS:

ARTICLE I SCOPE OF WORK

CONTRACTOR shall perform the work and/or deliver to METRO the goods described in the Scope of Work attached hereto as Attachment A. All services and goods shall be of good quality and, otherwise, in accordance with the Scope of Work.

ARTICLE II TERM OF CONTRACT

The term of this Contract shall be for the period commencing **Month XX, 201X** through and including **Month XX, 201X**. This agreement may be renewed or extended for three (3) additional one-year periods at Metro's sole discretion.

ARTICLE III CONTRACT SUM AND TERMS OF PAYMENT

METRO shall compensate the CONTRACTOR for work performed and/or goods supplied as described in the Scope of Work. METRO shall not be responsible for payment of any materials, expenses or costs other than those which are specifically included in the Scope of Work. Upon mutual agreement the contract will be increased by two percent per line item from section IV of the scope of work executed April 29, 2011. Payment shall be made by METRO on a Net 30 day basis upon approval of CONTRACTOR invoice.

ARTICLE IV LIABILITY AND INDEMNITY

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

ARTICLE V TERMINATION

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

ARTICLE VI INSURANCE & BONDS

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

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- D. 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.

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

CONTRACTOR shall provide Metro with a Certificate of Insurance complying with this article upon return of the CONTRACTOR signed agreement to Metro. Certificate of Insurance shall identify the Metro contract number.

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

In addition, for public works subject to ORS 279C.800 to 279C.870, CONTRACTOR and every subcontractor shall have a public works bond required by 2005 Oregon Laws Chapter 360 filed with the Construction Contractors Board before starting work on the project, unless exempt under Section 2 of 2005 Oregon Laws Chapter 360.

ARTICLE VII PUBLIC CONTRACTS

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

For public work subject to ORS 279C.800 to 279C.870, the CONTRACTOR shall pay prevailing wages. If such public work is subject both to ORS 279C.800 to 279C.870 and to 40 U.S.C. 276a, the CONTRACTOR and every subcontractor on such public work shall pay at least the higher prevailing wage. The CONTRACTOR and each subcontractor shall pay workers not less than the specified minimum hourly rate of wage in accordance with Section 7 of 2005 Oregon Laws Chapter 360. In addition, the Contractor METRO shall pay an administrative fee as provided in ORS 279C.825(1) to the Bureau of Labor and Industries pursuant to the administrative rules established by the Commissioner of Labor and Industries. CONTRACTORS must promptly pay, as due, all persons supplying to such contractor labor or material used in this contract. If the CONTRACTOR or first-tier subcontractor fails, neglects, or refuses to make payment to a person furnishing labor or materials in connection with the public contract for a public improvement within 30 days after receipt of payment from the public contracting agency or a contractor, the CONTRACTOR or first-tier subcontractor shall owe the person the amount due plus shall pay interest in accordance with ORS 279C.515. If the CONTRACTOR or first-tier subcontractor fails, neglects, or refuses to make payment, to a person furnishing labor or materials in connection with the public contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580. CONTRACTOR must pay any and all contributions and amounts due to the Industrial Accident Fund from contractor or subcontractor and incurred in the performance of the contract. No liens or claims are permitted to be filed against Metro on account of any labor or material furnished. CONTRACTORS are required to pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

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

ARTICLE VIII



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ATTORNEY'S FEES

In the event of any litigation concerning this Contract, the prevailing party shall be entitled to reasonable attorney's fees and court costs, including fees and costs on appeal to any appellate courts.

MODIFICATIONS

Metro may approve changes and modifications to the original contract, including deletions of work, order of additional materials, and additional services reasonably related to the original work scope. Contractor may propose changes in the work that Contractor believes are necessary, will result in higher quality work, improve safety, decrease the amount of the contract, or otherwise result in a better or more efficient work product. If such changes are approved by Metro, they shall be executed by written contract amendment signed by both parties. Such changes shall not relieve Contractor of any obligation or warranty under the contract. No oral statements by either party shall modify or affect the terms of the contract.

ARTICLE IX QUALITY OF GOODS AND SERVICES

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

ARTICLE X OWNERSHIP OF DOCUMENTS

Unless otherwise provided herein, all documents, instruments and media of any nature produced by CONTRACTOR pursuant to this agreement are Work Products and are the property of 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:

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



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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 disqualification 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.

ARTICLE XI SUBCONTRACTORS

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

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

ARTICLE XII RIGHT TO WITHHOLD PAYMENTS – LIQUIDATED DAMAGES

METRO shall have the right to withhold from payments due 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. In addition for public improvement work, if a CONTRACTOR is required to file certified statements under ORS 279C.845, METRO shall retain 25 percent of any amount earned by the CONTRACTOR on the public works until the contractor has filed all required certified statements with METRO.

Contractor acknowledges and agrees that failure by Contractor to strictly comply with the terms this contract may result in costly Metro delays, increased Metro staff time and overtime pay, damages to Metro's customers, damages to Metro's reputation and diminished demand for Metro graves, and potential violations of Oregon state law and regulation resulting the prohibition on the sale of Metro graves. Contractor and Metro agree that the actual loss and monetary



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damages suffered by Metro due to Contractor's breach of Sections 4-16 of the Contract's Scope of Work may be extremely difficult to determine. Contractor and Metro therefore agree that Metro may elect to impose a liquidated damages remedy upon Contractor's breach of Section 4-16 of this Contract's Scope of Work, when said breach results in Remains being removed from a Metro Pioneer Cemetery. In which case, Contractor agrees to pay Metro, as damages representing a reasonable approximation of the actual damages which Metro would suffer in such event, and not as a penalty, liquidated damages of \$10,000.00. METRO shall have the right to withhold from payments due CONTRACTOR such sums as shall satisfy liquidated damages claimed by Metro. All sums withheld by METRO under this Article shall become the property of METRO and CONTRACTOR shall have no right to such sums to the extent that CONTRACTOR has breached this Contract. This liquidated damages remedy shall not govern third-party claims against Metro and/or Contractor for damages resulting from or arising out of Contractors breach of the terms of this contract.

ARTICLE XIII SAFETY

If services of any nature are to be performed pursuant to this agreement, CONTRACTOR shall take all necessary precautions for the safety of employees and others in the vicinity of the services being performed and shall comply with all applicable provisions of federal, state and local safety laws and building codes, including, but not limited to, all OSHA rules and the acquisition of any required permits.

ARTICLE XIV INTEGRATION OF CONTRACT DOCUMENTS

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

ARTICLE XV COMPLIANCE

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

ARTICLE XVI INTERGOVERNMENTAL COOPERATIVE AGREEMENT

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 Contractor 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 Contractor specifically declines to participate in the program by marking the box below, the Contractor agrees to participate in the Intergovernmental Cooperative Purchasing program. **Contractor declines to participate in the Intergovernmental Cooperative Purchasing program or is not applicable to this Contract as indicated by the following initials _____.**

ARTICLE XVI SITUS



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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.

ARTICLE XVII ASSIGNMENT

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

ARTICLE XVIII SEVERABILITY

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

ARTICLE XIX COUNTERPARTS

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

ARTICLE XX DELIVERY OF NOTICES

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

To Contractor: Contractor Contact
Firm Name
Address
City State Zip
XXX-XXX-XXXX fax

To Metro: Project Manager Name
Metro
600 NE Grand Ave
Portland, Oregon 97232
503-XXX-XXXX fax

CONTRACTOR

METRO

By _____

By _____

Print Name _____

Print Name _____

Date _____

Date _____



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

Request for Proposals (RFP 13-2276)

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 **XXXXXXX** 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 shall include the Metro contract number, Contractor name, remittance address, invoice date, invoice number, invoice amount, tax amount (if applicable), and an itemized statement of work performed and expenses incurred during the billing period, and will not be submitted more frequently than once a month. Contractor's billing invoices shall be sent to Metro Accounts Payable, 600 NE Grand Avenue, Portland, OR 97232-2736 or metroaccountspayable@oregonmetro.gov. The Metro contract number shall be referenced in the email subject line. Contractor's billing invoices for services through June 30 shall be submitted to Metro by July 15. Payment shall be made by Metro on a Net 30 day basis upon approval of Contractor invoice.



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Request for Proposals (RFP 13-2276)

Exhibit B

The areas dedicated for Interment purposes by Metro shall consist of the following Cemeteries:

- (a) Brainard Cemetery located at NE 90th Ave. and NE Glisan St., Portland
- (b) Columbia Pioneer Cemetery located at NE Sandy Blvd. and NE 99th Ave., Portland
- (c) Douglass Pioneer Cemetery located at Hensley Road and SE 262nd Avenue, Troutdale
- (d) Escobar Cemetery located at SW Walters Road and Littlepage Road, Gresham
- (e) Gresham Pioneer Cemetery located at SW Walters Road, Gresham
- (f) Grand Army of the Republic Cemetery located at SW Boones Ferry Road and Palatine Road, Portland
- (g) Jones Cemetery located at SW Hewitt Blvd. and SW Humphrey Blvd., Portland
- (h) Lone Fir Cemetery located at SE 26st Ave. and SE Stark St., Portland
- (i) Mt. View-Corbett Cemetery located at Smith Road and Evans Road, Corbett
- (j) Mt. View-Stark Cemetery located at SE Stark Street and SE 257th Street, Gresham
- (k) Multnomah Park Cemetery located at SE 82nd Ave. and SE Holgate Blvd., Portland
- (l) Pleasant Home Cemetery located at Bluff Road and Pleasant Home Road, Gresham
- (m) Powell Grove Cemetery located at NE Sandy Blvd. and NE 122nd Ave., Portland
- (n) White Birch Cemetery located at SW Walters Road, Gresham