



Daycare Contractor at Metro Regional Center

RFP 11-1863

Metro Parks and Environmental Services Department

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

Project Manager

Mike Brown
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Procurement Analyst

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Notice is hereby given that proposals for RFP 11-1863 for Daycare Contractor at Metro Regional Center shall be received by Metro, 600 NE Grand Avenue, Portland OR 97232 until close of business on April 25, 2011. 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 Parks and Environmental Services Department 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 Daycare Contractor at the Metro Regional Center. 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

The Daycare Center at the Metro Regional Center has been in operation since 1993. It is located on the main floor of the Metro Regional Center (MRC). It is currently operating at or near capacity enrollment. Approximately 34% of the children currently enrolled have parents that are Metro employees; the remaining parents with children in the Center are from the general public.

The goals of the daycare center are to provide:

1. Quality childcare at a reasonable and competitive cost to the children of Metro employees and to other parents during Metro's normal working hours;
2. A stimulating and safe care environment and learning experience for children; and
3. A continuing education component for both parents and staff.

The center is approximately 6,700 square feet or 6.1% of the total MRC square footage, with independent heat and air conditioning, and includes a fenced out-door play area, nine drop-off parking spaces for parents use and a full kitchen and laundry with all the necessary appliances provided. The space is used exclusively for childcare. To the best of Metro's knowledge, the facility is currently in compliance with all local, state and federal codes and regulations, including the Americans with Disabilities Act (ADA.).

The base hours of operation are 7:00AM to 6:00PM, Monday through Friday. The Center observes and closes on the same holidays as Metro: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving and Christmas. During operating hours, the center is always open and available for parents to visit.

The Child Care Division (CCD) of the State of Oregon Commission on Children and Families current authorization and actual enrollment are listed below.

Age Group	CCD Certification	Actual Enrollment	Provider/Child Ratio
Infant/Wobbler	12	7 full-time 8 part-time	1:4
Toddler	8	4 full-time 7 part-time	1:4
Young Preschool	15	8 full-time 8 part-time	1:7
Preschool	27	17 full-time 17 part-time	1:9

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The current full-time tuition and fees as of the RFP release date is:

Registration \$50 per child or \$75 per family one-time fee and one-half of a month's tuition shall be paid prior to enrollment and applied to account.

Tuition	
Infant/Wobbler	\$1,179/month
Toddler	\$1,149/month
Young Preschool	\$1,027/month
Preschool	\$902/month

The center currently has approximately 17.53 FTE (full-time equivalent) positions with an aggregate annual salary (excluding benefits) cost of \$579,060. This annual salary cost includes all existing teachers, the cook and director.

Current staff medical benefits include:

- 50% medical premium at 1-3 years of service
- 75% medical premium at 3-5 years of service
- 100% medical premium at 5 years of service
- Employees may elect health benefits for qualified dependants. Employees must pay the full portion of dependant health benefit premiums. The current provider will pay up to one-half of a staffs' child tuition at any child care center with the contribution not exceeding one-half of the current providers and available thru the staff child's kindergarten year.

A self funded pre-tax dollar 403B retirement plan is also available as is a transportation stipend (Metro encourages public transportation use). Credit union and training dollars are also available.

The current provider provides its employees with paid holidays recognized by the Federal Government. Employees become eligible for paid vacation based on their length of employment service.

III. PROPOSED SCOPE OF WORK/SCHEDULE

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

Contractor shall operate and manage a high quality, fee-for-service, childcare program at the Metro Regional Center. The program will be a full-day, year-round curriculum that is developmentally appropriate for young children six weeks to six years old.

Contractor shall be responsible for the complete management and operation of the Center, including but not limited to all aspects of childcare, teaching, staff selection and training, parent relations, fee collection, record keeping, and financial reporting. Specific Contractor responsibilities and conditions are listed as follows:

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1. Maximize enrollment of children of Metro-employed parents. Contractor shall place Metro employees at the top of any waiting list for enrollment openings, based on date of application. In no case without Metro approval, shall the child of a non-Metro employee be allowed to enroll in an open position if there are children of Metro employees on a waiting list.
2. Metro desires the Contractor to begin operations on July 11, 2011, however, Metro will negotiate the beginning service date with the successful proposer.
3. Contractor shall minimize disruption to existing parents and children and provide a transition plan that shall be subject to Metro's approval.
4. Changes in staff to student ratios, number of teachers or CCD authorization levels require Metro approval.
5. Provide all staffing and staff training.
6. Contractor shall possess, or obtain within 90 days, the National Association for the Education of Young Children (NAEYC) accreditation or equivalent accreditation.
7. All staff shall submit to criminal history background checks as required by CCD and other background checks as requested by Metro.
8. Provide a highly qualified, full-time site Director and day-to-day Center management.
9. Provide copies of audited financial statements to Metro no more than 120 days after the close of fiscal year.
10. Process applications and maintain Center waiting list using the current enrollment priorities:
 - 1st Priority – Siblings of a currently enrolled child of a Metro employee.
 - 2nd Priority – Child or children of a Metro employee
 - 3rd Priority – Siblings of currently enrolled child
 - 4th Priority – Child or children of daycare contractor staff
 - 5th Priority – Child or children of the general public

Note: Metro reserves the right to change enrollment priorities.

11. Establish, implement and maintain health, safety and security procedures for children, parents and staff during operating hours required by Federal, State, County, City or other applicable agency. At a minimum, Contractor shall provide an emergency evacuation plan for the Center and shall conduct monthly fire drills.
12. Work with parents to promote and encourage parental involvement in center operation. Suggested methods include: seek parent's advice in regards to staff hiring, curriculum, fund raising, and center operations; provide a parent's handbook detailing Center policies and procedures; schedule regular parent conferences and exit interviews; and provide a reference library of childcare and parenting materials.
13. Provide all program supplies, including consumables, manipulatives, office supplies, first aid supplies, and other supplies necessary in the ongoing program.
14. Contractor shall not discriminate on the basis of sex, race, religion, color, age, marital status, political affiliation, national origin, sexual orientation or disability with respect to enrollment of children or employment of staff. Religious teaching and dissemination of religious or political material will not be allowed.
15. Media coverage of the Center must be approved in advance by Metro. In addition, Contractor shall submit to Metro for approval all written and/or printed materials prior to distribution or publication.
16. No portion of the work may be subcontracted without the prior written consent of Metro.

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17. Metro provides nine parking spaces adjacent to the daycare for drop off or loading. The Contractor is responsible for the supervision of this area during the normal hours of operations. During off-hour and weekends the parking area will be under the control of Metro.
18. Contractor will ensure that any property purchased by Metro, through fundraising or by the Contractor is marked to identify the respective purchaser. Property purchased by Metro or through fundraising will remain with the center. The Contractor, upon termination of the contract, may take property purchased by the Contractor. Equipment purchased by Metro or through fundraising and repaired or altered by the Contractor will remain in the center upon termination of the contract.
19. Contractor must obtain permission to install toys or equipment that attach to the interior or exterior floors, walls or ceilings. Additionally, Metro must approve the purchase of multi-story climbing structures.
20. Contractor will develop an inclement weather policy to ensure the daycare center is open the same hours and days as Metro.
21. Contractor shall be responsible for all real and/or personal property taxes if applicable.
22. Contractor shall supply own copier services at own expense.
23. Metro reserves the right to use or operate the facility for additional childcare needs during hours when Contractor is not operating the Center under this agreement. Contractor shall have first right of refusal to provide childcare services for such off-hour operations.
24. Metro will provide access to Metro employees for Contractor to solicit Metro employee participation in the program.
25. Contractor will provide access to the daycare center at all times to the MRC Operations Manager, Metro building personnel and security staff.
26. Contractor shall apply for and receive licenses and any other permits that are necessary to open and operate the Center in the State of Oregon.
27. The proposed tuition included with this proposal must remain in effect until at least December 31, 2011, unless otherwise agreed to by the parties.
28. Contractor, at own expense, shall arrange for an annual audit of the balance sheets, statements of operations, changes in equity, and cash flows. Metro reserves the right to verify the accuracy of any statement and to arrange for, at Metro's expense, an audit of Contractor's financial records at any time.
29. Contractor shall participate in Metro annual review process that includes the following:
 - a. Contractor submission of a proposed budget
 - b. Metro review of Contractor-proposed tuition charges
 - c. Parent survey
 - d. Site inspection
 - e. Meetings with Contractor, Contractor's employees and parents
 - f. Participation in interviews with Metro staff and/or responses to written questions
30. Contractor's annual operating budget shall not include increases in administrative fees or costs above rate listed in Contractor's proposal without prior Metro approval in writing.
31. Contractor shall be required to prepare and submit the following periodic reports:
 - a. Annual reports which detail enrollment size, staffing, ages of children, parent affiliation to Metro, financial reports, facility condition, unusual concerns, and any other relevant general information and any additional requested information. Report should include proof of current state and local licenses; if applicable; proof of NAEYC certification; proof of insurance coverage as required by Metro.
 - b. A proposed annual operating budget for the upcoming calendar year by November 15 of each year.
 - c. Audited financial statements by February 28 of each year.

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- d. Quarterly financial reports including a balance sheet due on January 30, April 30, July 30 and October 30 of each year. Reports should include monthly and year-to-date summaries.
- e. Incidence reports that detail all criminal or other incidents requiring medical attention. These written reports should be delivered to Metro within 24 hours of the occurrence.
- f. Upon reasonable request by Metro, demonstration by Contractor of its financial capability of continuing its operations under the terms of this Agreement.

Facility Expenses

The costs of the daycare space are listed in the table below. Metro expects the Contractor to fully reimburse Metro for the costs or separately contract for the services, if applicable. Costs are based on 2010 data.

Service	Cost	Basis	Payment Method
Electricity	\$8,857	Prorated	Reimburse Metro
Water/Sewer/Stormwater	\$1,742	Prorated	Reimburse Metro
Garbage/Recycling	\$212	Prorated	Reimburse Metro
Natural Gas	\$272	Prorated	Reimburse Metro
Custodial Services	\$24,789	Custodial staff usage	Reimburse/Contract Separately
Telephone	\$1,132	Prorated	Reimburse Metro
Facility Maintenance	\$16,289	Prorated	Reimburse Metro
Total	\$53,293		

Metro will bill the Contractor on a quarterly basis.

Term of Contract

Contract will be for 3 years with two 1-year options to renew (for a potential total term of 5 years).

Optional Programs

Metro desires the Contractor to include as many of the following programs while minimizing tuition increases. If a specific program will cause a change (increase or decrease) in the tuition rate, please indicate expected change to tuition and new tuition rate in the proposal.

1. Tuition assistance program. Include an outline of the program administration and expected funding level. If a funding source other than tuition is to be used, please indicate source and future expected stability of funds.
2. Multi-child discount.

IV. QUALIFICATIONS/EXPERIENCE

Proposers shall have the following experience:

- (1) 5 years or more of experience operating a daycare.

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(2) All licenses and permits required to open and operate the daycare center, or ability to obtain no less than 90 days prior to the commencement of the contract.

V. PROJECT ADMINISTRATION

Metro's project manager, Mike Brown, will administer the project. Proposer shall indicate one point of contact for the resulting contract.

VI. PROPOSAL INSTRUCTIONS

A. Submission of Sealed Proposals

5 copies of the proposal shall be furnished to Metro in a sealed envelope, addressed to:
Metro Procurement Services
Attn: Karen Slusarenko RFP 11-1863
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 Karen Slusarenko, karen.slusarenko@oregonmetro.gov. Any questions, which in the opinion of Metro, warrant a written reply or RFP amendment will be furnished to all parties receiving this RFP. Metro will not respond to questions received after 3:00PM on April 18, 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.

F. Pre-Proposal Meeting

Metro will hold a pre-proposal meeting at 10:00AM on Saturday, April 9, 2011 in Room 270 at the Metro Regional Center at 600 NE Grand Ave, Portland, OR 97232-2736. All proposers are strongly encouraged to attend.

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G. Site Visit

Metro will make the daycare space available to proposers at 10:30AM on Saturday, April 9, 2011. All proposers are strongly encouraged to attend. In the event a proposer cannot attend, proposers may schedule another site visit outside normal business hours at Metro's convenience. Contact Mike Brown at Mike.Brown@oregonmetro.gov or by phone at 503-797-1509 to schedule.

VII. PROPOSAL CONTENTS

The proposal should contain not more than 20 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, 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 the daycare would be operated.

1. Include a proposed work plan detailing how and when operations would commence under this contract.
2. Provide a summary of policies and procedures to address health, safety, discipline, nutrition, enrollment, parent involvement, daily routine, curriculum, and utilization of current staff and maintenance of staff/student ratios.
3. Provide a summary of proposed salaries and benefits for daycare contractor staff.
4. Submit a budget for calendar year 2012. Include a breakdown for full-time tuition for each room. Additionally; provide a list of part-time rates.
5. Provide the details of any or all of the optional programs you are experienced in or capable of providing. Metro retains the right to accept any or all of the proposed programs in the final contract.
6. Include a transition plan that details what steps will need to be taken to begin operations, how impacts on current families will be minimized, and how long it will take to resume service.

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-today 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.

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Provide a 5-year summary of financial history for other or similar daycare centers you operate. Authorize Metro to obtain business or personal credit reports (at Metro's expense) if such reports are desired by Metro.

E. Cost: Present the following components:

- **Administration Fee:** State the proposed administration fee for operating the center. Generally speaking, the administration fee will be the salary or money not directed to staff working in the center. The administration fee should include any cost or fees for services that must be purchased from the Contractor. Include the annual administrative salary or fee, including maximum rate of annual increase.
- **Facility Expenses:** State how the Contractor will reimburse Metro for the described facility expenses in Section III: Proposed Scope of Work/Schedule.
- **Proposed allowance for tenant improvements.**

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

- **Economy:** 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.
- **Environment:** 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 Personal Services Agreement and RFP: Carefully review the Personal Services Agreement (“PSA”) 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

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any exceptions or alternative clauses to the PSA 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. Metro shall pay Contractor within 30 days of receipt of an approved invoice.
- C. Validity Period and Authority: The proposal shall be considered valid for a period of at least ninety (90) days and shall contain a statement to that effect. The proposal shall contain the name, title, address, and telephone number of an individual or individuals with authority to bind any company contacted during the period in which Metro is evaluating the proposal.
- D. Conflict of Interest. A Proposer filing a proposal thereby certifies that no officer, agent, or employee of Metro or Metro has a pecuniary interest in this proposal or has participated in contract negotiations on behalf of Metro; that the proposal is made in good faith without fraud, collusion, or connection of any kind with any other Proposer for the same call for proposals; the Proposer is competing solely in its own behalf without connection with, or obligation to, any undisclosed person or firm.
- E. Equal Employment and Nondiscrimination Clause Metro and its contractors will not discriminate against any person(s), employee or applicant for employment based on race, color, religion, sex, national origin, age, marital status, familial status, gender identity, sexual orientation, disability for which a reasonable accommodation can be made, or any other status protected by law. Metro fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations in all programs and activities. For more information, or to obtain a Title VI Complaint Form, see www.oregonmetro.gov.

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.

Percentage of Total Score

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Project Work Plan/Approach		
1.	Demonstration of understanding of the project objectives	5
2.	Daycare program	15
	<ul style="list-style-type: none"> • Health, safety, discipline, nutrition and enrollment plan • Parent involvement, access and communication plan • Daily routine and curriculum • Staff wages and benefits 	
Administration/Experience		
1.	Qualification of Contractor	15
2.	Operations Proposal	10
	<ul style="list-style-type: none"> • Utilization of current staff • Proposed staff/student ratios 	
Budget/Cost Proposal		
1.	Financial Management	15
	<ul style="list-style-type: none"> • Proposed tuition rate • Proposed operating budget • Administration fee • Optional programs 	
2.	Payment of Facility Expenses	10
Diversity		
1.	Work Force Diversity	5
2.	Diversity in Contracting	5
3.	Diversity of Firm	5
Sustainable Business Practices		
1.	Environmental Impact	5
2.	Support of local business and markets	5
3.	Employee compensation structure	5
		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 will issue a written response to the appeal in a timely manner.

XI. NOTICE TO ALL PROPOSERS -- STANDARD AGREEMENT

The attached personal services agreement is a standard agreement approved for use by the Office of Metro Attorney. This is the contract the successful Proposer will enter into with Metro; it is included for your review prior to submitting a proposal. Metro shall consider exceptions and revisions included as part of a Proposal, but shall not be required to consider revisions proposed during contract negotiation.



EXHIBIT A

SAMPLE 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. Contractor shall pay Metro in the amount(s), manner and at the time(s) specified in the Scope of Work.
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, 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



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

EXHIBIT A

SAMPLE Personal Services Agreement

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.

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.



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

EXHIBIT A

SAMPLE Personal Services Agreement

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 _____



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

SAMPLE

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**