

**METROPOLITAN EXPOSITION RECREATION COMMISSION**

RESOLUTION NO. 11-22

**For the purpose of amending the Metropolitan Exposition Recreation Commission (MERC) Contracting and Purchasing Rules.**

**WHEREAS**, MERC is a local contracting agency and has adopted purchasing and contracting policies; and

**WHEREAS**, MERC wishes to raise its bond requirement from \$50,000 to \$100,000 on public improvement contracts.

**BE IT THEREFORE RESOLVED AS FOLLOWS:**

1. The Metropolitan Exposition Recreation Commission adopts the change to the Contracting and Purchasing Rules attached as Exhibit "A."

Passed by the Commission on October 19, 2011.

\_\_\_\_\_  
Chair

Approved As to Form:  
Alison Kean Campbell, Acting Metro Attorney

By: \_\_\_\_\_  
Nathan A. Schwartz Sykes  
Senior Attorney

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Secretary/Treasurer

**EXHIBIT A**

**METROPOLITAN EXPOSITION-RECREATION COMMISSION  
CONTRACTING AND PURCHASING RULES**

Adopted February 23, 2005  
Effective March 1, 2005

Adopted by MERC Resolution No. 05-05 on February 23, 2005; amended by MERC Resolution No. 08-10 on September 24, 2008; amended by MERC Resolution No. 11-22 on October 19, 2011.

## **EXHIBIT A**

### **D. Bonds.**

Bonds and bid security requirements are as follows:

- 1) Bid security not exceeding 10 percent of the amount bid for the contract is required unless the contract is for \$50,000 or less.
- 2) For public improvements, a labor and materials bond and a performance bond, both in an amount equal to 100 percent of the contract price are required for contracts over ~~\$50,000~~ \$100,000.
- 3) Bid security, labor and material bond and performance bond may be required even though the contract is of a class not identified above, if the General Manager determines it is in the public interest.

### **E. Adoption Of Metro Good Faith Efforts Requirement For Construction Projects.**

For construction contracts of \$100,000 or more, the Commission adopts in principle, policy, and content the “Good Faith Effort” program established by Metro Code § 2.04.100 through 2.04.190 (Metro Minority Business Enterprise, Women Owned Business, and Emerging Small Business Program) as they apply to contracts of the Commission. This adoption includes any and all ordinances subsequently adopted by the Metro Council relating to Metro’s Minority Business Enterprise, Women Owned Business, and Emerging Small Business Program. The General Manager shall designate MERC staff to perform the functions of the Liaison Officer to carry out the MBE/WBE/ESB program as it relates to MERC contracting activities.

## **SECTION 8 - CONTRACT AMENDMENTS**

### **A. Public Contract Amendments.**

- 1) The General Manager may execute amendments to public contracts provided that any one of the following conditions are met:
  - a) The original contract was let by a formal competitive procurement process, the amendment is for the purpose of authorizing additional work for which unit prices or alternates were provided that established the cost for the additional work and the original contract governs the terms and conditions of the additional work;  
or
  - b) The amendment is a change order that resolves a bona fide dispute with the contractor regarding the terms and conditions of a contract for a public improvement and the amendment does not materially add to or delete from the original scope of work included in the original contract; or

## MERC Staff Report

**Agenda Item/Issue:** For the purpose of amending the Metropolitan Exposition Recreation Commission (MERC) Contracting and Purchasing Rules and aligning with the Metro bonding requirement at the formal bidding threshold.

**Resolution No.:** 11-22

**Presented By:** Teri Dresler

**Date:** October 19, 2011

### **Background and Analysis:**

Current MERC contracting rules require a performance bond on construction contracts over \$50,000 (Section 7 – Public Improvement Contracts, D. Bonds, 2). Contractors selected for the project must provide a performance bond that is issued by a surety licensed to do business in Oregon. The cost of a bond can vary based on the contractor's experience, financial strength, credit history, and past performance. Many contractors, particularly minority, women and emerging small businesses (MWESB) find it challenging to secure bonds required for public projects. It is commonly identified as an obstacle for small businesses.

The Metro Council recently increased the bonding threshold for Metro contracts from \$50,000 to \$100,000. This amount was logical, as it is the formal bidding threshold for the agency. It was also intended to assist MWESB contractors.

If the proposed amendment to the MERC Contracting and Purchasing Rules is approved, it would provide for consistency within the agency and the contracting community bidding on our projects.

**Fiscal Impact:** Minimal. By not requiring performance bonds on contracts under \$100,000 MERC should see a slight reduction in bid prices. When a bond is required by a public agency, bidders normally include the price of the bond in their offer. Additionally, this change will relieve a financial burden for small businesses, including MWESB contractors.

**Recommendation:** Staff recommends that the Metropolitan Exposition-Recreation Commission adopt Resolution 11-22 for the purpose of amending the MERC Contracting and Purchasing Rules.