



Development of Metro's Long-Term Options for Solid Waste Management

RFP 13-2355

Metro Parks & Environmental Services

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

Project Manager

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Procurement Analyst

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Notice is hereby given that proposals for RFP13-2355 for Development of Metro's Long-term Options for Solid Waste Management shall be received by Metro, 600 NE Grand Avenue, Portland OR 97232 until close of business on April 3, 2013. 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

Parks & Environmental Services 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 Consulting Services to Assist in Development of Metro's Long-Term Options for Solid Waste Management in the Metro region. 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

Metro is responsible for the management of solid waste for the majority of a three-county area (Clackamas, Multnomah and Washington counties) referred to as the Metro region (hereinafter region). As part of that responsibility Metro has broad authority to build, operate, contract for, license, and franchise disposal and other types of waste facilities necessary for the functioning of the solid waste management system. Metro also can require waste generators and haulers to use facilities designated by Metro. In addition, Metro coordinates and oversees implementation of the Regional Solid Waste Management Plan (RSWMP). The current RSWMP is a ten-year plan that expires in 2018 and provides comprehensive goals and strategies for waste reduction. The RSWMP provides more general guidance for the functioning of the solid waste system and related system facilities. A comprehensive overview of the current system and related programs can be found at Metro's website <http://www.oregonmetro.gov/index.cfm/go/by.web/id=24246>.

To support the RSWMP, Metro has developed a high-level work program referred to as the Solid Waste Roadmap (herein, the Roadmap). The Roadmap consists of six high-level projects that will help define the solid waste system in the future. The purpose of this project is to provide information necessary to the "Long Term Disposal" project of the Roadmap. A description of the Roadmap program can be found at www.oregonmetro.gov/solidwasteroadmap.

The current system consists of collection by private hauling firms regulated by local jurisdictions that deliver waste to transfer stations. The current transfer station system is a network of public and private stations that perform limited materials recovery while transferring the majority of materials received to distant landfill sites; together with a network of material recovery facilities focused on dry waste recovery and placement of the remaining residual material (non-recovered discards) in landfills. Metro owns and contracts for the operation of two large stations, Metro South and Metro Central, that handle approximately 40% of the region's non-recovered discards destined for a landfill. The remaining 60% is similarly transferred by privately owned facilities licensed or franchised and regulated by Metro. Most of the non-recovered discards from Metro's stations are transported by truck (under a contract with Metro) to a landfill site in Gilliam County, Oregon (under a contract with Metro). A small amount is trucked to a mass burn facility near Salem, Oregon. Metro's contracts for transport and landfill disposal expire on December 31, 2019. Most of the non-recovered discards from private facilities are delivered to one of several landfills within 200 miles of Portland. The purpose of this study is to develop system alternatives for the region's non-recovered discards after 2019.

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Metro intends to use the information generated by this contract to further investigate and ultimately choose an approach to solid waste management that maximizes the following key values:

1. Protect people's health
2. Protect the environment
3. Get good value for the public's money
4. Keep the commitment to reduce, reuse, recycle and compost
5. Promote fairness and equity
6. Promote flexibility to adapt to new technologies
7. Minimize implementation risk
8. Create jobs in the region

III. PROPOSED SCOPE OF WORK/SCHEDULE

The purpose of the work described herein is to provide Metro with enough information on available waste management technologies to configure the region's future disposal system for non-recovered discards. The successful proposer may recommend a different approach to this project than outlined below, therefore, a final scope of work, schedule and budget will be developed with the successful proposer. The budget for this project is \$75,000. The term of this contract is expected to be from May 2013 through February 2014.

This work may include arranging and leading tours of facilities that use new or emerging waste management technologies, but will not include facility siting or facility designs. Contractor will be expected to attend stakeholder meetings to better understand the local interests and shall present findings to the Metro Council. Metro will provide long range forecasting for waste generation for the next 30 years.

Metro desires that the range of waste management technologies explored encompass all possibilities: landfills; thermal technologies (waste-to-energy, gasification, pyrolysis, plasma, etc.); biological technologies (aerobic composting, anaerobic digestion, etc.); and physical technologies (autoclave, mechanical recovery, refuse derived fuel, etc.). The selected contractor must also evaluate alternate mixes of these technologies that create a complete system for treating and/or disposing of the non-recovered discards within in the region over the next 30 years. Metro is interested in technologies that are being used commercially or have been through successful pilot testing and are being commercially developed. Metro wants to see case studies of successes and failures of these technologies.

Metro sees this work being accomplished in three phases as described below.

Phase 1: Identify options and provide information for initial screening.

Identify technologies and landfill options available for non-recovered discards. Develop screening criteria and a method of comparing these technologies and landfill options. Contractor shall also meet with Metro staff to select options for further study using this comparison tool (this will be

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done on a broad look at disposal methods available and not on a specific vendors' process, but might require collecting data from specific vendors to use in making general technology assessments).

The following is a list of information that might be considered for each technology and landfill option for screening in this phase:

- a. Provide a general description of how the technology works.
- b. How many facilities are currently in operation or under construction and what is their daily throughput of feedstock, product and residue?
- c. How many years has the technology been in use on a commercial scale?
- d. What is the minimum and maximum amount of non-recovered discards that the technology can process (scalability) and how does this affect the cost per ton processed?
- e. What are the environmental benefits and drawbacks of the technology, including greenhouse gas emissions, air emissions, water consumption, energy usage, noise, odor, traffic, effluent and residue? This might require quantity and quality process data from an existing operation evaluated on the basis of a ton of non-recovered discards processed.
- f. What is the potential for local economic benefit, e.g., job creation, spin-off industries, need for supporting products and services, etc.?
- g. Are there available synergies with other activities such as district heating or co-locating with industry that could use the residual heat for process heating?
- h. What is the life cycle cost (capital, operating and maintenance costs, including cost for disposal of any residuals and revenue from sale of products) based on the tons processed?
- i. Provide a risk assessment for each potential site, include:
 - Environmental risks
 - Financial risks
 - Technology risks

Contractor shall produce a draft report for Metro summarizing the information gathered on technologies and landfill options. Contractor shall meet with Metro staff to discuss their findings and select six to eight of the technologies and landfill options for further review.

The contractor may be asked to present these findings to the Metro Council and or stakeholders.

Phase 2: Refined technology screening and development of scenarios.

Further evaluate the selections from Phase 1 by obtaining detailed information that can be used to further screen selections. Develop additional screening criteria and expand the comparison tool to use in developing alternate scenarios of technologies and landfill options that will take care of all the region's non-recovered discards.

The following is a list of information that might be considered for each technology and landfill option for screening in this phase:

- a. What is the desirable size and characteristics of a building site?

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- b. What are the characteristics of the feedstock and the preparation required of the region's non-recovered discards to meet this feedstock requirement?
- c. Describe the characteristics of the process residue and where would or could it go.
- d. Describe the ability of the technology to meet regulatory requirements.
- e. What is the expected timeline needed to implement the technology?
- f. What is the life cycle carbon footprint (include transport) based on CO₂ equivalents per ton of non-recovered discards processed?
- g. Describe the health risks or impacts if any.
- h. Describe the impact to waste reduction, reuse and recycling in the region.
- i. Describe the impact on consumption behavior.
- j. Describe the benefits of the products produced, e.g., energy, fuel or chemical commodity, compost, etc.
- k. Is there an impact on or complement to the region's existing recycling and disposal system (collection, transport, infrastructure, host communities, etc.)?
- l. Might this commit materials that in the future would likely have a higher use, e.g., recycling?
- m. Identify risks associated with the technology, including expected siting issues, public opinion, sensitivity to feedstock composition/quantity, market volatility for products, etc.

Contractor shall work with Metro staff to develop a survey to elicit public feedback on the options being considered in this phase. Metro shall distribute the survey and provide the results to the Contractor. Contractor shall draft a report on the details of each technology and landfill options considered in this second phase, including an analysis and summary of public opinion.

Contractor shall meet with Metro staff to discuss the information gathered in this phase and the contractor's draft report. Contractor and Metro shall agree on a short list of recommended technologies and landfill options to be considered for managing the region's solid waste and then develop three to five scenarios (mix of options) that could take care of all the region's non-recovered discards.

Contractor shall produce a final report of this step following meetings with Metro staff. Contractor shall present the report to stakeholders and the Metro Council prior to commencement of work for Phase 3.

Phase 3: Final evaluation of scenarios.

Contractor shall evaluate scenarios (mixes of technology and landfill options) for managing the region's non-recovered discards. Metro expects the Contractor will develop an analytical framework to evaluate various combinations of technologies and landfill options.

Contractor shall recommend an approach for obtaining capacity to manage the region's non-recovered discards that best aligns with the Metro values listed above and provides flexibility while minimizing costs and greenhouse gases. Contractor shall analyze how Metro policies might impact the selection of scenarios. The following aspects of procuring options should be included in the analysis of scenarios:

- a. Tonnage guarantees

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- b. Length of contracts
- c. Contracting for multiple versus a single provider
- d. Public versus private ownership and financing
- e. Timeline to implement
- f. Conceptual transition plan

Contractor shall recommend two or three scenarios based on the findings in this phase. Contractor shall produce a report that contains an executive summary of findings from all three phases as well as a technical appendix that includes details of all technical information obtained for each of the options identified in this project. Contractor shall meet with Metro staff to discuss the report and how to present findings to stakeholders and the Metro Council.

Contractor shall prepare and conduct two presentations, one for Roadmap stakeholders and a second for the Metro Council.

IV. **QUALIFICATIONS/EXPERIENCE**

Proposers shall have the following experience:

- Minimum five (5) years experience with regional solid waste systems similar to that of the Metro region
- Minimum five (5) years experience with projects of a similar nature and scale

V. **PROJECT ADMINISTRATION**

Rob Smoot, Metro's project manager, will administer this project. Proposer shall identify one point of contact for the resulting contract.

VI. **PROPOSAL INSTRUCTIONS**

A. Submission of Sealed Proposals

Five (5) paper copies and one (1) electronic version of the proposal shall be furnished to Metro in a sealed envelope, addressed to:
Metro Procurement Services
Attention: Julie Hoffman, RFP 13-2355
600 NE Grand Avenue
Portland, OR 97232-2736

One (1) copy of the Cost/Budget proposal shall be included in a separate sealed envelope along with the above requested paper copies.

B. Deadline

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

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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, Julie.Hoffman@oregonmetro.gov. Any questions that, in the opinion of Metro, warrant a written reply or addendum will be furnished to all parties receiving this RFP. Metro will not respond to questions received after 3:00 p.m. on March 27, 2013.

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. Metro Code provision 2.04.100 is available at http://library.oregonmetro.gov/files//chap2.04_clean_eff.042111_revised_version_081711.pdf.

VII. PROPOSAL CONTENTS

The proposal should contain no more than fifteen (15) 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: Provide a narrative work breakdown structure to accomplish the project as generally described in section III. Proposed Scope of Work/Schedule; include resources, schedule and budget. Provide a detailed Gantt chart (using Microsoft Project) that lists key activities, their duration and interdependency and resources needed. Describe major constraints, obstacles and assumptions that impact this project work plan. Provide details of how scope and schedule can be adjusted to ensure that the project budget is not exceeded. Provide a table of staff hours with the staff assigned to the project across the top and the list of tasks down the side.

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- 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. Indicate the designated project manager's experience working with the personnel assigned to this project. Include resumes of individuals proposed for this contract.

Metro intends to award this contract to a single firm to provide the services required. Proposals must identify a single person as project manager to work with Metro. The consultant must assure responsibility for any subconsultant work and shall be responsible for the day-to-day direction and internal management of the consultant effort.

- D. Experience: Indicate how your firm meets the experience requirements listed in section IV. of this RFP. List projects conducted over the past five years which involved services similar to the services required here. For each of these other projects include the name of the customer contact person, his/her title, role on the project, and telephone number. Identify persons on the proposed project team who worked on each of the other projects listed, and their respective roles.

- E. 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.

- F. 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.

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- **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.

- G. **Cost/Budget:** Present the proposed cost of the project and the proposed method of compensation. List hourly rates for personnel assigned to the project, total personnel expenditures, support services, and subconsultant fees (if any). Requested expenses should also be listed. Submit in separate sealed envelope as instructed under section VI. Proposal Instructions item A.
- 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 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.

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- D. Conflict of Interest. A Proposer filing a proposal thereby certifies that no officer, agent, or employee of Metro or Metro has a pecuniary interest in this proposal or has participated in contract negotiations on behalf of Metro; that the proposal is made in good faith without fraud, collusion, or connection of any kind with any other Proposer for the same call for proposals; the Proposer is competing solely in its own behalf without connection with, or obligation to, any undisclosed person or firm.
- E. Equal Employment and Nondiscrimination Clause Metro and its contractors will not discriminate against any person(s), employee or applicant for employment based on race, color, religion, sex, national origin, age, marital status, familial status, gender identity, sexual orientation, disability for which a reasonable accommodation can be made, or any other status protected by law. Metro fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations in all programs and activities. For more information, or to obtain a Title VI Complaint Form, see www.oregonmetro.gov.

IX. EVALUATION OF PROPOSALS

- A. Evaluation Procedure: Proposals received that conform to the proposal instructions will be evaluated. The evaluation will take place using the evaluation criteria identified in the following section. Interviews may be requested prior to final selection of one firm. Award shall be made to the highest ranked Proposer based on the stated evaluation criteria. In the event negotiations are unsuccessful, Metro reserves the right to negotiate with the next highest ranked firms.
- B. Evaluation Criteria: This section provides a description of the criteria which will be used in the evaluation of the proposals submitted to accomplish the work defined in the RFP.

	Percentage of Total Score
Project Work Plan/Approach	
1. Demonstration of understanding of the project objectives	20
2. Quality of Work Breakdown Structure	15
Project Staffing Experience	
1. Staff's demonstrated work on similar projects	30
2. Project manager's experience working with assigned staff	10
Diversity	15
1. Work Force Diversity, Diversity in Contracting, Diversity of Firm	
Sustainable Business Practices	
1. Environment, Economy, Community	10
	100%

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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 arising 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.

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Sample Contract

Metro Contract No. XXXXXX

Personal Service Agreement over \$50,000

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:

- 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.
- 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.
- Payment.** Metro shall pay Contractor for services performed and materials delivered in the amount(s), manner and at the time(s) specified in the Scope of Work for a maximum sum not to exceed **XXXXXXXX** AND **XX/100THS DOLLARS (\$XXXXXX.XX)**. Payment shall be made by Metro on a Net 30 day basis upon approval of Contractor invoice.
- Insurance.** Contractor shall purchase and maintain at the Contractor's expense, the following types of insurance, covering the Contractor, its employees, and agents:
 - 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;
 - Automobile insurance with coverage for bodily injury and property damage and with limits not less than minimum of \$1,000,000 per occurrence;
 - Workers' Compensation insurance meeting Oregon statutory requirements including Employer's Liability with limits not less than \$500,000 per accident or disease; and
 - 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. Certificate of Insurance shall identify the Metro contract number.

- 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 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.

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Sample Contract



Metro

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

Metro Contract No. XXXXXX

6. Ownership of Documents and Maintenance of Records. Unless otherwise provided herein, all documents, instruments and media of any nature produced by Contractor pursuant to this agreement are Work Products and are the property of Metro, including but not limited to: drawings, specifications, reports, scientific or theoretical modeling, electronic media, computer software created or altered specifically for the purpose of completing the Scope of Work, works of art and photographs. Unless otherwise provided herein, upon Metro request, Contractor shall promptly provide Metro with an electronic version of all Work Products that have been produced or recorded in electronic media. Metro and Contractor agree that all work Products are works made for hire and Contractor hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such Work Products.

a. Contractor and subcontractors shall maintain all fiscal records relating to such contracts in accordance with generally accepted accounting principles. In addition, Contractor and subcontractors shall maintain any other records necessary to clearly document:

- (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.

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Sample Contract



Metro

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

Metro Contract No. XXXXXX

g. Failure of the Contractor or subcontractor to keep or disclose records as required by this document or any solicitation document may result in debarment as a bidder or proposer for future Metro contracts as provided in ORS 279B.130 and Metro Code Section 2.04.070(c), or may result in a finding that the Contractor or subcontractor is not a responsible bidder or proposer as provided in ORS 279B.110 and Metro Code Section 2.04.052.

7. Project Information. Contractor shall share all project information and fully cooperate with Metro, informing Metro of all aspects of the project including actual or potential problems or defects. Contractor shall abstain from releasing any information or project news without the prior and specific written approval of Metro.

8. Independent Contractor Status. Contractor shall be an independent contractor for all purposes and shall be entitled only to the compensation provided for in this Agreement. Under no circumstances shall Contractor be considered an employee of Metro. Contractor shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified in the Scope of Work. Contractor is solely responsible for its performance under this Agreement and the quality of its work; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified in the Scope of Work; and for meeting all other requirements of law in carrying out this Agreement. Contractor shall identify and certify tax status and identification number through execution of IRS form W-9 prior to submitting any request for payment to Metro.

9. Right to Withhold Payments. Metro shall have the right to withhold from payments due to Contractor such sums as necessary, in Metro's sole opinion, to protect Metro against any loss, damage, or claim which may result from Contractor's performance or failure to perform under this Agreement or the failure of Contractor to make proper payment to any suppliers or subcontractors.

10. State and Federal Law Constraints. Both parties shall comply with the public contracting provisions of ORS chapters 279A, 279B and 279C, and the recycling provisions of ORS 279B.025 to the extent those provisions apply to this Agreement. All such provisions required to be included in this Agreement are incorporated herein by reference. Contractor shall comply with all applicable 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. 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

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Sample Contract



Metro Contract No. **XXXXXX**

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.

16. 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.

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

18. 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

19. Intergovernmental Cooperative Agreement: Pursuant to ORS 279A and the Metro 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 as indicated by the following initials _____.** **REMOVE THIS SECTION IF IT DOES NOT APPLY TO THE CONTRACT**

CONTRACTOR
By _____
Print Name _____
Date _____

METRO
By _____
Print Name _____
Date _____

Scope of Work – Attachment A

Sample Contract

Metro Contract No. XXXXXX

1. Purpose and Goal of Work

2. Description of the Scope of Work

3. Deliverables/Outcomes

4. Payment and Billing

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

INCLUDE HOURLY RATES OR TASK BASED PAYMENTS IF APPLICABLE

The maximum price includes all fees, costs and expenses of whatever nature. Each of Metro's payments to Contractor shall equal the percentage of the work Contractor accomplished during the billing period. Contractor's billing invoices 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.