

BEFORE THE METRO COUNCIL CONTRACT REVIEW BOARD

RESOLUTION OF METRO COUNCIL, ACTING)	RESOLUTION NO. 11-4284
AS THE METRO CONTRACT REVIEW BOARD,)	
FOR THE PURPOSE OF APPROVING A SOLE)	Introduced by Acting Chief Operating Officer
SOURCE CONTRACT FOR COALITION)	Daniel Cooper with the concurrence of
BUILDING AND COMMUNICATIONS FOR)	Council President Tom Hughes
PARKS, TRAILS AND NATURAL AREAS IN)	
THE REGION, THE INTERTWINE)	

WHEREAS, pursuant to ORS 279A.060 and Metro Code 2.04.010 the Metro Council is designated as the Public Contract Review Board for the agency; and

WHEREAS, Metro Code 2.04.062 requires Council approval for contracts awarded without competitive bidding when it has been determined that the goods or services are available from only one source; and

WHEREAS, The Sustainability Center Director has determined that hiring The Intertwine Alliance to convene community leaders and communicate the importance of the region’s parks, trails and natural areas is in the best interests of Metro; and

WHEREAS, under the direction of the Sustainability Center Director, The Intertwine Alliance will provide for region-wide communications and partnerships in support of The Intertwine; and

WHEREAS, the Metro Procurement Officer believes that the specialized knowledge, experience and expertise of The Intertwine Alliance warrants the use of a sole source contract, and that such action is in accordance with the Oregon Public Contracting Code dealing with sole source procurements (ORS 279B.075); and

WHEREAS, The Intertwine Alliance possesses the unique experience, including leadership on overall convening of business, non-profit and government leaders, as well as convening regional partners for conservation education, the Regional Conservation Strategy and active transportation. The Alliance is uniquely positioned as an entity capable and prepared to devote all of its efforts and energy to providing the services required by Metro as its sole purpose. There is currently no other entity in the region whose membership is comprised of nearly all the local, regional and state natural area, parks, trails, and conservation education providers and advocates, organized for the sole purpose of supporting and performing the services described in the attached scope of work. It would therefore be impractical to compete this contract.

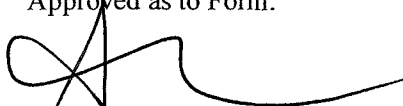
BE IT RESOLVED that the Metro Council acting as the Public Contract Review Board authorizes the Sustainability Center Director to negotiate and execute a sole source contract with The Intertwine Alliance for the purpose of branding, communicating and facilitating partner work on The Intertwine.

ADOPTED by the Metro Council Contract Review Board this 22 day of September, 2011.



Tom Hughes, Council President


Approved as to Form:



Alison Kean Campbell, Acting Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 11-4284, FOR THE PURPOSE OF APPROVING A SOLE SOURCE CONTRACT FOR COALITION BUILDING AND COMMUNICATIONS FOR PARKS, TRAILS AND NATURAL AREAS, THE INTERTWINE.

Date: September 22, 2011

Prepared by: Jim Desmond, 503-797-1914

BACKGROUND

The Intertwine Alliance (Alliance) began four years ago as an ad hoc group known as Connecting Green, and has grown to a coalition with membership, staff, a Board and Council of Partners. This work has progressed as intended to the launch of the newly independent Intertwine Alliance. The Alliance has filed with the Secretary of State as a nonprofit corporation, with tax-exempt status pending. Metro remains the most significant funding source for The Alliance (and has a seat on the Board), but other partners are joining and funding from them has increased (over 90%) in the last year.

There are two areas where it is to Metro's advantage to leverage the goals of the Alliance. The first is in convening and engaging residents. The Intertwine Alliance brings together the many disparate voices currently promoting parks and conservation behind a branding and messaging campaign. The campaign motivates residents and builds an ethic of stewardship and civic engagement over time. The second area to leverage is the Alliance's goal to increase investment. The Alliance was formed to attract new local, regional, state, federal and private investment and to create efficiencies in the way that existing funding is used. These two goals of Alliance support Metro's ongoing work to create vibrant communities, provide clean air and water, and foster environmental leadership.

The Alliance is uniquely positioned as an entity capable and prepared to devote all of its efforts and energy to providing the services required by Metro as its sole purpose. There is currently no other entity in the region whose membership is comprised of nearly all the local, regional and state natural area, parks, trails, and conservation education providers and advocates, organized for the sole purpose of supporting and performing the services described in the attached scope of work.

The attached contract describes the formal relationship between Metro and The Intertwine Alliance, with defined work products and schedule for each product over the year. The Alliance will focus on outreach, branding, advocacy and communications. Technical work within the "petals" of The Intertwine will be performed by a variety of parties, but The Intertwine Alliance will support dissemination of the work and convening as specified in the contract.

The Alliance has the required knowledge and expertise to perform this work, and the Sustainability Center Director and Procurement Officer feel that they are uniquely qualified for this contract. Therefore, it is recommended that a sole source contract be awarded without a competitive RFP process.

The scope of services to be performed is included as Attachment 1.

ANALYSIS/INFORMATION

1. Known Opposition

None known.

2. Legal Antecedents

Metro Code 2.04.062, 2.04.010, ORS 279A.060, ORS 279B.075.

3. Anticipated Effects

Procurement process will be expedited, allowing for a contract to be executed promptly and consultant can begin working with the Metro Auditor.

4. Budget Impacts

The cost of these services is not anticipated to exceed \$100,000.

RECOMMENDED ACTION

Metro Council, acting as Public Contract Review Board, approves the use of a sole source contract with The Intertwine Alliance.



Personal Services Contract

Metro Contract #####

THIS Contract 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 The Intertwine Alliance referred to herein as "Contractor," located at P.O. Box 5632 Portland, OR 97228.

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 August 1, 2011 and shall remain in effect until and including June 30, 2012, unless terminated or extended as provided in this Agreement.
2. Scope of Work. Contractor shall provide all services and materials specified in the attached "Exhibit A -- Scope of Work," which is incorporated into this Agreement by reference. All services and materials shall be provided by Contractor in accordance with the Scope of Work, in a competent and professional manner. To the extent that the Scope of Work contains additional contract provisions or waives any provision in the body of this Agreement, the Scope of Work shall control.
3. Payment. Metro shall pay Contractor for services performed and materials delivered in the amount(s), manner and at the time(s) specified in the Scope of Work for a maximum sum not to exceed ONE HUNDRED THOUSAND AND NO/100THS DOLLARS (\$100,000.00).
4. 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.
5. 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 accessible to 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.
 - 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.

Personal Services 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.

6. 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.

7. 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.

8. 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



Personal Services Contract

Contractor's performance or failure to perform under this Agreement or the failure of Contractor to make proper payment to any suppliers or subcontractors.

9. 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.

10. 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.

11. 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.

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

13. 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.

14. 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.

The Intertwine Alliance

Metro

By _____

By _____

Title _____

Title _____

Date _____

Date _____

Scope of Work – Exhibit A

PROJECT: Coordination between Metro and The Intertwine Alliance FY 2011-2012

CONTRACTOR'S RESPONSIBILITIES:

Contractor shall be responsible for communicating and strengthening partnership and funding in support of The Intertwine, the region's parks, trails and natural areas in FY 2011-2012 to include the following. Note that items without specific schedules are assumed to be ongoing throughout the year.

The Intertwine Alliance Growth

The Alliance's purpose is to build a strong coalition of business and civic leaders, advocates and professionals to leverage our region's natural and organizational assets in support of regional parks, trails and natural areas. This scope of work supports the growth of the Alliance.

1. Convene two Intertwine Summits that bring people together to share information and promote volunteer and partnership opportunities.
2. Grow the Alliance, with a special focus on communities of color and ethnic identity, to 50 paid and 60 total members by June 30, 2012.
3. Raise dues contributions from partners to \$110,000 by the end of fiscal year 2011 - 2012.
4. Produce an annual Alliance Business Plan that indicates the growth and accomplishments of the Alliance.
Schedule: June 2012
5. Develop a foundation with a legally recognized and registered structure that can receive grants and private donations.

Communications about The Intertwine

A key purpose of the Alliance is to communicate the values, benefits, and needs of the Intertwine.

6. Build the membership on the Groupsite membership to 300.
7. Compile a database of members for advocacy purposes.
8. In partnership with Metro, develop Intertwine Concept Diagram which will illustrates the purpose and interconnectedness of the Intertwine. Convene and communicate diagram options; review strengths and weakness and grant full Alliance endorsement and use of a Concept Diagram. This diagram may continue to evolve over time.
Schedule: December 2011
9. In partnership with Metro, complete the Intertwine website phase 2, including regional trail finding and accessibility information, and fulfilling the requirements of State and Federal grants. Provide all necessary reporting to meet web grant reporting requirements. Secure a technical support services contract for the on-going annual technical maintenance of the Intertwine website.
Schedule: December 2011
10. Intertwine signage
Metro is managing consultants to develop Intertwine trail signage. Provide a forum for Alliance partners' review of the signage options and deliver partner support, with minimum of five distinct operators, including financial support, of the preferred trail signage.

Scope of Work – Exhibit A

The Intertwine Petals

The Intertwine Petal work includes strategic regional planning on a variety of topics that has generally been led by Metro. Provide support, convening and leadership in coordination with Metro for all Intertwine regional strategic plans and actions.

11. Conservation

- To complete publishing of the Regional Conservation Strategy, engage the community, elected officials and civic leaders on findings and priorities. Coordinate with Metro.

12. Conservation Education

- Work with the Conservation Education Task Force to convene a standing Intertwine Conservation Education Leadership Council (Con Ed Council), which will build momentum within the sector, including activating leaders as well as regular analysis and reporting of the state of conservation education in the region for the purpose of increasing environmental stewardship outcomes. Con Ed Council and Alliance partners will define and secure adequate on-going support for this effort with support from Metro.
- As part of the on-going support of this effort the Alliance will work with the Con Ed Council to produce a regional summit during which milestones will be defined and initiated. Support includes pursuing corporate sponsorship and other voluntary donations to this effort. Metro support has been budgeted for fiscal year 2011 – 2012.

13. Active Transportation

- Lead by Metro staff, assist in convening partners on the principal network of active transportation corridors. Metro has secured a TGM grant from the Oregon Department of Transportation that will fund this work.
- Continue to convene the Executive Council for Active Transportation; expand its ranks to include more top business executives. Use meetings of the group to discuss emerging opportunities, address challenges, share successes, and build the case for investment in the network.

14. Regional System

- Work with other conservation coalitions around the country and potential federal funding including America's Great Outdoors Initiative toward potential federal funding for The Intertwine.
- Work with Metro as the lead partner to develop a measure involving public funding that could be put to voters as early as November 2012. This would be a major undertaking, requiring the Alliance to develop significant support from partners and allies.

Publicity

Contractor shall identify Metro as a major sponsor in all event media publicity, press releases, etc.

Reporting

The Contractor will provide Metro with quarterly reports that demonstrate progress on the above scope of work.

- September 2011
- December 2011
- March 2012
- June 2012

All reports should consist of narrative on the product as well as an accounting of volunteer names and hours involved with each effort. The reports must be electronically delivered in a news-worthy format by the 15th of the designated months.

METRO'S RESPONSIBILITIES:

Metro, as a major sponsor, will provide ONE HUNDRED THOUSAND DOLLARS AND NO/100THS (\$100,000.00) in support of the Intertwine Alliance work described in this Scope of Work.



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

Scope of Work – Exhibit A

PAYMENT:

Metro will pay Contractor within 15 days of receipt of an approved statement. Payment shall be made in four installments. The first installment of TWENTY-FIVE THOUSAND AND NO/100THS DOLLARS (\$25,000.00) will be made following the September 2011 quarterly progress report. Subsequent installments of TWENTY FIVE THOUSAND AND NO/100THS DOLLARS (\$25,000.00) will be made following quarterly reports. Any expenses that exceed Metro's total cash contribution of ONE HUNDRED THOUSAND DOLLARS AND NO/100THS (\$100,000.00) shall be borne by the Contractor.