

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF APPROVING)	RESOLUTION NO. 90-1221
A CONTRACT FOR CONSTRUCTION)	
OF THE AFRICA RAIN FOREST EXHIBIT)	Introduced by the
AT THE METRO WASHINGTON PARK ZOO)	Executive Officer

WHEREAS, Section 2.04.033 of the Metro Code requires that the Council approval of multi-year contracts; and

WHEREAS; construction of the Africa Rain Forest Exhibit will extend beyond a single fiscal year; and

WHEREAS; the Council authorized release of the bid documents for the Africa Rain Forest Exhibit on December 14, 1989; and

WHEREAS; the project was advertised for bid in accordance with all the appropriate sections of the Metro Code, and

WHEREAS; bids were received and publicly opened and read at 8:00 p.m., Thursday, January 25, 1990; and

WHEREAS; a low bid in the amount of \$3,950,500.00 was received from L. D. Mattson, Inc.; and

WHEREAS; L. D. Mattson, Inc. has complied with all the conditions set forth in the Metro Code for public contracts, and

WHEREAS; the Executive Officer recommends Council approval;
now therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District
hereby approves the execution of a contract with L. D. Mattson,
Inc. in the amount of \$3,950,500.00 for construction of the Africa
Rain Forest Exhibit at the Metro Washington Park Zoo.

ADOPTED by the Council of the Metropolitan Service District
this 22nd day of February, 1990.



Tanya Collier, Presiding Officer

AFRFB/Res.

CONSTRUCTION AGREEMENT
FOR THE
AFRICAN RAINFOREST
METRO WASHINGTON PARK ZOO

This Construction Agreement is made by and between L. D. Mattson, Inc., P. O. Box 12335, Salem, Oregon 97309

hereinafter called Contractor, and the Metropolitan Service District, a political subdivision of the State of Oregon, hereinafter called Metro.

Contractor and Metro agree as follows:

1. Contract Documents

The Contract Documents consist of this Construction Agreement, the Advertisement for Bids, the Invitation to Bid, the Instructions to Bidders, the Bid Forms, including Bid Schedules, bid security and Disadvantaged Business Program forms, the Performance and the Labor and Materials Payment Bonds, the General Conditions, the Supplementary Conditions, the Specifications, the Drawings, the approved and updated Construction Schedule, and other information and data as listed in the Supplementary Conditions, and any modifications of any of the foregoing in the form of Addenda, Clarifications, or Change Orders in accordance with the terms of the Contract. Where applicable, reference to this Construction Agreement herein shall be deemed to refer to all of the Contract Documents.

These documents form the Contract and are, by this reference, expressly incorporated herein. All are as fully a part of the Contract as if attached to this Construction Agreement and repeated fully herein. No amendment made to this Contract nor Change Order issued shall be construed to release either party from any obligation contained in the Contract Documents except as specifically provided in any such amendment or Change Order.

2. Scope of Work

Contractor agrees to provide all labor, tools, equipment, machinery, supervision, transportation, permits and every other item and service necessary to perform the Work described in the Contract Documents. Contractor agrees to fully comply with each and every term, condition and provision of the Contract Documents.

3. Contract Amount

As consideration for Contractor's performance hereunder, Metro agrees to pay Contractor the Contract Amount as adjusted by

approved Change Orders issued pursuant to the Contract Documents and subject to the availability of monies in the Construction Fund. Contractor agrees to accept the Contract Amount as full payment for Contractor's performance of the above-described Work.

The Contract Amount is three million, nine hundred fifty thousand, five hundred dollars and 0/100TH DOLLARS (\$ 3,950,500.00).

Metro shall make payments to Contractor in the manner and at the times provided in the Contract Documents.

4. Additional or Deleted Work

Contractor shall, when so instructed by Metro under the procedures of the Contract Documents, perform additional Work or delete Work in accordance with the Contract Documents. When applicable, the Unit Prices included in the Contractor's Bid shall determine the value of additional or deleted work. When the listed Unit Prices are not applicable, the increase or decrease in the Contract Amount shall be determined pursuant to the applicable provisions of the Contract Documents.

5. Time of Completion; Liquidated Damages

Time is of the essence of this Construction Agreement. Contractor shall bring the work to substantial completion within the Contract Time as set forth in of the Supplementary Conditions of the Contract Documents. The Contract Time shall commence upon issuance of the Notice to Proceed. By executing this Construction Agreement, Contractor confirms and accepts that the Contract Time is a reasonable period for performance of all of the Work.

Should the Contractor fail to substantially complete the Work, as determined by Metro in accordance with the Contract Documents, within the Contract Time, Contractor shall be liable for liquidated damages to Metro as described in the Contract Documents.

6. Bonds

Contractor submits herewith a Performance Bond and a separate Labor and Materials Payment Bond, both in a form acceptable to Metro and otherwise in accordance with the Contract Documents and each in the Contract Amount to ensure full compliance, execution and performance of this Contract by Contractor and payment by Contractor of labor and material Suppliers as more fully described in the Contract Documents. The Performance Bond shall stay in force for a period of one (1) year after written acceptance of the Work by Metro as a guarantee of repair or

replacement of any item(s) of Work found to be defective by reason of faulty workmanship or defective materials. The Labor and Materials Payment Bond shall remain in force for the time required for actions against the bond to be filed in accordance with ORS 279.536.

7. Laws of Oregon Apply

The law of Oregon shall govern the interpretation and construction of this Construction Agreement and all of the Contract Documents.

8. Entire Agreement

THIS CONSTRUCTION AGREEMENT SIGNED BY BOTH PARTIES AND SO INITIALED BY BOTH PARTIES IN THE MARGIN OPPOSITE THIS PARAGRAPH CONSTITUTES A FINAL WRITTEN EXPRESSION OF ALL OF THE TERMS OF THIS CONSTRUCTION AGREEMENT AND IS A COMPLETE AND EXCLUSIVE STATEMENT OF THOSE TERMS. ANY AND ALL REPRESENTATIONS, PROMISES, WARRANTIES, OR STATEMENTS BY CONTRACTOR OR CONTRACTOR'S AGENTS THAT DIFFER IN ANY WAY FROM THE TERMS OF THIS WRITTEN AGREEMENT SHALL BE GIVEN NO FORCE AND EFFECT. THIS CONTRACT SHALL BE CHANGED, AMENDED, OR MODIFIED ONLY BY WRITTEN INSTRUMENT SIGNED BY BOTH METRO AND CONTRACTOR. THIS CONTRACT SHALL NOT BE MODIFIED OR ALTERED BY ANY COURSE OF PERFORMANCE BY EITHER PARTY.

Metro

Contractor

L. D. MATTSON, INC.

Metropolitan Service District:

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

DISADVANTAGED BUSINESS ENTERPRISE UTILIZATION FORM

1. Name of Metro Project: African Rainforest
2. Name of Bidder L. D. Mattson, Inc.
 Address P. O. Box 12335, Salem, Oregon 97309
3. The above-named Bidder intends to subcontract 10 percent of the Base Bid to the following Disadvantaged Business Enterprises (DBEs):

Names, Contact Persons,
 Addresses and Phone Numbers
 of DBE Firms Bidder
 Anticipates Utilizing

Nature of
 Participation

Dollar
 Value of
 Participation

Pen-Nor Mechanical
Portland, OR

392,100.

	Total	<u>392,100.</u>
Amount of Base Bid		<u>3,893,200.</u>
DBE Percent of Base Bid		<u>10%</u>

L. D. Mattson
 Authorized Signature

Date: 1/25/90

THIS FORM IS TO BE COMPLETED, SIGNED AND SUBMITTED
BY THE CLOSE OF THE NEXT WORKING DAY FOLLOWING
BID OPENING OR WITHIN 24 HOURS OF REQUEST BY METRO

WOMEN BUSINESS ENTERPRISES UTILIZATION FORM

1. Name of Metro Project: African Rainforest

2. Name of Bidder L. D. Mattson, Inc.Address P. O. Box 12335, Salem, Oregon 973093. The above-named Bidder intends to subcontract 3.6 percent of the Base Bid to the following Women Business Enterprises (WBEs):

Names, Contact Persons, Addresses and Phone Numbers of WBE Firms Bidder Anticipates Utilizing	Nature of Participation	Dollar Value of Participation
<u>Woodburn Masonry</u>	<u>Masonry</u>	<u>140,000.</u>
<u>Woodburn, Oregon</u>		
Total		<u>140,000.</u>
	Amount of Base Bid	<u>3,893,200.</u>
	WBE Percent of Base Bid	<u>3.6%</u>

Authorized SignatureDate: 1/25/90

THIS FORM IS TO BE COMPLETED, SIGNED AND SUBMITTED
BY THE CLOSE OF THE NEXT WORKING DAY FOLLOWING
BID OPENING OR WITHIN 24 HOURS OF REQUEST BY METRO

ZOO COMMITTEE REPORT

RESOLUTION NO. 90-1221, APPROVING A CONTRACT FOR CONSTRUCTION OF THE AFRICA RAIN FOREST EXHIBIT AT THE METRO WASHINGTON PARK ZOO

Date: February 15, 1990

Presented By: Councilor Gardner

COMMITTEE RECOMMENDATION: At the February 15, 1990, Zoo Committee meeting, Councilors Knowles, Ragsdale and myself were present and voted unanimously to recommend Council adoption of Resolution No. 90-1221. Councilors DeJardin and McFarland were excused.

COMMITTEE DISCUSSION/ISSUES: Assistant Zoo Director McKay Rich and Zoo Construction Coordinator Bob Porter presented the resolution which approves a 15 month contract with L.D. Mattson, Inc., the responsive, responsible low bidder, for construction of Africa III, the Rainforest Exhibit. Although five contractors showed "active interest" early in the bid process, only two bids were received for the base project plus four alternates -- Bishop Contractors, Inc., \$4,267,000 and L.D. Mattson, Inc., \$3,950,500. Mr. Rich briefly reviewed the contract and bid process background, noting this project will mark completion of the Africa Exhibit consistent with the Zoo Master Plan. This year's Zoo budget includes \$3,560,420 for the project of which approximately 50 percent will be expended in FY89-90. The remaining funds will be carried over to FY90-91, along with the anticipated unappropriated fund balance, for the project's completion targeted for June 1991.

Committee members inquired about DBE/WBE subcontracting goals and compliance; any changes to the project from the first bid package issued last June; and Zoo staff's comfort with the contractor. Staff noted the DBE/WBE goals were 10 and 3 percent respectively and L.D. Mattson, Inc., met the DBE goal of 10 percent and slightly exceeded the WBE goal with a 3.6 percent subcontract. Regarding any project changes from the first bid package issued last June, staff recalled the only modifications had been minor changes to have the Zoo do small project pieces, thus taking them out of the contractor's scope of work. For example, the Zoo will be responsible for the Swamp Building planting and some small aquariums. It was noted the exhibit exit pathway was added with a resulting price in Mattson's bid of \$6,200. Finally, staff reported they were very comfortable with L.D. Mattson, Inc. as the contractor, noting background checks were very good and having a contractor other than Bishop (which has handled five major Zoo projects) probably was good for any public perception that may view the Zoo as being "locked in" with Bishop.

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STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 90-1221 FOR THE PURPOSE OF APPROVING A CONTRACT FOR CONSTRUCTION OF THE AFRICA RAIN FOREST EXHIBIT AT THE METRO WASHINGTON PARK ZOO

Date: February 7, 1990

Presented by: A. M. Rich

PROPOSED ACTION

Staff recommends that the Executive Officer be authorized to execute a contract with L. D. Mattson, Inc. for a sum of \$3,950,500.00, which includes the base bid plus the four additive alternatives, for the construction of the Africa Rain Forest Exhibit at the Metro Washington Park Zoo.

FACTUAL BACKGROUND AND ANALYSIS

The Africa Rain Forest Exhibit continues to implement the capital improvements outlined in the Zoo's Master Plan. It will complete the largest and most comprehensive zoogeographic exhibit at the zoo and will include additional African animals, the relocation of the south service road, the installation of a toe berm to increase the factor of safety for the slope stability of the zoo, the construction of a new hay barn, and the upgrade of the emergency electrical generator system.

Guthrie/Slusarenko/Associates (GSA) designed the exhibit, and will provide construction management support. The project was advertised in mid June, and two bids were received on July 19, 1989. Both bids were in excess of the budget, and after careful consideration the bids were rejected.

The construction plans and budget were revised. The Council approved the re-bid process and advertisements were placed in The Daily Journal of Commerce (Portland and Seattle), The Portland Scanner, The Eugene Register Guard, The Salem Statesman-Journal, The Idaho Statesman, and The Spokane Chronicle. Bids were publicly opened on Thursday, January 25, 1990 at 8:00 p.m. at the Metro Washington Park Zoo Meeting Center. Two bids were received (See Attachment A for the bid summary). L. D. Mattson, Inc. is the low bidder and has complied with all bid requirements and has exceeded Metro's DBE/WBE goals.

BUDGET IMPACT

The adopted budget for fiscal year 1989-90 includes \$3,560,427 in the Zoo Capital Fund to start the construction of the Africa Rain Forest Exhibit. Funds to complete the project which are included in the budget prepared for 1990-91 come from the current three year serial levy, donations and bequests. The total budget for the project allows all of the additive alternates to be included in the construction contract.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends the adoption of Resolution No. 90-2121

ATTACHMENT A

**Metro Washington Park Zoo
Africa III Tropical Rain Forest
Bid Summary**

January 25, 1990 8:00 P.M.

Contractor	Bishop Contractors, Inc.	L.D. Mattson, Inc.	Architect's Estimate
Rec'd Addenda #1	yes	yes	
Rec'd Addenda #2	yes	yes	
Bid Bond Attached	yes	yes	
DBE Form Attached	yes	yes	
% DBE's	10	10	
% WBE's	3	3	
Resident Bidder	yes	yes	
Non-Resident Bidder			
Allowance A.1 (set at \$79,000) Interpretive Package	\$79,000.00	\$79,000.00	\$79,000.00
Allowance A.2 Interpretive O.H. & Profit	\$8,000.00	\$8,000.00	
Allowance B.1 100 C.Y. Excavation & Replacement	\$2,100.00	\$2,000.00	
Allowance B.2 1 C.Y. Excavation & Replacement	\$21.00	\$20.00	
Base Bid (Bid+A.1+A.2+B.1)	\$4,190,000.00	\$3,893,200.00	\$4,094,942.00
Priority			
Deductive Alternate #1 Rainstorm Audio & Lighting	\$72,000.00	\$40,000.00	\$126,696.00
Deductive Alternate #2 Hay Barn Shell, Elect. & Mech.	\$31,000.00	\$38,000.00	\$48,986.00
Additive Alternate #1 Fog System	\$32,000.00	\$34,600.00	\$30,342.00
Additive Alternate #2 Cusimanse Viewing Blind	\$19,000.00	\$9,000.00	\$15,656.00
Additive Alternate #3 Additional 400 Amp Feeder	\$7,000.00	\$7,500.00	\$6,414.00
Additive Alternate #4 North Access/Exit Path	\$19,000.00	\$6,200.00	\$25,392.00



GRANT/CONTRACT SUMMARY

METROPOLITAN SERVICE DISTRICT

GRANT/CONTRACT NO. 901178 BUDGET CODE NO. 325 221700 - 57450 - 51500
 FUND: 700 DEPARTMENT: Capital Proj. (IF MORE THAN ONE) _____
 SOURCE CODE (IF REVENUE) _____

INSTRUCTIONS

- OBTAIN GRANT/CONTRACT NUMBER FROM CONTRACTS MANAGER. CONTRACT NUMBER SHOULD APPEAR ON THE SUMMARY FORM AND ALL COPIES OF THE CONTRACT.
- COMPLETE SUMMARY FORM.
- IF CONTRACT IS —
 - SOLE SOURCE, ATTACH MEMO DETAILING JUSTIFICATION.
 - UNDER \$2,500, ATTACH MEMO DETAILING NEED FOR CONTRACT AND CONTRACTOR'S CAPABILITIES, BIDS, ETC.
 - OVER \$2,500, ATTACH QUOTES, EVAL. FORM, NOTIFICATION OF REJECTION, ETC.
 - OVER \$50,000, ATTACH AGENDA MANAGEMENT SUMMARY FROM COUNCIL PACKET, BIDS, RFP, ETC.
- PROVIDE PACKET TO CONTRACTS MANAGER FOR PROCESSING

1. PURPOSE OF GRANT/CONTRACT Construct African Rain Forest Exhibit

2. TYPE OF EXPENSE PERSONAL SERVICES LABOR AND MATERIALS PROCUREMENT
 PASS THROUGH AGREEMENT INTER-GOVERNMENTAL AGREEMENT CONSTRUCTION
 OTHER

OR

TYPE OF REVENUE GRANT CONTRACT OTHER

3. TYPE OF ACTION CHANGE IN COST CHANGE IN WORK SCOPE
 CHANGE IN TIMING NEW CONTRACT

4. PARTIES L. D. Mattson, Inc.

5. EFFECTIVE DATE 2/23/90 TERMINATION DATE 6/30/91
 (THIS IS A CHANGE FROM _____)

6. EXTENT OF TOTAL COMMITMENT:

ORIGINAL/NEW	\$ <u>3,950,500</u>
PREV. AMEND	_____
THIS AMEND	_____
TOTAL	\$ <u>3,950,500</u>

7. BUDGET INFORMATION

A. AMOUNT OF GRANT/CONTRACT TO BE SPENT IN FISCAL YEAR 1989 & 90 \$ 1,700,000
 B. BUDGET LINE ITEM NAME Cons Svcs. AMOUNT APPROPRIATED FOR CONTRACT \$ 3,560,420
 C. ESTIMATED TOTAL LINE ITEM APPROPRIATION REMAINING AS OF 12/31 1989 \$ 3,560,420

8. SUMMARY OF BIDS OR QUOTES (PLEASE INDICATE IF A MINORITY BUSINESS ENTERPRISE)

SUBMITTED BY Bishop Contractors, Inc. \$ 4,267,000 MBE
 AMOUNT
 SUBMITTED BY L. D. Mattson, Inc. \$ 3,950,500 MBE
 AMOUNT
 SUBMITTED BY _____ \$ _____ MBE
 AMOUNT

9. NUMBER AND LOCATION OF ORIGINALS 2

10. A. APPROVED BY STATE/FEDERAL AGENCIES? YES NO NOT APPLICABLE
 B. IS THIS A DOT/MTA/FKWA ASSISTED CONTRACT YES NO
 11. IS CONTRACT OR SUBCONTRACT WITH A MINORITY BUSINESS? YES NO
 IF YES, WHICH JURISDICTION HAS AWARDED CERTIFICATION 0007

12. WILL INSURANCE CERTIFICATE BE REQUIRED? YES NO
 13. WERE BID AND PERFORMANCE BONDS SUBMITTED? YES NOT APPLICABLE
 TYPE OF BOND Bid AMOUNT \$ 395,050
 TYPE OF BOND Performance & Labor & Materials AMOUNT \$ 3,950,500

14. LIST OF KNOWN SUBCONTRACTORS (IF APPLICABLE)
 NAME _____ SERVICE _____ MBE
 NAME _____ SERVICE _____ MBE
 NAME _____ SERVICE _____ MBE
 NAME _____ SERVICE _____ MBE

15. IF THE CONTRACT IS OVER \$10,000
 A. IS THE CONTRACTOR DOMICILED IN OR REGISTERED TO DO BUSINESS IN THE STATE OF OREGON?
 YES NO
 B. IF NO, HAS AN APPLICATION FOR FINAL PAYMENT RELEASE BEEN FORWARDED TO THE CONTRACTOR?
 YES DATE _____ INITIAL _____

16. COMMENTS:

GRANT/CONTRACT APPROVAL

INTERNAL REVIEW

A. M. Keith
 DEPARTMENT HEAD
David R. Gray
 FISCAL REVIEW 2/8/90 by account code
James C. Brown
 BUDGET REVIEW for budget 2/8/90

CONTRACT REVIEW BOARD

(IF REQUIRED) DATE _____
 1. _____
 COUNCILOR
 2. _____
 COUNCILOR
 3. _____
 COUNCILOR

COUNCIL REVIEW

(IF REQUIRED)

 DATE

LEGAL COUNSEL REVIEW AS NEEDED:

- A. DEVIATION TO CONTRACT FORM _____
- B. CONTRACTS OVER \$10,000 _____
- C. CONTRACTS BETWEEN GOVERNMENT AGENCIES _____