

# A G E N D A

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736  
TEL 503 797 1542 | FAX 503 797 1793



**METRO**

## Agenda

MEETING: METRO COUNCIL REGULAR MEETING  
DATE: September 16, 2004  
DAY: Thursday  
TIME: 2:00 PM  
PLACE: Metro Council Chamber

### CALL TO ORDER AND ROLL CALL

#### 1. INTRODUCTIONS

#### 2. CITIZEN COMMUNICATIONS

#### 3. TELECOMMUNICATIONS JOINT PROJECT

Dow

#### 4. CONSENT AGENDA

4.1 Consideration of Minutes for the September 9, 2004 Metro Council Regular Meeting.

#### 5. ORDINANCES – FIRST READING

5.1 **Ordinance No. 04-1059**, For the Purpose of Amending Metro Code Title IV Oregon Zoo Regulations, Metro Code Section 4.01.020 Definitions; Metro Code Section 4.01.050 Admission Fees and Policies, and Metro Code Section 4.01/070 Parking Regulations, Effective January 1, 2005.

#### 6. RESOLUTIONS

6.1 **Resolution No. 04-3493**, For the purpose of appointing additional Members to the Fish and Wildlife Habitat Program Implementation Work Group.

Newman

#### 7. CONTRACT REVIEW BOARD

7.1 **Resolution No. 04-3492**, For the Purpose of Approving the Release of a Request for Bid and Award of Contract for Phase 1 of the M. James Gleason Boat Ramp Upgrade Project.

Park

#### 8. CHIEF OPERATING OFFICER COMMUNICATION

## 9. COUNCILOR COMMUNICATION

### ADJOURN

#### Television schedule for September 16, 2004 Metro Council meeting

<b>Clackamas, Multnomah and Washington counties, and Vancouver, Wash.</b> Channel 11 -- Community Access Network <a href="http://www.yourtvvtv.org">www.yourtvvtv.org</a> -- (503) 629-8534 Thursday, September 16 at 2 p.m. (live)	<b>Washington County</b> Channel 30 -- TVTV <a href="http://www.yourtvvtv.org">www.yourtvvtv.org</a> -- (503) 629-8534 Saturday, September 18 at 11 p.m. Sunday, September 19 at 11 p.m. Tuesday, September 21 at 6 a.m. Wednesday, September 22 at 4 p.m.
<b>Oregon City, Gladstone</b> Channel 28 -- Willamette Falls Television <a href="http://www.wftvaccess.com">www.wftvaccess.com</a> -- (503) 650-0275 Call or visit website for program times.	<b>West Linn</b> Channel 30 -- Willamette Falls Television <a href="http://www.wftvaccess.com">www.wftvaccess.com</a> -- (503) 650-0275 Call or visit website for program times.
<b>Portland</b> Channel 30 (CityNet 30) -- Portland Community Media <a href="http://www.pcmv.org">www.pcmv.org</a> -- (503) 288-1515 Sunday, September 19 at 8:30 p.m. Monday, September 20 at 2 p.m.	<b>Gresham</b> Channel 30 -- MCTV <a href="http://www.mctv.org">www.mctv.org</a> -- (503) 491-7636 <b>Monday, September 20 at 2 p.m.</b>

**PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times.**

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, (503) 797-1542. Public Hearings are held on all ordinances second read and on resolutions upon request of the public. Documents for the record must be submitted to the Clerk of the Council to be considered included in the decision record. Documents can be submitted by e-mail, fax or mail or in person to the Clerk of the Council. For additional information about testifying before the Metro Council please go to the Metro website [www.metro-region.org](http://www.metro-region.org) and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).



Agenda Item Number 3.0

**TELECOMMUNICATIONS JOINT PROJECT.**

***Auditor Report***

Metro Council Meeting  
Thursday, September 16, 2004  
Metro Council Chamber

Consideration of Minutes of the September 9, 2004 Regular Council meeting.

Metro Council Meeting  
Thursday, September 16, 2004  
Metro Council Chamber

**Ordinance No. 04-1059**, For the Purpose of Amending Metro Code Title IV  
Oregon Zoo Regulations, Metro Code Section 4.01.020 Definitions  
Metro Code Section 4.01.050 Admission Fees and Policies, and Metro Code  
Section 4.01/070 Parking Regulations, Effective January 1, 2005

***First Reading***

Metro Council Meeting  
Thursday, September 16, 2004  
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO )	ORDINANCE NO. 04-1059
CODE TITLE IV - OREGON ZOO )	
REGULATIONS, METRO CODE SECTION )	
4.01.020 DEFINITIONS; METRO CODE )	
SECTION 4.01.050 ADMISSION FEES AND )	
POLICIES; AND METRO CODE SECTION )	Introduced by Chief Operating Officer Michael J.
4.01.070 PARKING REGULATIONS, )	Jordan, with the concurrence of Council
EFFECTIVE JANUARY 1, 2005 )	President David Bragdon

WHEREAS, the Oregon Zoo periodically needs to increase admission charges to keep pace with increased operating costs; and

WHEREAS, Oregon Zoo admission fees have not been increased since January 1, 2004; and

WHEREAS, the Oregon Zoo desires to operate the Zoo parking lot in an entrepreneurial manner that generates revenue for the Zoo while encouraging Zoo patrons to gain access to the Zoo in a manner that promotes public transit alternatives to private motor vehicles, consistent with Metro's Facility Related Parking Policy, set forth in Chapter 2.14 of the Metro Code; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That Metro Code Section 4.01.020 is amended to read as follows:

"4.01.020 Definitions

For the purposes of this chapter unless the context requires otherwise the following terms shall have the meaning indicated:

(a) "Director" or "Zoo Director" means the Director of the Zoo, and also includes such subordinate employees of the Zoo or other Metro employees to the extent the Zoo Director or Chief Operating Officer has delegated specific duties in writing.

(b) "Parking lot" means that portion of the Zoo outside of the premises including the paved parking lot area adjacent to the Zoo leased from the City of Portland, but not the public right-of-way located therein, and also includes the adjacent sidewalks, landscaped areas, and plaza outside of the Zoo gates.

(c) "Premises" means the property, buildings, and grounds within the perimeter fence surrounding the Zoo, the admission and exit gates, all Zoo buildings including but not limited to the administrative, commissary, haybarn, and shop buildings, the employee parking lot, the Zoo vehicular storage area, and the Zoo Railroad right-of-way from the Zoo to and including the Metro Washington Park Station.

(d) "Public" means any person other than a Zoo employee.

(e) "Shuttle Parking Lot" means any facility located outside the Zoo and the Parking Lot and designated by the Zoo for overflow parking.

(fe) "Special event" means any event or occasion held on the premises other than during normal operating hours as specifically authorized by the Zoo Director and Chief Operating Officer.

(gf) "Zoo" means the Oregon Zoo and includes the parking lot and the premises.

(hg) "Zoo employee" means any paid employees of the Zoo, any other paid employees of Metro performing tasks or functions at the Zoo at the request or direction of either the Zoo Director, the Metro Council, or the Chief Operating Officer, volunteers performing functions and duties assigned or authorized by the Zoo Director, and any contractors or agents of the Zoo carrying out their duties or obligations to the Zoo.

(ih) "Zoo Railroad" means the equipment, rails, and right-of-way extending from within the Zoo premises through the City of Portland park adjacent to the Zoo to a location near the Rose Test Gardens, also known as the Washington Park and Zoo Railway."

2. That Metro Code Section 4.01.050 is amended to read as follows:

"4.01.050 Admission Fees and Policies

(a) Regular Fee Schedule

Adult (12 years and over)	<del>\$9.00</del> <u>\$9.50</u>
Youth (3 years through 11 years)	<del>\$6.00</del> <u>\$6.50</u>
Child (2 years and younger)	Free
Senior Citizen (65 years and over)	<del>\$7.50</del> <u>\$8.00</u>

(b) Free and Reduced Admission

- (1) The Director may set free or reduced price admission rates for groups, special events, or as otherwise in accordance with this Chapter.
- (2) A free admission pass will entitle the holder only to enter the Zoo without paying an admission fee.

- (3) A reduced admission pass will entitle the holder only to enter the Zoo by paying a reduced admission fee.
- (4) Free or reduced admission passes may be issued to the following groups or individuals and shall be administered as follows:
  - (A) Metro employees shall be entitled to free regular Zoo admission upon presentation of a current Metro employee identification card.
  - (B) Metro elected officials shall be entitled to free admission.
  - (C) Free admission passes in the form of volunteer identification cards may, at the Director's discretion, be issued to persons who perform volunteer work at the Zoo. Cards shall bear the name of the volunteer, shall be signed by the Director, shall be non-transferable, and shall terminate at the end of each calendar year or upon termination of volunteer duty, whichever date occurs first. New identification cards may be issued at the beginning of each new calendar year for active Zoo volunteers.
  - (D) The Zoo Director may issue reduced price admission passes to individuals using a TriMet bus or the Metro Area Express (MAX) for travel to the Zoo, upon presentation of acceptable proof of fare payment, which includes TriMet passes, MAX tickets and bus transfer receipts validated on the date of Zoo entry.
- (5) Admission to the Zoo shall be at a reduced rate for all persons during a portion of a day each month, as determined by the Director.

(c) Special Events. The Zoo, or portions thereof, may be utilized for special events designed to enhance Zoo revenues during hours that the Zoo is not normally open to the public. The number, nature of, and admission fees for such events shall be determined by the Zoo Director.

(d) Parking Fee. The Zoo Director may establish, charge and collect a parking fee from Zoo patrons for parking in the Zoo Parking Lot and Shuttle Lot and may adjust said parking fee annually."

3. That Metro Code Section 4.01.070 (a) is amended to read as follows:

“4.01.070 Parking Regulations

The following rules shall govern all vehicles operated within the area of the Zoo parking lot and Zoo premises:

(a) It shall be a violation of this Code for the driver of any motor vehicle or bus to fail to pay for parking when required under this Code, or to violate any legend or direction contained in a any sign, signal, or marking now installed or hereafter installed upon any portion of the Zoo premises or parking lot areas. Drivers of all vehicles shall drive in a careful and safe manner at all times, and shall comply with the signals and directions of the police or security officers and all posted traffic signs. Blocking of entrances, driveways, walks, loading platforms, fire lanes, or fire hydrants is prohibited. Parking without authority, or parking in unauthorized locations or in locations reserved for other persons or contrary to the directions of posted signs, is prohibited.

(b) Security personnel designated by the Chief Operating Officer as serving as a Zoo parking patrol shall have the authority and duty to issue parking citations in accordance with subsection (c) of this section for a violation specified by subsection (a) of this section. The Zoo parking patrol shall have no other policy authority or duty. Persons appointed as Zoo parking patrol shall be special police officers of Metro. As special police officers, the Zoo parking patrol personnel and the Zoo parking patrol supervisor shall have authority to issue citations for violations of parking or non-moving traffic violations occurring on Zoo property or property adjacent to the Zoo leased from the City of Portland by Metro for Zoo parking purposes, and particularly they shall have authority to issue citations. To the extent of the power and authority granted in this section, such personnel and their supervisor shall exercise full police power and authority.

(c) Parking Citations

- (1) Form of Citations. All parking citation forms used by the Zoo parking patrol shall be in a form approved by the Metro Attorney and as issued by the Circuit Court for the State of Oregon for Multnomah County. Such parking citations shall, at a minimum, clearly state:

- (A) The date, place, and nature of the charge;
- (B) Time and place for the defendant's appearance in court;
- (C) Name of the issuing officer;
- (D) License number of the vehicle.

- (2) Procedure for Issuing Citations. Any citation form issued pursuant to this Code section shall either be delivered to the defendant or placed in a conspicuous place upon the vehicle involved in the violation. A duplicate original of the notice shall serve as the complaint in the case when it is filed with the court. In all other aspects, the procedure now provided by law in such cases shall be followed, but ORS 810.365 does not apply. The officer need not have observed the act of parking, but need only observe that the car was parked in violation of Metro Code.
- (3) Use of Parking Citation as Complaint. The original of the traffic citation form when completed to meet the minimum requirements of ORS 221.333 may serve as a complaint; other forms of parking complaints are prohibited.
- (4) Citation Form Books Issued by circuit court. Citation form books for parking violations shall be provided by the circuit court and upon request distributed to the Zoo parking patrol officers who issue them.
- (5) List of Parking Citations. A list of the parking citations issued by Zoo parking patrol officers shall be forwarded to the circuit court within 24 hours.

(d) Person Responsible for Violation Charged by the Citation. The registered owner of the vehicle is prima facie responsible for the violation charged by the citation.”

4. That all other provisions of Metro Code Title IV Chapter 4.01 - Oregon Zoo Regulations remain the same.
5. That the Admission Fees and Policies of Metro Code Section 4.01.050 and Parking Regulations of Metro Code Section 4.01.070 (a) take effect January 1, 2005.

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ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to Form:

\_\_\_\_\_  
Christina Billington, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

## STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 04-1059 FOR THE  
PURPOSE OF AMENDING METRO CODE TITLE IV – OREGON  
ZOO REGULATIONS, METRO CODE SECTION 4.01.020  
DEFINITIONS, METRO CODE SECTION 4.01.050 ADMISSION  
FEES AND POLICIES AND METRO CODE SECTION 4.01.070  
PARKING REGULATIONS, EFFECTIVE JANUARY 1, 2005

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Date: September 7, 2004

Prepared by: Sarah Chisholm

### BACKGROUND

The purpose of this ordinance is to amend Metro code sections 4.01.050 and 4.01.070 in order to increase the admission fee by \$.50, to grant authority to charge for parking at the Zoo, and to grant authority to provide reduced admission to guests using public transit. The changes would take effect January 1, 2005.

In conjunction with the increase in the gate admission charge for all customers, the Zoo will begin charging an additional fee to those customers who use the automobile parking lot. The Zoo will institute a paid parking system where a flat parking fee per car will be collected at the Zoo admission gates. This will be an honor system payment method. Additionally, guests using public transit will be entitled to reduced priced admission to the Zoo.

### ANALYSIS/INFORMATION

1. **Known Opposition:** None known.
2. **Legal Antecedents:** Metro Code Section 4.01.050 Admission Fees and Policies identifies policies on Zoo admission fees, and requires the Zoo to request an amendment to increase fees. Metro Code Section 4.01.070 Parking Regulations sets forth the rules governing vehicles operated within the Zoo parking lot and Zoo premises. Metro Code Section 2.14.010 Facility Related Parking Policy and Regulations provides policy direction as to the use and regulation of parking lots at Metro regional facilities.
3. **Anticipated Effects:** The proposed fee increase of \$.50 would take effect January 1, 2005. The \$.50 fee increase proposal would bring the adult admission rate to \$9.50. This rate is still the lowest of comparable facilities on the west coast and considerably lower than the other two AZA accredited facilities in Oregon. The anticipated effect of charging for parking and providing transit incentive is an increase in public transit ridership to the Zoo.
4. **Budget Impacts:** The fee increase of \$.50 was part of the Zoo's proposed FY 04-05 budget, with an expected increase to revenue at the Zoo of \$120,595 this fiscal year.

### RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of this ordinance.

Agenda Item Number 6.1

**Resolution No. 04-3493**, For the purpose of appointing addition  
Members to the Fish and Wildlife Habitat Program Implementation  
Work Group.

Metro Council Meeting  
Thursday, September 16, 2004  
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPOINTING ) RESOLUTION NO. 04-3493  
ADDITIONAL MEMBERS TO THE FISH AND )  
WILDLIFE HABITAT PROGRAM )  
IMPLEMENTATION WORK GROUP

Introduced by  
Council President Bragdon

WHEREAS, Metro Council, by Resolution No.04-3488, approved the creation of a Fish and Wildlife Habitat Program Implementation Work Group and the appointment of members to the Work Group; and

WHEREAS, the Council President has identified additional appointees to become members for this Work Group; now therefore

BE IT RESOLVED that the Metro Council confirms the appointment of the following individuals as members of the Fish and Wildlife Habitat Implementation Work Group:

Thomasina Gabrielle

Rick Michaelson

Rachael McCormick (alternate Shannon Buono)

Von Summers

Elaine Smith

John Frewing

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_ 2004

\_\_\_\_\_  
David Bragdon, Council President

Approved as to Form:

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

## **STAFF REPORT**

### **IN CONSIDERATION OF RESOLUTION NO. 04-3493, FOR THE PURPOSE OF APPOINTING ADDITIONAL MEMBERS TO THE FISH AND WILDLIFE HABITAT PROGRAM IMPLEMENTATION WORK GROUP**

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Date: 09-07-04

Prepared by: Christina Deffebach

## **BACKGROUND**

In August 2004, Metro Council approved Resolution No. 04-3488, For the Purpose of Creating and Appointing Members to the Fish and Wildlife Habitat Program Implementation Work Group. The Work Group establishes a mechanism for obtaining the views and advice of land use professionals with hands-on, practical experience and expertise in implementing and working with habitat protection requirements in order to ensure that Metro's habitat program is practical and easy to understand and use, workable, and effective in protecting habitat.

At the time the Resolution was adopted, not all of the potential members had been finalized. The Council President has identified six additional individuals to become members of the Work Group. This resolution confirms these appointments. With the new appointments, the Work Group will have 18 members, as shown below:

### **Chair**

Pam Wiley, Natural Resource Consultant 503-238-8093

### **Industrial/Commercial Developer (2 positions)**

Martin Schott, Schott & Associates 503-829-6318

Greg Summers, Jones & Stokes 503-248-9507

### **Major Institutions**

Thomasina Gabrielle 503-227-4968

### **Residential Developer (suburban development) (1 position)**

Craig Brown, Matrix Development 503-620-8080

### **Residential Developer (experienced in environmental zones) (1 position)**

Rick Michaelson 503-274-1035

### **Natural Resource Planners with experience implementing habitat protection (4 positions)**

Kerry Rappold, Wilsonville 503-570-1570

Denny Egner, Lake Oswego 503-697-6576

Barbara Fryer, Beaverton 503-526-3718

Eric Engstrom, City of Portland (Shannon Buono, Alternate) 503-823-0977

### **Utility Provider**

Von Summers, Northwest Natural Gas 503-220-2348

**Transportation Provider familiar with EIS (2 positions)**

Tom Boullion, Port of Portland 503-944-7615

Elaine Smith, ODOT 503-731-8246

**Practitioner familiar with green development (1 position)**

Mike Faha, Greenworks PC 503-222-5612

**Water Provider (1 position)**

Nora Curtis, Clean Water Services (Alternate: Heidi Berg, CWS) 503-844-8118

**Non-profit: Planning for green infrastructure (1 position)**

Jim Labbe, Audubon Society of Portland 503-292-9471

**Property Owner (2 positions)**

Kevin Kohnstamm 503-274-2542

John Frewing 503-245-5760

**ANALYSIS/INFORMATION**

1. **Known Opposition** None
2. **Legal Antecedents** This resolution appoints additional members to the Work Group established by Resolution 04-3488, For The Purpose Of Creating And Appointing Members To The Fish And Wildlife Habitat Program Implementation Work Group, approved by Metro Council on August 19, 2004.
3. **Anticipated Effects** Approval of this Resolution will complete the appointments to the Work Group.
4. **Budget Impacts** None. The Work Group was envisioned to have more members when it was created.

**RECOMMENDED ACTION**

Staff recommends that Metro Council approve this Resolution to complete the appointment of members to the Fish and Wildlife Habitat Program Implementation Work Group

Agenda Item Number 7.1

**Resolution No. 04-3492**, For the Purpose of Approving the Release of a Request for Bid and Award of Contract for Phase 1 of the M. James Gleason Boat Ramp Upgrade Project.

***Contract Review Board***

Metro Council Meeting  
Thursday, September 16, 2004  
Metro Council Chamber

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF APPROVING THE	)	RESOLUTION NO. 04-3492
RELEASE OF A REQUEST FOR BID AND	)	
AWARD OF CONTRACT FOR PHASE I OF THE	)	Introduced by Chief Operating Officer
M. JAMES GLEASON BOAT RAMP UPGRADE	)	Michael J. Jordan, with the concurrence of
PROJECT	)	Council President David Bragdon

WHEREAS, Metro owns the M. James Gleason Boat Ramp, a boat ramp facility located on the Columbia River; and

WHEREAS, a master plan for the facility was approved by the Metro Council in 1998; and

WHEREAS, the boat ramp is scheduled for Phase I of a major upgrade to the property; and

WHEREAS, funds have been assigned in the current fiscal year's budget for construction; and

WHEREAS, release of the Request for Bid requires Council Approval; and

WHEREAS, this Resolution was submitted to the Chief Operating Officer for consideration and was forwarded to the Metro Council for its approval; now, therefore,

BE IT RESOLVED that the Metro Contract Review Board, authorizes the Chief Operating Officer to release a request for bids substantially similar to that attached as Exhibit A and execute a contract with the lowest, responsive and responsible bidder.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_, 2004.

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David Bragdon, Council President

Approved as to Form:

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Daniel B. Cooper, Metro Attorney



**Resolution No. 04-3492**

**Exhibit A**

**REQUEST FOR BIDS**

**FOR**

**M. JAMES GLEASON BOAT RAMP**

**ACCESS ROAD IMPROVEMENT PROJECT**

**RFB #05-1116-PKS**

**ISSUED SEPTEMBER 2004**

**Metro**  
Regional Parks and Greenspaces Department  
600 N.E. Grand Avenue  
Portland, OR 97232-2736

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A. PREVAILING WAGE

**SECTION 00030**  
**INVITATION TO BID**

Metro is soliciting bids for constructing a new access road, removing the existing access road, plus miscellaneous work shown on the drawings at the M James Gleason boat launch ramp located near NE 43<sup>rd</sup> Avenue and Marine Drive in Multnomah County, OR. **Scaled Bids must be delivered to Metro, Regional Parks and Greenspaces Department, 600 N.E. Grand Avenue, Portland, OR 97232 to the attention of Glenn Taylor, Project Manager, no later than 2:00 pm PST, on October 14, 2004** at which time they will be opened and publicly read aloud in Conference Room 270 located in the Metro Regional Center. A bid may not be submitted by Facsimile (FAX) transmittal.

The outside of the envelopes shall plainly identify the subject of the Bid, the opening date, and the Bid number.

**In addition to the sealed bids**, all contractors must complete and submit in a sealed envelope, all the supplied forms for listing first tier subcontractors either along with its Bid submission or within two (2) working hours after bid closing. See Item 14 (First-Tier Subcontractor Disclosure) in Section 00110, Instruction to Bidders for complete details. All other forms in Section 300, Bid Forms, must be filled out and included with the "sealed bids" at time of closing.

If bidder will not be using any subcontractors that are subject to the specified disclosure requirements, bidder must indicate "NONE" on the form supplied in Section 00300. Metro must reject a bid if the bidder fails to submit the disclosure form with this information by the stated deadline.

The Work contemplated consists of but is not limited to the following: demolition & site preparation including but not limited to fencing, guard rails, light poles, overhead power lines, signs, existing entry removal (asphalt, soil, etc.); asphalt grinding for reuse as subbase; subbase fill material; removal of sandy soils to balance cut & fills; aggregate base; asphaltic concrete pavement; chain link fence & gate; utility conduits; extruded concrete curbs; landscaping; pavement markings; signage and all other work shown on the drawings or in the specifications.

Drawings and Specifications may be examined at the Regional Parks and Greenspaces Department in the Metro Regional Center. Copies of the Bidding Documents may be obtained at Regional Parks and Greenspaces Department or by calling (503) 797-1870.

Each Bid must be submitted on the prescribed form and accompanied by a certified check or cashier's check or Bid Bond executed on the prescribed form, payable to Metro in the amount of ten percent (10%) of the total bid amount. The Bid and bid security should be delivered in a sealed envelope marked "M. James Gleason Boat Ramp Access Road Improvement Project", Attention: Glenn Taylor.

The successful Bidder will be required to furnish the necessary additional Bonds for the faithful performance of the Contract and for the payment of all persons supplying labor and materials as prescribed in the Contract Documents.

Before a contract is awarded, Metro may conduct such additional investigations as are necessary to determine whether a Bidder is qualified. Upon request, the Bidder shall promptly submit such additional information as deemed necessary by Metro to evaluate the Bidder's qualifications.

Bidders shall use recyclable products to the maximum extent economically feasible in the performance of the contract work set forth in this document.

This is a public works project. The contractor and all subcontractors and suppliers, shall be required to comply with ORS 279.350 through 279.354 and ensure that all workers are paid not less than, and in accordance with, the Prevailing Wages published by the Oregon Bureau of Labor and Industries. In order to insure compliance of prevailing wage requirements, under Chapter 279, Metro will require that all payrolls be submitted on a schedule to be determined by Metro.

The contractor is required to pay a fee equal to one-tenth of one percent ((0.1 percent) of the price of the contract, but not less than \$100 nor more than \$5,000, under ORS 279.352 (2) and section 5 (1), Ch 594, 1995 Oregon Laws. The fee shall be paid on or before the first progress payment or 60 days from the date work first began on the contract, whichever comes first. The fee is payable to the Bureau of Labor and Industries at the following address:

Bureau of Labor and Industries  
Wage and Hour Division  
Prevailing Wage Unit  
800 NE Oregon Street, #32  
Portland, OR 97232

Each Bid must contain a statement as to whether the Bidder is a resident bidder, as defined in ORS 279.029.

Bidders and Subcontractors must be registered with the Oregon Construction Contractor's Board pursuant to ORS 701.035-90.

Bidders must comply with Metro's Minority, Women-Owned and Emerging Small Business Enterprise Program. The purpose of the program is to establish and implement a program to encourage the utilization by Metro of minority, women-owned and emerging small businesses, to the greatest extent permitted by law, by creating for such businesses the maximum possible opportunity to compete for and participate in locally funded Metro contracting activities. All Bidders must certify and document compliance with the Minority, Women-Owned and Emerging Small Business Enterprise Program. Failure to complete and submit the Program Compliance Forms, Utilization Forms, and adequately document good faith efforts will constitute a non-responsive Bid. See "Instructions to Bidders" for references to applicable procedures and further details concerning this program. Any questions regarding MBE/WBE/ESB requirements should be addressed to the Metro MBE/WBE/ESB Program Advocate, Cinna'Mon Brannon-Williams at (503) 797-1816.

The Economic Feasible Units (EFU's) identified for the MBE/WBE/ESB program by Metro for this project are demolition, excavation, utilities, and asphalt paving.

**A Pre-Bid Conference for prospective Bidders will be conducted in the Metro Building located at 600 NE Grand Avenue, Portland, OR 97232 in Conference Room 274 at 10:00 am on September 28, 2004. A non mandatory site visit will be conducted after the meeting. Attendance at this meeting is mandatory for all potential prime bidders to comply with Metro's Minority, Women-Owned and Emerging Small Business Enterprise Program.**

Metro reserves the right to reject all Bids or any Bids not conforming to the intent and purpose of the Contract Documents, to reject for good cause any and all Bids upon a finding of Metro that it is in the public interest to do so or to waive any informality or irregularity in any Bid or Bids. Metro further reserves the right to award the Contract at any time within sixty (60) days following the Bid opening date.

**For information concerning the proposed work, or to make an appointment to visit the site of the proposed work, contact Glenn Taylor, Project Manager, at (503) 797-1716 or Dan Kromer at (503) 797-1844.**

## SECTION 00110 INSTRUCTIONS TO BIDDERS

### 1. DESCRIPTION OF WORK

The Work contemplated consists of but is not limited to the following: demolition & site preparation including but not limited to fencing, guard rails, light poles, overhead power lines, signs, existing entry removal (asphalt, soil, etc.); asphalt grinding for reuse as subbase; subbase fill material; removal of sandy soils to balance cut & fills; aggregate base; asphaltic concrete pavement; chain link fence & gate; utility conduits; extruded concrete curbs; landscaping; pavement markings; signage and all other work shown on the drawings or in the specifications..

### 2. DEFINITIONS

Except as otherwise specifically provided herein, all words and phrases defined in the General Conditions shall have the same meaning and intent in these Instructions to Bidders. Bidders should refer to those definitions as they read these Instructions.

### 3. DOCUMENT INTERPRETATION

The Contract Documents are intended to be complementary and to provide all details reasonably required for the execution of the proposed Work. Any person contemplating the submission of a Bid shall have thoroughly examined all of the various parts of these Contract Documents. If the Bidder has any doubt as to the meaning or the intent of the Contract Documents or finds any inconsistency or discrepancy within the Contract Documents, the Bidder must provide and Metro must receive a written request for interpretation, at **least seven (7) working days prior to Bid opening**. Likewise, the Bidder may request substitutions for materials, processes or equipment as described in the Contract Documents. Such requests for interpretation or substitution shall be mailed or delivered to Metro Regional Parks and Greenspaces Department, 600 N.E. Grand Avenue, Portland, OR 97232, to the attention Glenn Taylor, Project Manager.

Any interpretations or changes in the Contract Documents will be made only in writing, in the form of Addenda to the Contract Documents which will be furnished to all Bidders receiving a set of the Bidding Documents and which shall be binding upon all Bidders as if set forth in the original Contract Documents. Bidders shall indicate receipt of all Addenda on their Bids. Metro will not be responsible for any other explanation or interpretation of the Bidding Documents. Bidders shall have no right to rely on any oral interpretation or instructions made by Metro or the Architect/Engineer, unless it is also committed to writing and issued as an Addendum.

In the absence of any pre-bid request for clarification, or any interpretation of the Contract Documents, as outlined above, any subsequent interpretation shall be made by Metro, and shall be final and binding on the successful Bidder, and Metro shall pay no extra costs or expenses to such Bidder resulting from such interpretation.

#### 4. EXAMINATION OF CONTRACT DOCUMENTS AND SITE AND COMPLIANCE WITH LAWS

Before submitting a Bid, Bidders shall fully examine and read the Contract Documents; visit the site of the proposed Work, and examine the Site and the surrounding areas; and fully inform themselves of all conditions on, in, at and around the Site, the surrounding areas, and any work that may have been done thereon. The Bidder acknowledges by the submission of its Bid that it understands the nature and location of the Work, the general and local conditions, conditions of the Site, availability of labor, electric power, water, and the kind of surface materials on the Site, the kind of equipment needed, and all other matters which may in any way affect the Work or the cost, including utilities not identified in the Contract Documents.

Information derived from inspection of the Contract Documents and any specific sections thereof showing location of utilities and structures will not in any way relieve the Contractor from any risk, or from properly examining the Site and making such additional investigations as it may elect, or from properly fulfilling all the terms of the Contract Documents.

Any failure of a Bidder to acquaint itself with all of the available information concerning conditions or having such additional investigations of Site and soil conditions conducted, as may be necessary, will not relieve it from responsibility for estimating properly the difficulties or cost of the Work and the Bidder shall, regardless of such failure, be bound to its Bid.

Each Bidder shall inform itself of, and the Bidder awarded a Contract shall comply with, federal, state, and local laws, codes, statutes, ordinances, and regulations, as amended, relative to the execution of the Work. Each Bidder shall prepare its Bid in accordance with, and all Bid prices shall assume compliance with, such laws, codes, statutes, ordinances and regulations. This requirement includes, but is not limited to, applicable regulations concerning minimum wage rates, prevailing wage rates, nondiscrimination in the employment of labor, protection of public and employee safety and health, environmental protection, the protection of natural resources, fire protection, burning and non burning requirements, permits, fees, and similar subjects.

If any portion of the Contract Documents does not conform to such laws, codes, statutes, ordinances or regulations as amended, the Bidder shall so advise Metro in writing at least seven (7) days before Bids are due. If it is shown that the Contractor, as Bidder, knew or should have known that any portion of the Contract Documents does not conform to such laws, codes, statutes, ordinances or regulations and had failed to so advise Metro, it shall be liable for costs of making any deviation(s) required for compliance with such laws, codes, statutes, ordinances or regulations.

Each Bidder, in submitting its Bid, certifies that the Bidder is eligible to bid on and to receive a contract for a public work, as set forth in ORS 279.361 and agrees, if awarded the Contract, that each of its Subcontractors will be required to certify such compliance, and certification will be filed with Metro prior to such Subcontractor commencing any work.



## 5. MINORITY, WOMEN-OWNED AND EMERGING SMALL BUSINESS PROGRAM COMPLIANCE

### Minority, Women-Owned and Emerging Small Business Enterprise Program

In the event that any subcontracts are to be utilized in the performance of this agreement, the Bidder's/Proposer's attention is directed to Metro Code Section 2.04.100.

The following program information is intended to succinctly outline the prime action steps required of all Bidders/Proposers. It is not a substitute for and shall not be construed as a complete recital of all issues, concerns, and program instructions contained within that ordinance. Therefore, all Bidders/Proposer's are specifically advised to consult the original document for definition of the specific terminology contained herein and complete insight into all program requirements.

Copies of that document are available from the Contracts Services Division of the of Business Support Department, Metro Regional Center, 600 NE Grand Avenue, Portland, OR 97232-2736 or call (503) 797-1816.

Metro Extends Equal Opportunity to all persons and specifically encourages MBE/WBE/ESBs to access and participate in this and all Metro projects, programs and services.

Metro Prohibits Discrimination against any person or firm based upon race, color, national origin, sex, sexual orientation, age, religion, physical handicap, political affiliation or marital status.

Metro Specifically Requires all Bidders/Proposer's to demonstrate and document good faith efforts reasonably expected to produce and maximize the opportunities for subcontractor and supplier involvement by MBE/WBE/ESBs.

For purposes of this program, performing, documenting, and certifying compliance with all of the actions outlined on the attached forms shall constitute a rebuttable presumption that the Bidder/Proposer has made the good faith efforts required by this program.

The attached Compliance Forms are the basis for recording and documenting the completion of the above-listed actions. Completion of the Compliance Form and Documentation of all six (6) actions outlined therein is mandatory. Failure to complete and submit the forms and all required support documentation at the time of Bid opening/Proposal submission and all required documentation subsequently requested, will result in rejection of the Bid/Proposal as nonresponsive to Metro's procurement requirements.

By signing the forms, the Bidder/Proposer thereby certifies that it has not discriminated against MBE/WBE/ESBs in obtaining any subcontracts for this project, and that its documented good faith efforts were reasonably expected to result in participation by those enterprises in this project.

Conversely, failure to provide such documentation by the Bid or submission deadline shall create a rebuttable presumption that the respondent has not made a good faith effort as required by the program.

Furthermore, Metro reserves the right, at all times during the subsequent course of any awarded contract, to monitor compliance with the terms of this program, require additional written documentation or proof of good faith efforts, and depend upon the Contractor's immediate compliance.

## 6. PREPARATION OF BIDS

All blank spaces in the Bid Forms must be completed either by typing or in ink. Amounts shall be shown in both words and figures. Any Bids that do not include prices on all Bid Items will be considered non-responsive and will be rejected. No changes shall be made in the phraseology of the forms.

Metro reserves the right to declare any bid non-responsive and reject it without further consideration if it is deemed to contain errors, omissions, erasures, alterations, additions, deletions, unbalanced pricing, is conditioned by the Bidder, or in any manner, extent or way fails to conform to each and every specific requirement(s) of these Contract Documents.

Each Bid shall give the full business address of the Bidder and be signed by it with its legal signature.

- a. Bids by partnerships must furnish the full name of all partners and must be signed in the partnership name by one of the members of the partnership authorized to sign contracts on behalf of the partnership, or by an authorized representative, followed by the printed name and title of the person signing.
- b. Bids by corporations must be signed with the legal name of the corporation, followed by the name of the state of incorporation and by the signature and designation of the president, secretary or other person authorized to bind it in the matter. When requested by Metro, satisfactory evidence of the authority of the officer signing in behalf of the corporation shall be furnished.
- c. If a Bid is submitted by a joint venture, a certified copy of the legal agreement constituting the joint venture shall be attached to the Bid.

The name of each person signing shall also be typed or printed below the signature. Signatures of all individuals must be in longhand.

Failure to fulfill any of the above requirements may render the Bid non-responsive.

## 7. SUBMISSION OF BIDS

All bids must be submitted not later than the time prescribed, at the place, and in the manner set forth in the INVITATION TO BID. Bids must be made on the forms provided; these forms are contained herein as the Bid Forms. Each Bid and all other documentation required to be submitted with the Bid must be submitted in a sealed envelope, so marked as to indicate its contents without being opened, and addressed in conformance with the instructions in the INVITATION TO BID and the ADVERTISEMENT FOR BIDS.

## 8. MODIFICATION OR WITHDRAWAL OF BIDS

Any Bid may be modified after delivery to the location specified in the Invitation to Bid by delivering to the same location before the time fixed for the Bid opening, a written sealed supplement to the original Bid, marked "Supplement to Bid of (Name of Bidder) for the "M. James Gleason Boat Ramp Access Road Improvement Project", Attention Glenn Taylor, Project Manager. A supplement shall clearly identify the Bid item(s) that are changed by setting forth the original Bid item(s), and the modified item(s). Metro may reject any Bid supplement that, in its opinion, does not set forth the proposed modifications clearly enough to determine the definiteness and certainty of the item(s) offered by the Bidder. No Bidder shall be allowed to submit more than one (1) Bid for this Contract.

Bids may be withdrawn by the Bidder prior to the time fixed for the receipt of Bids by having an authorized representative of the Bidder with sufficient identification personally pick up the Bid. Bids may not be withdrawn for a period of sixty (60) days from and after the opening of Bids or on or prior to the last date of any extension of such time as may be agreed upon between Metro and the Bidder.

## 9. BID SECURITY

Bids must be accompanied by a certified check or cashier's check drawn on a bank in good standing, or a Bid Bond on the form provided herein by Metro, issued by a surety authorized to issue such bonds in Oregon, named on the current list of approved surety companies acceptable on federal bonds, and conforming with the underwriting limitations as published in the Federal Register by the audit staff of the Bureau of Accounts and the US. Treasury Department, in the amount of not less than Ten Percent (10%) of the bid amount. This bid security shall be given as a guarantee that the Bidder will not withdraw its Bid for a period of sixty (60) days after Bid opening, and that if awarded the Contract, the successful Bidder will execute the attached Agreement and furnish a properly executed Performance Bond and a properly executed Labor and Materials Payment Bond, each in the full amount of the Bid, within the time specified. Bid security deposited in the form of a certified check or cashier's check shall be subject to the same requirements as a Bid Bond.

The Attorney-in-Fact (Resident Agent) who executes these bonds on behalf of the surety must attach a notarized copy of his/her Power of Attorney as evidence of his/her authority to bind the surety on the date of execution of the bond.

## 10. EXPERIENCE AND ABILITY TO PERFORM THE WORK

Bidders must present information indicating that the Bidder has the necessary experience and qualifications in the class of Work to be performed, and the ability, equipment, key personnel and financial resources to perform the Work satisfactorily within the time specified. In determining the award of this Contract, such information will be considered, and the Bidder is cautioned to make complete and comprehensive presentation of its abilities and resources.

Bidder must complete the Contractor Qualification Statement Form included in Section 00300 - Bid Forms. Failure to complete and submit the form and all required support documentation at the time

of Bid opening/Proposal submission and all required documentation subsequently requested, will result in rejection of the Bid/Proposal as non-responsive to Metro's procurement requirements.

No Bidder will be considered for contract award unless such Bidder is authorized by law to execute the Contract or perform the Work for which such Bid is received. Should it appear, at any time, that any Bidder is not or might not be authorized by law to execute the Contract or perform such Work, then such Bidder may at any time be rejected and Metro may refuse to execute any contract with such Bidder regardless of whether or not the contract had been previously awarded by the Metro Council and without any liability whatever on the part of Metro, its Council, or any member of its Council, or Metro's officer, employees, or its agents, either as individuals or in official capacities.

## 11. REJECTION OF BIDS

Metro reserves the right to reject all Bids or any Bid not conforming to the intent and purpose of the Contract Documents, to waive any informality or irregularity in any Bid or Bids, to reject any Bid not in compliance with all prescribed public bidding procedures and requirements and, for good cause, to reject any or all Bids upon a finding by Metro that it is in the public interest to do so.

## 12. BASIS OF AWARD

Metro reserves the right to make award of this Contract to the lowest responsible Bidder submitting the lowest responsive bid, which shall include the base bid plus any owner selected alternates.

Under Oregon Law ORS 279.570, public agencies, including Metro, must give preference to the purchase of materials and supplies manufactured from recycled materials. All Bidders are required to specify the minimum, if not exact, percentage of recycled product in each product offered, and both the post-consumer and secondary waste content of each product offered. A Bidder may also specify that none of the products offered contain any recycled product. The definitions of "recycled product," "post-consumer waste," and "secondary waste material," as well as other explanatory materials, are included in the Appendix.

A form is included for submittal of recycled product information. The form allows a bidder to specify that different portions of a single bid item contain different amounts of recycled product. If the recycling information form is not submitted with the bid, Metro will assume that none of the products offered contain any recycled product. In addition, Metro will assume that a bid item contains no recycled product if information submitted for the item is in Metro's opinion incomplete, incorrect, or unintelligible.

Metro will calculate the recycled product preference as follows: If any Bidder submits a bid price for an item that (1) meets the definition of "Recycled Product" (see Oregon Laws 1991, Chapter 385, Section 59, in Appendix), (2) meets applicable standards, and (3) can be substituted for a comparable non-recycled product, Metro will subtract 5 percent of that item's materials cost from the Total Bid Price for the purpose of comparing bids. It is Metro's responsibility to

calculate any preferences required under Oregon law and to establish the materials cost of any proposed bid item. A Bidder who claims a recycled product preference shall utilize in this Work, all of the recycled product claimed.

In determining the lowest responsive bid and responsible Bidder, Metro shall, for the purpose of awarding the Contract, add a percent increase on the Bid of a non-resident Bidder, as that term is defined in ORS 279.029(6)(c), equal to the percent, if any, of the preference given to that non-resident Bidder in the state in which that Bidder resides. For purposes of determining the percent increases to be applied pursuant to this section, Metro shall rely on the list published by the Oregon Department of General Services pursuant to ORS 279.029(3), and Metro shall not incur any liability to any Bidder by relying on such list.

### 13. ALTERNATES

Metro will select, at its discretion, any of the proposed alternates described in the SCHEDULE OF BID PRICES, which will be part of the Basis of Award (see Article 12 in this Section - Basis of Award.)

### 14. FIRST-TIER SUBCONTRACTOR DISCLOSURE

Bidders are required by law (ORS 279.027) to disclose information about certain first-tier subcontractors when the contract value for a Public Improvement is greater than \$100,000. Specifically, when the contract amount of a first-tier subcontractor furnishing labor, or labor and materials is greater than or equal to: 1) 5% of the project bid, but at least \$15,000, or 2) \$350,000 regardless of the percentage, Contractor must disclose the following information about that subcontract in its bid submission or within four (4) working hours after bid closing:

- a) The subcontractor's name,
- b) The category of work that the subcontractor would be performing, and
- c) The dollar amount of the subcontract.

If the bidder will not be using any subcontractors that are subject to the above disclosure requirements, the bidder is required to indicate "NONE" on the form supplied in Section 00300.

Metro must reject a bid if the bidder fails to submit the disclosure form with this information by the stated deadline. Compliance with the disclosure and submittal requirements of ORS 279.027(2) and these instructions is a matter of responsiveness. Bids that are submitted by Bid Closing, but for which the separate disclosure submittal of first-tier subcontractors has not been made by the specified deadline, shall be considered non-responsive and shall not be considered for Contract award.

Metro shall obtain, and make available for public inspection, the disclosure forms required by ORS 279.027 and shall also provide copies of the forms to the Bureau of Labor and Industries as required by ORS 279.363. Metro is not required to determine the accuracy or completeness of the information submitted. Substitution of affected first-tier subcontractors shall be made only in accordance with ORS 279.322.

## 15. LIST OF PROPOSED SUBCONTRACTORS

Within five (5) days after Notice of Award and as a condition precedent to the award of the Contract, the apparent low responsible Bidder shall submit to Metro in writing the names of all Subcontractors and Suppliers which Bidder proposes to use in completing the Work along with a brief description of the subcontract or supply work involved and the subcontract or supply work dollar amount. Metro will notify the Bidder in writing within ten (10) days following receipt from Bidder of the above-described information if Metro has any reasonable objection to any such proposed Subcontractor or Supplier. The Bidder shall not subcontract with any proposed Subcontractor or Supplier to whom Metro has made a reasonable objection. In the event of such objection, Bidder shall propose another entity to whom Metro has no reasonable objection. No amounts or prices bid by the Bidder shall be increased by any difference occasioned by such substitution. Failure of Metro to reply within the above-described time period shall be construed to mean that Metro has no objection at that time. Failure of the Bidder to comply with this section shall be cause for rejection of Bidder's Bid and, in such event, the bid security submitted by Bidder shall be taken by Metro and considered as liquidated damages

Prospective Bidders are encouraged to verify the qualifications of proposed subcontractors/suppliers and be prepared to furnish Metro with a list of similar projects performed by the proposed subcontractors/suppliers.

## 16. AWARD AND EXECUTION OF CONTRACT

Within sixty (60) days after the opening of bids, Metro will accept one of the Bids or reject all of the bids. The acceptance of the Bid will be by written Notice of Award, mailed or delivered to the office designated in the Bid. The Notice of Award shall not entitle the party to whom it is delivered to any rights whatsoever.

The successful Bidder shall, within seven (7) days after award of the Contract by the Metro Council, sign and deliver to Metro the Agreement attached hereto together with an acceptable Performance Bond and a Labor and Materials Payment Bond, certificates of insurance and certified copies of insurance policies as required in these Contract Documents.

Upon receipt of the signed Agreement and all other documents required to be submitted by the successful Bidder, as prescribed herein, Metro shall sign the Agreement and issue a written Notice to Proceed to Contractor. Contractor shall commence work within five (5) days of issuance of the Notice to Proceed.

In the event of failure of the lowest responsible Bidder to sign and return the construction Agreement and all other documents required to be submitted, as prescribed herein, Metro may award the Contract to the next lowest responsible Bidder.

## 17. PERFORMANCE BOND AND LABOR AND MATERIALS PAYMENT BOND

The successful Bidder shall file with Metro a Performance Bond on the form bound herewith and in the amount described below, as security for the faithful performance of this Contract and to



cover all guarantees against defective workmanship or materials, or both. The successful Bidder shall additionally file a Labor and Materials Payment Bond on the form bound herewith and in the amount described below, as security for the payment of all persons supplying labor and materials for the performance of the Work. The surety furnishing these bonds shall have a sound financial standing and a record of service satisfactory to Metro, shall be authorized to do business in the state of Oregon, and shall be named on the current list of approved surety companies acceptable on federal bonds and conforming with the underwriting limitations as published in the Federal Register by the audit staff of the Bureau of Accounts and US. Treasury Department. If more than one surety is on a bond, then each surety must agree that it is jointly and severally liable on the bond for all obligations on the bond. A Letter of Credit, in a form suitable to Metro and otherwise in conformance with the Contract, may be substituted for a bond.

The amount of each bond described above shall be a sum not less than 100 percent of the Contract Amount. The Attorney-in-Fact (Resident Agent) who executes the Performance Bond and the Labor and Materials Payment Bond on behalf of the surety must attach a notarized copy of his/her Power of Attorney as evidence of his/her authority to bind the surety on the date of execution of the bond.

#### 18. FAILURE TO EXECUTE CONTRACT AND FURNISH BONDS

The Bidder to whom a Contract is awarded who fails to promptly and properly execute this Contract and furnish the required bonds, certificates of insurance and certified copies of insurance policies shall forfeit the bid security that accompanied its Bid and the bid security shall be retained as liquidated damages by Metro. It is agreed that this sum is a fair estimate of the amount of damages Metro will sustain if the Bidder fails to enter into a Contract and furnish the bonds, certificates of insurance and certified copies of insurance policies required.

#### 19. BID BACK-UP (Bid Preparation Documents)

Within five (5) days after Notice of Award and as a condition precedent to the award of the Contract, the apparent low responsible Bidder shall submit to Metro in a sealed envelope their complete bid summary, along with corresponding back-up including, but not limited to: quantity take-off sheets, pricing sheets and information/data substantiating the Total Bid amount. The back-up data provided shall include that of all Subcontractors listed in the Bid, as well as all lower-tier Subcontractors. This bid summary and back-up data will be held in strict confidence by Metro in its original sealed envelope and will not be opened except in the event of dispute between Metro and Contractor. Bid back-up shall be delivered to Metro Regional Parks and Greenspaces Department, 600 N.E. Grand Avenue, Portland, OR 97232, Attention Glenn Taylor, Project Manager, enclosed in a double envelope to prevent accidental opening. The envelope shall be marked "Bid backup Documents of (Name of Bidder) for "M. James Gleason Boat Ramp Access Road Improvement Project".

#### 20. DRUG TESTING PROGRAM

Bidders are required by law (ORS 279.312) to demonstrate that it has an employee drug testing program. Bidders must certify to Metro that they have an employee drug testing program by completing the form provided in Section 00300 and including it in the Bid Book.

## 21. PROMPT PAYMENT TO SUBCONTRACTORS

Contractor and all first-tier subcontractors must pay, within thirty (30) days of receipt of payment from Metro or contractor, any person furnishing labor or materials in connection with this Contract. If Contractor or first-tier subcontractor fails, neglects or refuses to make such payment within the thirty day period, the contractor or first-tier subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-day period that payment is due under ORS 279.445 (4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279.445. The rate of interest charged to the contractor or first-tier subcontractor on the amount due shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is 30 days after the date when payments was received from Metro or from the contractor, but the rate of interest shall not exceed 30 percent. The amount of interest may not be waived. If the contractor or first-tier subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with this contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279.445.

**\* \* \* END OF SECTION \* \* \***



**SECTION 00200**  
**INFORMATION AVAILABLE TO BIDDERS**

A copy of the following permits and reports are available for review at the Metro Regional Center, Regional Parks and Greenspaces Department Office, 600 N.E. Grand Avenue, Portland, OR 97232.

Plans & Specifications

\* \* \* **END OF SECTION** \* \* \*

## **BID FORMS**

NOTE TO BIDDER: Bidders must provide all of the information requested in this Bid. Bidder should type or use ink for completing this Bid.

To: Metro Regional Parks and Greenspaces Department

Address: 600 N.E. Grand Avenue, Portland, OR 97232

Contract: M. James Gleason Boat Ramp Access Road Improvements Project, (RFB #05-1116-PKS).

Bidder: \_\_\_\_\_

Address: \_\_\_\_\_

Bidder's Contact: \_\_\_\_\_

Date: Telephone: (    ) \_\_\_\_\_

### **BIDDER'S DECLARATION AND UNDERSTANDING**

The undersigned, hereinafter called the Bidder, declares that the only persons or parties interested in this Bid are those named herein, that this Bid is, in all respects, fair and without fraud, that it is made without collusion with any official of Metro, and that the Bid is made without any connection or collusion with any person submitting another Bid on this Contract.

The Bidder further declares that it has carefully examined the Contract Documents for the completion of the Work, has personally inspected the Site, has satisfied itself as to the Work involved, and that this Bid is made in accordance with the provisions and under the terms of the Contract Documents, which are hereby made a part of this Bid.

Any printed matter on any letter or paper enclosed herewith which is not part of the Bidding Documents or which was not requested by Metro is not to be considered a part of this Bid, and the undersigned agrees that such printed matter shall be entirely disregarded and, notwithstanding such printed matter, that the Bid is a bid to do the Work and furnish the labor and materials and all other things required by the Contract Documents strictly within the time and in accordance with such Specifications. This Bid is irrevocable for sixty (60) days following the date of the opening of Bids.

### **BID SECURITY**

Bid security in the form of a certified check, cashier's check or bid bond as further described in the Instructions for Bidders and in the amount of TEN PERCENT (10%) of the total bid amount is enclosed herewith and is subject to all the conditions stated in the Instructions for Bidders

## CONTRACT EXECUTION, BONDS AND INSURANCE

The Bidder agrees that if this Bid is accepted, it will, within seven (7) days after award of the Contract by the Metro Council, sign the Construction Agreement in the form annexed hereto, and will at that time deliver to Metro the Performance Bond and the Labor and Materials Payment Bond required herein and in the form annexed hereto, along with all certificates of insurance and certified copies of insurance policies specified and required in these Contract Documents, and will, to the extent of its Bid, furnish all machinery, tools, apparatus, and other means of operation and construction and do the Work and furnish all the materials necessary to complete all Work as specified or indicated in the Contract Documents

## COMMENCEMENT OF WORK AND CONTRACT COMPLETION TIME

The time frame for the award and execution of this Contract shall be as described in the Instructions for Bidders and other Contract Documents. The Successful Bidder further agrees to commence the Work within five (5) days of issuance of the Notice to Proceed and to diligently prosecute the Work to its final completion in accordance with the Contract Documents.

## ADJUSTED PAYMENTS

In the event the Bidder is awarded the Contract and fails to complete the Work in compliance with the time required by the Contract Documents, adjusted payments shall be paid to Metro as described in the General Conditions.

## SALES AND USE TAXES

The Bidder agrees that all applicable federal, state and local sales and use taxes are included in the stated bid prices for the Work.

## LUMP SUM AND UNIT PRICE WORK

The Bidder further proposes to accept as full payment for the Work proposed herein the amounts computed under the provisions of the Contract Documents and based on the listed lump sum and unit price amounts. The amounts shall be shown in both words and figures. In case of a discrepancy, the amount shown in words shall govern.

## PREVAILING WAGES FOR PUBLIC WORK

Bidder hereby certifies that the provisions of ORS 279.350, regarding prevailing wages, shall be complied with on this project.

### SCHEDULE OF BID PRICES

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL AMOUNT
1	MOBILIZATION (not to exceed 5% of bid)	1	LS		
2	DEMOLITION & SITE PREP	1	LS		
3	SEDIMENT FENCE	1400	LF		
4	PERMANENT JERSEY BARRIERS	4	EA		
5	EXCAVATION (OFF-SITE DISPOSAL)	6000	CY		
6	SUBBASE	5000	CY		
7	6" AGGREGATE BASE	63,000	SF		
8	2' ASPHALTIC CONCRETE	63,000	SF		
9	LANDSCAPING	1	LS		
10	CHAIN LINK FENCE & GATE	184	LF		
11	6" DIA PVC SCHED 80 CONDUIT	420	LF		
12	10" DIA PVC SCHED 80 CONDUIT	50	LF		
13	6" EXTRUDED CURB	1300	LF		
14	PAVEMENT MARKINGS)	1	LS		
15	SIGNAGE)	1	LS		
16	ALLOWANCE FOR INCIDENTAL UNFORSEEN ITEMS	1	LS		\$25,000
	<b>TOTAL BASE BID PRICE</b>				

( \_\_\_\_\_ **DOLLARS)**  
**BASE CONTRACT BID PRICE (in words)**

**Notes:**

**The Allowance for Incidental Unforeseen Items will be paid for only upon a pricing agreement for the extra work prior to beginning the Work. The work may be on a time and material basis or lump sum pricing submitted by Contractor and agreed upon by Metro's Project Manager.**

## FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM

PROJECT NAME: M. JAMES GLEASON BOAT RAMP ACCESS ROAD IMPROVEMENT PROJECT

BID #: RFB #05-1116-PKS BID CLOSING: Date: **October 14, 2004** Time: **2:00 PM**

### DISCLOSURE DEADLINE

Date: **October 14, 2004** Time: **4:00 PM**

This form must be submitted at the location specified in the Invitation to Bid within two (2) working hours of the advertised bid closing date and time, but no later than the **DISCLOSURE DEADLINE** stated above.

List below the Name, Address, Category of Work, Dollar Value, Construction Contractor Board (CCB) number (if required), Contact Name and Telephone Number of each subcontractor that will be furnishing labor or labor and materials that are required to be disclosed. Enter "NONE" if there are no subcontractors that need to be disclosed. **(ATTACH ADDITIONAL SHEETS IF NEEDED.)**

Name/Address/Phone #/CCB #	Dollar Value	Category of Work
-	\$	
-		
-		
-		
-		
-	\$	
-		
-		
-		
-		
-	\$	
-		
-		
-		
-		

The above listed first-tier subcontractor(s) are providing labor and/or labor and materials with a dollar value equal to or greater than:

- a) 5% of the total project bid or \$15,000 whichever is greater; or
- b) \$350,000 regardless of the percentage of the total project bid.

Failure to submit this form in a separate envelope by the disclosure deadline will result in a bid submittal becoming non-responsive, and such bid shall not be considered for award.

Form Submitted By (Bidder Name): \_\_\_\_\_

Contact Name: \_\_\_\_\_ Phone No. \_\_\_\_\_

# **RECYCLED PRODUCT\* ATTACHMENT TO SCHEDULE OF BID PRICES**

BID ITEM NO. & DESCRIPTION	SUPPLIER	QUANTITY OF RECYCLED PRODUCT IN BID ITEM	RECYCLE D PRODUC T (%)	POST- CONSUME R CONTENT (%)	SECONDAR Y WASTE CONTENT (%)	BID AMOUNT OF RECYCLED PRODUCT (\$)

## **\*NOTES:**

1. For definitions refer to Appendix, Oregon Law 1991, Chapter 385, Section 59 and 61.
2. It is the Bidder's responsibility to determine if the recycled product meets the Contract Specifications. Metro reserves the right to confirm information submitted by contacting the manufacturer.

**ADDENDA**

The Bidder is presumed to have read and hereby acknowledges receipt and acceptance of Addenda Numbers:

(Insert No. and Date of Each Addendum Received)

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**SURETY**

If the Bidder is awarded a Contract on this Bid, the surety or sureties who provide(s) the Performance Bond and Labor and Materials Payment Bond will be:

SURETY

ADDRESS

1. \_\_\_\_\_
2. \_\_\_\_\_

## **Good Faith Program**

The Metro Council is committed to doing business with minority, woman-owned firms and emerging small businesses. The Council recognizes that supporting these firms will result in a stronger economy and increased competition.

To this end, the Metro Executive Officer has established these procedures to maximize utilization of MBEs, WBEs and ESBs for Metro projects. The following six steps are required to help us monitor the usage of these firms.

### **Good Faith Efforts Steps:**

1. Identify areas in which you intend to use sub-contractors.
2. Attend the Pre-Bid meeting if held. Meet any MBE/WBE/ESB firms at the Pre-Bid meeting.
3. Contact several (or all) certified MBE/WBE/ESB firms listed (with the State of Oregon) to perform the work needed. (Metro's Risk & Contracts Office will be happy to provide you with a list of firms)
4. Negotiate with interested, available and capable MBE/WBE/ESB firms who submit competitive bids.
5. Report to Metro all subs contacted, please include their response and price quoted.
6. List all sub-contractors that you intend to use on this project.

PLEASE NOTE: A selected MBE/WBE/ESB firm must be used unless Metro authorizes a substitution.

Thank you for your assistance in this important area. Attached are forms to complete and return as part of your bid document. Please contact our Contract Management Division at 797-1816 if you have any questions.



**MBE/ WBE/ESB  
PROGRAM FORM**

Project Name \_\_\_\_\_

Bidder/Proposer \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone & Fax \_\_\_\_\_

Bid Closing \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_ PM

**YOU MUST SUBMIT THIS FORM WITHIN TWO (2) HOURS AFTER THE ABOVE CLOSING DATE**

Step 1. Identify areas in which you intend to use sub-contractors.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Step 2: Attend the Pre-Bid meeting if held. Meet any MBE, /WBE/ESB firms at the Pre-Bid meeting.

Name of person who attended pre-bid.

\_\_\_\_\_

Step 3 & 5. List all firms contacted for sub-contracting work. (use more sheets if necessary)

Sub-contract for \_\_\_\_\_

MBE, WBE, ESB, Other	Name of Firm	Date Contacted	Amount of Bid	Comments

Sub contract for \_\_\_\_\_

MBE, WBE, ESB, Other	Name of Firm	Date Contacted	Amount of Bid	Comments

Sub contract for \_\_\_\_\_

MBE, WBE, ESB, Other	Name of Firm	Date Contacted	Amount of Bid	Comments

Sub contract for \_\_\_\_\_

MBE, WBE, ESB, Other	Name of Firm	Date Contacted	Amount of Bid	Comments

Step 6: List all sub-contractors used for this project.

**BIDDER/PROPOSER INTENDS TO SUBCONTRACT WITH THE FOLLOWING:**

SUBCONTRACTOR/ SUPPLIER Contact Name & Address & Telephone	MBE WBE ESB	NATURE OF WORK	DOLLAR VALUE OF PARTICIPATION/ CCB #*

\*Please include Construction Contractors Board Number

Total Bid/Proposal Amount \_\_\_\_\_

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_

## RESIDENT/NON-RESIDENT BIDDER STATUS

Oregon law requires that Metro, in determining the lowest responsive Bidder, must add a percent increase on the Bid of a non-resident Bidder equal to the percent, if any, of the preference given to that Bidder in the state in which that Bidder resides.

Consequently, each Bidder must indicate whether it is a resident or non-resident Bidder. A resident Bidder is a Bidder that has paid unemployment taxes or income taxes in the state of Oregon during the twelve (12) calendar months immediately preceding submission of this Bid, has a business address in Oregon, and has stated in its Bid that the Bidder is a "resident Bidder." A "non-resident Bidder" is a Bidder who is not a resident Bidder (ORS 279.029).

The undersigned Bidder states that it is: (check one)

- 1. \_\_\_\_\_ A resident Bidder
- 2. \_\_\_\_\_ A non-resident Bidder

Indicate state in which Bidder resides: \_\_\_\_\_

## Contractor Qualification Statement

The undersigned certifies under oath that the information provided herein is true and sufficiently complete so as not to be misleading:

Contractor Name\_\_\_\_\_

Address\_\_\_\_\_  
\_\_\_\_\_

Telephone\_\_\_\_\_ Fax\_\_\_\_\_

E-Mail\_\_\_\_\_

Project Name\_\_\_\_\_

3. Organization\_\_\_\_\_

How many years has your organization been in business as a Contractor?\_\_\_\_\_

Under what former names has your organization operated?\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### Licensing

Oregon CCB#\_\_\_\_\_

Other licenses\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### Experience

List the type of work your organization normally performs with its own forces?\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Does your firm own or able to obtain the necessary equipment for this job? Please explain. \_\_\_\_\_

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#### Claims and Suits

Has your organization ever failed to complete any work awarded to it? \_\_\_\_\_

Are there any judgments, claims, arbitration proceedings or suits pending or outstanding against your organization or officers? \_\_\_\_\_

Has your organization filed any lawsuits or requested arbitration with regard to construction contracts within the last five years? \_\_\_\_\_

Have any officers or employees been convicted of any crimes relative to a project such as this? \_\_\_\_\_

If the answer to any of the above is yes, please provide further explanation and details in a separate sheet.

#### References

List the major construction projects your organization has in progress: project, project owner, architect, contract amount, percent complete, scheduled, completion date, and contact person. \_\_\_\_\_

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List the major construction projects your organization has completed in last 3 years: project, project owner, architect, contract amount, percent complete, scheduled, completion date, and contact person. \_\_\_\_\_

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List 3 subcontractors we can contact for a reference. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

List 3 suppliers we can contact for a reference. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

List a bank reference. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

#### Financial Statement

Prior to award of the Contract, the apparent low responsive bidder may be required to submit to Metro their latest balance sheet and income statement. Include last audit date and name of firm preparing audit (if available).

Signature

The information provided is true and complete.

Signature \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**THIS FORM MUST BE SUBMITTED AT THE TIME OF BID OPENING OR PROPOSAL SUBMISSION**

## Certification of Employee Drug Testing Program

Please demonstrate your drug testing program.


BIDDER SIGNATURE

Print Name of Bidder: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name and Title: \_\_\_\_\_

Date: \_\_\_\_\_



## SIGNATURE PAGE

The name of the Bidder submitting this Bid is \_\_\_\_\_ doing business at

\_\_\_\_\_  
Street City State Zip

which is the full business address to which all communications concerned with this Bid and with the Contract shall be sent.

The names of the principal officers of the corporation submitting this Bid, or of all of the partners, if the Bidder is a partnership or joint venture, or of all persons interested in this Bid as individuals are as follows:

\_\_\_\_\_

### If Individual

IN WITNESS hereto the undersigned has set his/her hand this \_\_\_\_ day of 20\_\_

Signature of Bidder \_\_\_\_\_

Printed Name of Bidder \_\_\_\_\_

Title \_\_\_\_\_

### If Partnership or Joint Venture

IN WITNESS hereto the undersigned has set his/her hand this \_\_\_\_ day of 20\_\_.

\_\_\_\_\_  
Name of Partnership or Joint Venture

By: \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Person Signing

Title: \_\_\_\_\_

### If Corporation

IN WITNESS WHEREOF the undersigned corporation has caused this instrument to be executed and its seal affixed by its duly authorized officers this day of 20\_\_.

\_\_\_\_\_  
Name of Corporation

\_\_\_\_\_  
State of Incorporation

By: \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Person Signing

Title: \_\_\_\_\_

## NON-COLLUSION AFFIDAVIT

STATE OF ) County of )  
I state that I am \_\_\_\_\_ (Title) of \_\_\_\_\_ (Name of Bidder) and that I am authorized to make this Affidavit on behalf of the Bidder. I am the person authorized by the Bidder and responsible for the price(s) and the amount of this Bid.

I state that:

(1) the price(s) and amount of this Bid have been arrived at independently and without consultation, communication or agreement with any other contractor, Bidder or potential Bidder, except as disclosed in the attached appendix.

(2) Neither the price(s) nor the amount of this Bid, and neither the approximate price(s) nor approximate amount of this Bid, have been disclosed to any other person who is a Bidder or potential Bidder, and they will not be disclosed before bid opening.

(3) No attempt has been made or will be made to induce any person to refrain from bidding on this contract, or to submit a Bid higher than this Bid, or to submit any intentionally high or non-competitive bid or other from of complementary Bid.

(4) This Bid is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any person to submit a complementary or other noncompetitive Bid.

(5) \_\_\_\_\_ (Name of Bidder), its affiliates, subsidiaries, officers, directors and employees (as applicable) are not currently under investigation by any governmental agency and have not in the last four years been convicted of or found liable for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as listed and described in the attached appendix.

I state that I and \_\_\_\_\_ (Name of Bidder) understand and acknowledge that the above representations are material and important, and will be relied on by Metro in awarding the Contract for which this Bid is submitted. Any misstatement in this Affidavit will be treated as fraudulent concealment from Metro of the true facts relating to the submission of Bids for this Contract.

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_  
Printed Name of Affiant

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

Notary Public for \_\_\_\_\_ My Commission Expires: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**BID BOND**

**(NOTE: BIDDERS MUST USE THIS FORM, NOT A SURETY COMPANY FORM)**

**KNOW ALL PERSONS BY THESE PRESENTS:**

**We the undersigned**, as PRINCIPAL,  
and \_\_\_\_\_, a corporation organized and existing under and  
by virtue of the laws of the state of \_\_\_\_\_ and duly authorized to do surety business in the  
state of Oregon and name on the current list of approved surety companies acceptable on federal  
bonds and conforming with the underwriting limitations as published in the Federal Register by the  
audit staff of the Bureau of Accounts and the U.S. Treasury Department and is of the appropriate class  
for the bond amount as determined by Best's Rating System, as SURETY, hereby hold and firmly bind  
ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, unto the  
METRO, as OBLIGEE, in the sum of \$ \_\_\_\_\_ in lawful money of the United States of  
America, for the payment of which sum well and truly to be made as agreed and liquidated damages.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT whereas the PRINCIPAL has submitted  
to METRO a certain Bid for work required for the \_\_\_\_\_,  
\_\_\_\_\_, which work is  
specifically described in the accompanying Bid;

NOW, THEREFORE, if Metro does not award a contract to the PRINCIPAL within the time specified  
in the Instructions to Bidders for the work described in said Bid, or in the alternate, if said Bid shall be  
accepted and the PRINCIPAL, within the time and in the manner described under the Contract  
Documents, enters into a written contract in accordance with the Bid, files the two bonds, one  
guaranteeing faithful performance of the work to be done and the other guaranteeing payment for labor  
and materials as required by law, and files the required certified copies of insurance policies and  
certificates of insurance, then the obligation shall be null and void; otherwise, the same shall remain in  
full force and effect.

The SURETY, for value received, hereby stipulates and agrees that the obligation of said SURETY  
and this bond shall be in no way impaired or affected by any extension of the time within which Metro  
may accept such Bid; and said SURETY does hereby waive notice of any such extension.

If more than one surety is on this bond, each surety hereby agrees that it is jointly and severally  
liable for all obligations on this bond.

IN WITNESS WHEREOF, we have hereunto set our hands and seal \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
SURETY

\_\_\_\_\_  
PRINCIPAL

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**SECTION 00500**

**ATTACHMENT A  
To Standard RFB**

**SAMPLE - STANDARD PUBLIC CONTRACT (Contracts \$50,000 and Over)**

Contract No. \_\_\_\_\_

**PUBLIC CONTRACT**

THIS Contract is entered into between Metro, a metropolitan service district organized under the laws of the State of Oregon and the Metro Charter, whose address is 600 N.E. Grand Avenue, Portland, Oregon 97232-2736, and \_\_\_\_\_ whose address is \_\_\_\_\_, hereinafter referred to as the "CONTRACTOR."

**THE PARTIES AGREE AS FOLLOWS:**

**ARTICLE I  
SCOPE OF WORK**

CONTRACTOR shall perform the work and/or deliver to METRO the goods described in the Scope of Work attached hereto as Attachment A. All services and goods shall be of good quality and, otherwise, in accordance with the Scope of Work.

**ARTICLE II  
TERM OF CONTRACT**

The term of this Contract shall be for the period commencing \_\_\_\_\_, 20\_\_\_\_, through and including \_\_\_\_\_, 20\_\_\_\_.

**ARTICLE III  
CONTRACT SUM AND TERMS OF PAYMENT**

METRO shall compensate the CONTRACTOR for work performed and/or goods supplied as described in the Scope of Work. METRO shall not be responsible for payment of any materials, expenses or costs other than those that are specifically included in the Scope of Work.

**ARTICLE IV  
LIABILITY AND INDEMNITY**

CONTRACTOR is an independent contractor and assumes full responsibility for the content of its work and performance of CONTRACTOR's labor, and assumes full responsibility for all liability for bodily injury or physical damage to person or property arising out of or

related to this Contract, and shall indemnify, defend and hold harmless METRO, its agents and employees, 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 Contract. CONTRACTOR is solely responsible for paying CONTRACTOR's subcontractors and nothing contained herein shall create or be construed to create any contractual relationship between any subcontractor(s) and METRO.

## ARTICLE V TERMINATION

METRO may terminate this Contract upon giving CONTRACTOR seven (7) days written notice. In the event of termination, CONTRACTOR shall be entitled to payment for work performed to the date of termination. METRO shall not be liable for indirect or consequential damages. Termination by METRO will not waive any claim or remedies it may have against CONTRACTOR.

## ARTICLE VI INSURANCE

CONTRACTOR shall purchase and maintain at CONTRACTOR'S expense, the following types of insurance covering the CONTRACTOR, its employees and agents.

A. Broad form comprehensive general liability insurance covering personal injury, property damage, and bodily injury with automatic coverage for premises and operation and product liability shall be a minimum of \$1,000,000 per occurrence.. The policy must be endorsed with contractual liability coverage. **Metro, its elected officials, departments, employees and agents shall be named as an ADDITIONAL INSURED.**

B. Automobile bodily injury and property damage liability insurance. Insurance coverage shall be a minimum of \$1,000,000 per occurrence. **METRO, its elected officials, departments, employees, and agents shall be named as an ADDITIONAL INSURED.** Notice of any material change or policy cancellation shall be provided to METRO thirty (30) days prior to the change.

This insurance as well as all workers' compensation coverage for compliance with ORS 656.017 must cover CONTRACTOR'S operations under this Contract, whether such operations be by CONTRACTOR or by any subcontractor or anyone directly or indirectly employed by either of them.

CONTRACTOR shall provide METRO with a certificate of insurance complying with this article and naming METRO as an additional insured within fifteen (15) days of execution of this Contract or twenty-four (24) hours before services under this Contract commence, whichever date is earlier.

CONTRACTOR shall not be required to provide the liability insurance described in this Article only if an express exclusion relieving CONTRACTOR of this requirement is contained in the Scope of Work.

## ARTICLE VII PUBLIC CONTRACTS

All applicable provisions of ORS chapters 187 and 279, and all other terms and conditions necessary to be inserted into public contracts in the State of Oregon, are hereby incorporated as if such provision were a part of this Agreement, including, but not limited to, ORS 279.310 to 279.320. Specifically, it is a condition of this contract that Contractor and all employers working under this Agreement are subject employers that will comply with ORS 656.017 as required by 1989 Oregon Laws, Chapter 684.

For public work subject to ORS 279.348 to 279.365, the Contractor shall pay prevailing wages and shall pay an administrative fee to the Bureau of Labor and Industries pursuant to the administrative rules established by the Commissioner of Labor and Industries. Contractors must promptly pay, as due, all persons supplying to such contractor labor or material used in this contract. If the contractor or first-tier subcontractor fails, neglects, or refuses to make payment to a person furnishing labor or materials in connection with the public contract for a public improvement within 30 days after receipt of payment from the public contracting agency or a contractor, the contractor or first-tier subcontractor shall owe the person the amount due plus shall pay interest in accordance with ORS 279.314. If the contractor or first-tier subcontractor fails, neglects, or refuses to make payment, to a person furnishing labor or materials in connection with the public contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279.445. Contractor must pay any and all contributions and amounts due to the Industrial Accident Fund from contractor or subcontractor and incurred in the performance of the contract. No liens or claims are permitted to be filed against Metro on account of any labor or material furnished. Contractors are required to pay the Department of Revenue all sums withheld from employees pursuant to OR 316.167.

For public improvement work all contractors must demonstrate that an employee drug-testing program is in place.

## ARTICLE VIII ATTORNEY'S FEES

In the event of any litigation concerning this Contract, the prevailing party shall be entitled to reasonable attorney's fees and court costs, including fees and costs on appeal to any appellate courts.

## ARTICLE IX QUALITY OF GOODS AND SERVICES

Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of the highest quality. All workers and subcontractors shall be skilled in their trades. CONTRACTOR guarantees all work against defects in material or workmanship for a period of one (1) year from the date of acceptance or final payment by METRO, whichever is later. All guarantees and warranties of goods furnished to CONTRACTOR or subcontractors by any manufacturer or supplier shall be deemed to run to the benefit of METRO.

## ARTICLE X OWNERSHIP OF DOCUMENTS AND MAINTENANCE OF RECORDS

All documents of any nature including, but not limited to, reports, drawings, works of art and photographs, produced by CONTRACTOR pursuant to this agreement are the property of METRO and it is agreed by the parties hereto that such documents are works made for hire. CONTRACTOR does hereby convey, transfer and grant to METRO all rights of reproduction and the copyright to all such documents.

- 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 M.
- 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 disqualification as a bidder or proposer for future Metro contracts as provided in ORS 279.037 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 279.029 and Metro Code Section 2.04.052.

## ARTICLE XI SUBCONTRACTORS

CONTRACTOR shall contact METRO prior to negotiating any subcontracts and CONTRACTOR shall obtain approval from METRO before entering into any subcontracts for the performance of any of the services and/or supply of any of the goods covered by this Contract.

METRO reserves the right to reasonably reject any subcontractor or supplier and no increase in the CONTRACTOR's compensation shall result thereby. All subcontracts related to this Contract shall include the terms and conditions of this agreement. CONTRACTOR shall be fully responsible for all of its subcontractors as provided in Article IV.

## ARTICLE XII



## RIGHT TO WITHHOLD PAYMENTS

METRO shall have the right to withhold from payments due 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.

If a liquidated damages provision is contained in the Scope of Work and if CONTRACTOR has, in METRO's opinion, violated that provision, METRO shall have the right to withhold from payments due CONTRACTOR such sums as shall satisfy that provision. All sums withheld by METRO under this Article shall become the property of METRO and CONTRACTOR shall have no right to such sums to the extent that CONTRACTOR has breached this Contract.

## ARTICLE XIII SAFETY

If services of any nature are to be performed pursuant to this agreement, CONTRACTOR shall take all necessary precautions for the safety of employees and others in the vicinity of the services being performed and shall comply with all applicable provisions of federal, state and local safety laws and building codes, including the acquisition of any required permits.

## ARTICLE XIV INTEGRATION OF CONTRACT DOCUMENTS

All of the provisions of any bidding documents including, but not limited to, the Advertisement for Bids, General and Special Instructions to Bidders, Proposal, Scope of Work, and Specifications which were utilized in conjunction with the bidding of this Contract are hereby expressly incorporated by reference. Otherwise, this Contract represents the entire and integrated agreement between METRO and CONTRACTOR and supersedes all prior negotiations, representations or agreements, either written or oral. This Contract may be amended only by written instrument signed by both METRO and CONTRACTOR. The law of the state of Oregon shall govern the construction and interpretation of this Contract.

## ARTICLE XV COMPLIANCE

CONTRACTOR shall comply with federal, state, and local laws, statutes, and ordinances relative to the execution of the work. This requirement includes, but is not limited to, non-discrimination, safety and health, environmental protection, waste reduction and recycling, fire protection, permits, fees and similar subjects.

ARTICLE XVI  
ASSIGNMENT

CONTRACTOR shall not assign any rights or obligations under or arising from this Contract without prior written consent from METRO.

CONTRACTOR NAME

METRO

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Metro Contract No. \_\_\_\_\_

## SCOPE OF WORK

### **Description of the Work.**

1. The Scope of Work consists of but is not limited to the following: demolition & site preparation including but not limited to fencing, guard rails, light poles, overhead power lines, signs, existing entry removal (asphalt, soil, etc.); asphalt grinding for reuse as subbase; subbase fill material; removal of sandy soils to balance cut & fills; aggregate base; asphaltic concrete pavement; chain link fence & gate; utility conduits; extruded concrete curbs; landscaping; pavement markings; signage and all other work shown on the drawings or in the specifications.

2. **Payment and Billing.**

Contractor shall perform the above work for a maximum price not to exceed \_\_\_\_\_ THOUSAND, \_\_\_\_\_ HUNDRED AND \_\_\_\_\_/100 DOLLARS (\$\_\_\_\_\_).

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 statements will include an itemized statement of work done and expenses incurred during the billing period, will not be submitted more frequently than once a month, and will be sent to Metro. Metro will pay Contractor within 30 days of receipt of an approved billing statement.

**SECTION 00600  
PERFORMANCE BOND**

(NOTE: CONTRACTORS MUST USE THIS FORM, NOT A SURETY COMPANY FORM)

KNOW BY ALL PERSONS BY THESE PRESENTS:

We the undersigned \_\_\_\_\_ as PRINCIPAL (hereinafter called CONTRACTOR), and \_\_\_\_\_, a corporation organized and existing under and by virtue of the laws of the state of \_\_\_\_\_, duly authorized to do surety business in the state of Oregon and named on the current list of approved surety companies acceptable on federal bonds and conforming with the underwriting limitations as published in the Federal Register by the audit staff of the Bureau of Accounts and the U.S. Treasury Department and is of the appropriate class for the bond amount as determined by Best's Rating System, as SURETY, hereby hold and firmly bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, to pay to Metro as OBLIGEE (hereinafter called Metro), the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), in lawful money of the United States of America.

WHEREAS, the CONTRACTOR entered into a contract with Metro dated \_\_\_\_\_, 20\_\_\_\_, which contract is hereunto annexed and made a part hereof, for accomplishment of the project described as follows the \_\_\_\_\_.

NOW, THEREFORE, the condition of this obligation is such that if the CONTRACTOR shall promptly, truly and faithfully perform all the undertakings, covenants, terms, conditions, and agreements of the aforesaid \_\_\_\_\_, Metro having performed its obligations thereunder, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Whenever CONTRACTOR shall be declared by Metro to be in default under the Contract Documents for the project described herein, the SURETY may promptly remedy the default, or shall promptly complete the \_\_\_\_\_ in accordance with the Contract Documents and the project Specifications. SURETY, for value received, further stipulates and agrees that all changes, extensions of time, alterations, or additions to the terms of the Contract or Specifications for \_\_\_\_\_ Project are within the scope of the SURETY's undertaking on this bond, and SURETY hereby waives notice of any such change, extension of time, alteration or addition to the terms of the \_\_\_\_\_ Project or to the Work or to the Specifications. Any such change, extension of time, alteration or addition to the terms of the \_\_\_\_\_ or to the Work or to the Specifications shall automatically increase the obligation of the SURETY hereunder in a like amount, provided

that such increase shall not exceed twenty-five percent (25%) of the original amount of the obligation without the consent of the SURETY.

This obligation shall continue to bind the PRINCIPAL and SURETY, notwithstanding successive payments made hereunder, until the full amount of the obligation is exhausted.

No right of action shall accrue on this bond to or for the use of any person or corporation other than Metro or its heirs, executors, administrators, successors or assigns.

If more than one SURETY is on this bond, each SURETY hereby agrees that it is jointly and severally liable for obligations on this bond.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
SURETY

By: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State ZIP

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
CONTRACTOR

By: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State ZIP

\_\_\_\_\_  
Phone Number

**SECTION 00650**  
**LABOR AND MATERIALS PAYMENT BOND**

(NOTE: CONTRACTOR MUST USE THIS FORM, NOT A SURETY COMPANY FORM)  
KNOW ALL PERSONS BY THESE PRESENTS:

We the Undersigned \_\_\_\_\_ as PRINCIPAL and \_\_\_\_\_, a corporation organized and existing under and by virtue of the laws of the state of \_\_\_\_\_, and duly authorized to do surety business in the state of Oregon and named on the current list of approved surety companies acceptable on federal bonds and conforming with the underwriting limitations as published in the Federal Register by the audit staff of the Bureau of Accounts and the U.S. Treasury Department and which carries an "A" rating and is of the appropriate class for the bond amount as determined by Best's Rating System, as SURETY, hereby hold and firmly bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, unto Metro, as OBLIGEE, in the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) in lawful money of the United States of America, for the payment of that sum for the use and benefit of claimants as defined below.

The condition of this obligation is such that whereas the PRINCIPAL entered into a contract with Metro dated \_\_\_\_\_, 20\_\_\_\_, which contract is hereunto annexed and made a part hereof, for accomplishment of the project described as follows: \_\_\_\_\_.

NOW THEREFORE, if the PRINCIPAL shall promptly make payments to all persons, firms, subcontractors, corporations and/or others furnishing materials for or performing labor in the prosecution of the Work provided for in the \_\_\_\_\_ due for materials, equipment, mechanical repairs, transportation, tools and services consumed or used in connection with the performance of such Work, and for all labor performed in connection with such Work whether by subcontractor or otherwise, and all other requirements imposed by law, then this obligation shall become null and void; otherwise this obligation shall remain in full force and effect, subject, however, to the following conditions:

1. A claimant is as specified in ORS 279.526.
2. The above-named PRINCIPAL and SURETY hereby jointly and severally agree with the OBLIGEE and its assigns that every claimant as above-specified, who has not been paid in full, may sue on this bond for the use of such claimant, prosecute the suit to final judgment in accordance with ORS 279.536 for such sum or sums as may be justly due claimant, and have execution thereon. The OBLIGEE shall not be liable for the payment of any judgment, costs, expenses or attorneys' fees of any such suit.

PROVIDED, FURTHER, that SURETY for the value received, hereby stipulates and agrees that all changes, extensions of time, alterations to the terms of \_\_\_\_\_ or to Work to be performed thereunder or the Specifications accompanying the same shall be within the scope of the SURETY's undertaking on this bond, and SURETY does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the \_\_\_\_\_ or to the Work or to the Specifications. Any such change, extension of time, alteration or addition to the terms of the

contract or to the Work or to the Specifications shall automatically increase the obligation of the SURETY hereunder in a like amount, provided that the total of such increases shall not exceed twenty-five percent (25%) of the original amount of the obligation without the consent of the SURETY.

This obligation shall continue to bind the PRINCIPAL and SURETY, notwithstanding successive payments made hereunder, until the full amount of the obligation is exhausted, or if the full amount of the obligation is not exhausted and no claim is pending resolution, until such time as no further claims can be made pursuant to law with regard to the above-described project, by any claimant specified in ORS 279.526.

If more than one SURETY is on this bond, each SURETY hereby agrees that it is jointly and severally liable for all obligations of this bond.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
SURETY

By: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State ZIP

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
CONTRACTOR

By: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State ZIP

\_\_\_\_\_  
Phone Number

# **APPENDIX A**

## **PREVAILING WAGE RATES**



# **TECHNICAL SPECIFICATIONS**

## **STAFF REPORT**

IN CONSIDERATION OF RESOLUTION NO. 04-3492 FOR THE PURPOSE OF APPROVING THE RELEASE OF A REQUEST FOR BID AND AWARD OF CONTRACT FOR PHASE I OF THE M. JAMES GLEASON BOAT RAMP UPGRADE PROJECT.

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Date: August 24, 2004

Prepared by: David Biedermann  
Dan Kromer

## **BACKGROUND**

The M. James Gleason Boat Ramp was constructed in the late 1950's by Multnomah County. The boat ramp and other park facilities were transferred to Metro in 1994 when Multnomah County's Parks Services Division merged with Metro to create the Regional Parks and Greenspaces Department. Located on NE Marine Drive across from the Portland International Airport and 15 minutes from downtown Portland, the M. James Gleason Boat Ramp is the second largest and busiest public boating facility in the state on the Columbia River. The four-acre site has an annual average attendance of over 52,700 visitors and has had a series of minor upgrades over the years.

A Master Plan for the boat ramp and adjacent park area was completed in 1998 and approved by the Metro Council (Resolution No. 98-2580 "For the Purpose of Approving the Columbia River Management Unit Master Plan"). The Master Plan determined that the facility had outlived its expected life span and was in dire need of a major upgrading. Design and engineering for the facility upgrade, including the new Multnomah County Sheriff's Office River Patrol office, which was part of the Master Plan, was completed in June of 2001. Land use approval, through the City of Portland, for the upgrade was received in 2003.

Metro has received grant funding in the amount of \$243,750 for phase I improvements, which represents over 81% of the estimated cost. Phase I improvements will consist of construction of a new entry/exit and cueing lanes with curbing, signage, striping, and the demolition of the current entry/exit road.

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

No known opposition.

### **2. Legal Antecedents**

The Metro Council passed Resolution No. 98-2580 approving the Columbia River Management Unit Master Plan of which the M. James Gleason Boat Ramp is a major component. Part of the resolution stated that, "Metro will implement the Master Plan in a manner consistent with fiscal appropriations".

Metro Ordinance No. 93-520 ("For the Purpose of Determining Which Facilities Contemplated For Transfer From Multnomah County to Metro are Public Cultural, Trade, Convention, Exhibition, Sports, Entertainment, or Spectator Facilities, or a System of Parks, Open Spaces or Recreational Facilities of Metropolitan Concern") and Resolution No. 96-2285 ("For the Purpose of Authorizing a Phase II Intergovernmental Agreement with Multnomah County Regarding Parks and Other Facilities") authorized the Executive Officer to enter into Phase I and Phase II agreements, respectively, formally transferring all

of Multnomah County parks, boat ramps, natural areas, golf courses, cemeteries, and trade/spectator facilities to Metro.

### **3. Anticipated Effects**

Approval of Resolution No. 04-3492 will allow the Regional Parks and Greenspaces Department to release a Request for Bid for phase I improvements at the M. James Gleason Boat Ramp. Once a contractor is selected, Resolution No. 04-3492 also allows the Department to award the contract.

### **4. Budget Impacts**

The cost of phase I of the Gleason Boat Ramp project is in Metro's FY 04-05 Adopted Budget and CIP, and estimated at around \$300,000. Council listed this project as a Significant Impact in this year's budget process. Funding for the projects comes from a \$61,000 Oregon State Marine Board Facilities Grant, a \$182,750 Oregon Department of Fish & Wildlife Federal Sport Fish Restoration grant and \$56,250 from the Multnomah County local share component of the 1995 Open Spaces Bond Measure which Metro manages for the County.

### **RECOMMENDED ACTION**

Michael Jordan, Chief Operating Officer, recommends adoption of Ordinance No. 04-3492 for approving the release of the Request for Bid and Award of Contract for phase I of the M. James Gleason Boat Ramp facility upgrade.

## MINUTES OF THE METRO COUNCIL MEETING

Thursday, September 9, 2004  
Metro Council Chamber

Councilors Present: Brian Newman (Deputy Council President) Susan McLain, Rod Monroe, Rex Burkholder, Rod Park

Councilors Absent: David Bragdon (excused), Carl Hosticka (excused)

Deputy Council President Newman convened the Regular Council Meeting at 2:02 p.m.

### 1. INTRODUCTIONS

There were none.

### 2. CITIZEN COMMUNICATIONS

Les Poole, 15115 SE Lee, Portland OR 97267 shared a situation which he would like to have Council consider at a future Council meeting. He noted that local jurisdictions that came to Council on issues of land use were often limited on their environmental analysis prior to their requests. He hoped that Council would make a requirement that the jurisdiction make at least an environmental analysis before Council considered the land use issue. He talked about the City of Milwaukie ignoring environmental impacts. Deputy Council President Newman said the Milwaukie City Council would be making a recommendation on September 23<sup>rd</sup>. It would then be taken up with the Council at a future date. Councilor McLain talked about public hearings on Goal 5, which would include the public comments January through March 2005.

### 3. OREGON CONVENTION CENTER BUSINESS UPDATE

Don Trotter, Metropolitan Exposition Recreation Commission (MERC) Chair explained what the seven-member commission did. Mark Williams, MERC General Manager, updated the Council on the expansion of the Oregon Convention Center. The facility generated nearly \$8 million in food and beverage over the past year. They held 569 separate events, an increase of 25%. There had been a 60% increase in attendance. He further detailed some of the benefits of the new facility. He talked about their first annual Green Report. They were working to seek Leadership In Environmental and Energy Design (LEEDS) certification for sustainability. He noted some of the improvements and upgrades to the facility. He said the expanded Oregon Convention Center (OCC) was on a national trade publication cover. It was featured in July 2004. He presented the Council with a framed version of the publication cover. Councilor McLain asked about new events with the larger space. Jeff Blosser, OCC Director, talked about the additional convention business. It really helped the revenue side of the picture. The expansion of additional shows had also helped. Third, the new ballroom had provided a marketed improvement in more sophisticated events. Councilor McLain asked about Expo events. Mr. Blosser said Expo had pretty much the same events they had previously. He felt light rail would help Expo. Councilor Burkholder asked about the report on the economic impact from the convention center. Mr. Blosser said they had seen over \$100 million difference with the new expanded facility. They were starting to see groups come because of the expanded space. Councilor Burkholder emphasized that the purpose of the expansion was to bring in new conventions. He spoke to the investment and return. Councilor Park talked about the Far West Nursery Trade Show and asked

if there were additional expanded shows. Mr. Blosser said the Home Improvement Show had used the expanded space. They had been able to do more than one show at a time with the additional space.

#### 4. 4<sup>th</sup> QUARTER FINANCIALS

Casey Short, Financial Planning Manager, summarized the results of the Fourth Quarter report of the 2003-2004. He noted items related to last year, first, there was a question that had arisen about the number in the budget on money for the convention center. Second, he said the general fund balances was considerably higher than what had been anticipated. It was primarily a result of under spending. Third, Tax Supervision Conservation Commission (TSCC) had sent a letter; grant funds were added to the Parks Capital fund, which created a technical violation. Lastly, quarterly reports were on line on the website. They had cut down significantly on what they had printed.

Mr. Short then reviewed the report itself. He explained that the report was based on the second accounting close. There were a few actions that took place after the close in August. He talked about the cost allocation plan and that it was adjusted after the second close. He reviewed the transmittal letter. Excise tax came in higher than budget. The revenues were on the high side. Departments had preformed better this year. He said they had expended about 90% of the budgeted money. He explained why there was a change in the expenditures. He noted the Public Employees Retirement System (PERS) reserve, which was about 2.5 million. He detailed revenues and expenditures for each department. OCC had shown good results throughout the year. Expo had had an off year with a budget short fall in food and beverage. Portland Center for the Performing Arts (PCPA) was right at budget. He noted a spike in the Zoo budget in April. He then reviewed solid waste and recycling expenditures and revenues. Operating budgets for the Council Office and Public Affairs contributed to the under spending. He reviewed the Planning fund. He also detailed the Parks Department revenues and expenditures. He pointed out that the Capital Improvement Plan (CIP) in Parks was a good bit higher than in previous years. Councilor Park asked about Glendoveer Golf Course and why we were below projections. Kathy Rutkowski, Budget Manager, said they received 44% of gross revenues on green fees. The green fees were down. Mr. Short said it was tied to activity not a set amount. Councilor McLain said besides the 44% of the greens, there were also things that had to be fixed and were being improved. Ms. Rutkowski said, correct.

Overall MERC revenue was at 93% of budget. Following the second closing they had received hotel motel tax. He detailed where that tax would go. He talked about the Visitor Development Initiative (VDI) fund, which was in danger of going away next year. He talked about PCPA's government contribution. The City of Portland had pledged to fill the VDI bucket to provide the hole in PCPA. They had booked that money as a receivable. They had not yet received the money from the City of Portland. The enterprise revenue for MERC as a whole was about 95%. He talked about fund balance of MERC.

Councilor Park asked about the assumption of receiving the City of Portland money for PCPA. Mr. Short said they assumed the money would be received. He talked about the Zoo, the PERS reserve and that the Zoo would be about \$200,000 short. He noted attendance revenue and why it was down. He talked about the deal with ARAMARK and that it was working but they were virtually the same as last year. Education programs had done the best they had ever done but were still down. He spoke to excise tax revenue from the simulator rides and the winged wonder exhibit. Councilor McLain asked about the increase in water expenses. She felt there should be some effort to negotiate a better deal. She suggested cost savings such as conservation efforts.

Councilor Burkholder said the City of Portland was looking at removing all of excise tax on sewer and water charges. Had anything happened? Mr. Short said he would check on this issue. Councilor Park asked about the increase water expense. He wondered whether it was water going in or water going out. Mr. Short said he didn't know but would find out.

Michael Jordan, Chief Operating Officer (COO), said they had not gone into direct negotiations with the City to lower costs on water and sewer but they were looking at any possible savings. He talked about managing storm water. Mr. Short talked about the status of the general fund. The most significant issue was the unrestricted ending fund balance. He summarized spending versus appropriations. He said we were also doing better with our capital projects. Councilor McLain suggested getting the \$98,000 VDI issue on a work session as soon as possible.

## 5. CONSENT AGENDA

### 5.1 Consideration of minutes of the August 19, 2004 Regular Council Meetings.

Motion:

Councilor Monroe moved to adopt the meeting minutes of the August 19, 2004, Regular Metro Council.

Vote:

Councilors McLain, Monroe, Park, and Deputy Council President Newman voted in support of the motion. The vote was 4 aye, the motion passed with Councilor Burkholder abstaining from the vote.

## 6. ORDINANCES – SECOND READING

### 6.1 **Ordinance No. 04-1057**, For the purpose of amending Metro Code Chapter 5.02 to authorize the Chief Operating Officer to designate certain recyclable materials that can be accepted without charge at Metro transfer stations and to delay repeal of certain payment exemptions for acceptance and collection of household hazardous wastes.

Motion:	Councilor Monroe moved to adopt Ordinance No. 04-1057.
Seconded:	Councilor McLain seconded the motion

Councilor Monroe introduced Ordinance No. 04-1057. He said, although current practice at Metro facilities was to accept source-separated recycling loads free of charge, the Metro Code required a minimum load charge, because of the market value of source-separated recyclables and Metro's mission to encourage recycling. This ordinance modified the Metro Code to conform to current practice and accept source-separated loads at no charge. In 2001, Metro Council adopted an ordinance to accept household hazardous waste (HHW) at no charge for a period of three years (the previous fee was \$5 per 35 gallons). The fee waiver was intended to reduce stockpiles of household hazardous waste and encourage proper disposal. The current update of the Regional Solid Waste Management Plan (RSWMP) may identify new policies for HHW that would affect fee collection. This ordinance would extend the sunset period for the fee exemption from Dec. 31, 2004 to Dec. 31, 2006 in order to match the time frame for the RSWMP process. He urged support.

Deputy Council President Newman opened a public hearing on Ordinance No. 04-1057. There were none. Deputy Council President Newman closed the public hearing.

Vote:

Councilors Park, Burkholder, McLain, Monroe and Deputy Council President Newman voted in support of the motion. The vote was 5 aye, the motion passed.

- 6.2 **Ordinance No. 04-1058**, For the Purpose of Amending the Putrescible Solid Waste Tonnage Acceptance Limit in Solid Waste Facility Franchise No. F-005-03 Issue to Willamette Resources, Inc.

Motion:	Councilor Monroe moved to adopt Ordinance No. 04-1058.
Seconded:	Councilor McLain seconded the motion

Councilor Monroe said Willamette Resources, Inc. (WRI) had requested a one-time, two-year long 5% increase in its putrescible waste tonnage authorization (an increase of 3,250 tons). Metro Code allowed the Chief Operating Officer (COO) to authorize such a request; however the COO has determined that, due to technical requirements, WRI was not eligible to receive such an authorization. The application of Metro Code 5.01.131 since its adoption in 2001 had resulted in unintended inequities between transfer stations, as evidenced by WRI's ineligibility to qualify for an increase that other transfer stations were eligible to receive. This ordinance would allow the 2-year increase for WRI for Metro fiscal years 2004-2005 and 2005-2006. The budget impacts for Metro were as follows: Net cost of diverting the tonnage would be \$27,000 and a decrease in Community Enhancement Fees estimated to be \$1,625 per year. He urged support.

Deputy Council President Newman opened a public hearing on Ordinance No. 04-1058

Ray Phelps, Willamette Resources Inc, 10295 SW Ridder Road, Wilsonville OR 97070 thanked the Council, the COO and the Mr. Hoglund for helping them with this solution.

Deputy Council President Newman closed the public hearing

Councilor McLain said she would be voting yes. She wanted to make sure that this did not give something special to one vendor. She felt this followed code. Councilor Burkholder asked Mike Hoglund, Solid Waste and Recycling Director, about the impact on our operations. He wanted to be clear on the net effects, he wanted to know the other sources that would make Metro South revenue whole. Mr. Hoglund said the other sources would be our reserve or other collection processes.

Vote:

Councilors Park, Burkholder, McLain, Monroe and Deputy Council President Newman voted in support of the motion. The vote was 5 aye, the motion passed.

## 7. CHIEF OPERATING OFFICER COMMUNICATION

Michael Jordan, COO, said the Zoo Director was in audience. There had been a question about water. Tony Vecchio, Zoo Director, said they don't know yet as to whether it was water or sewer. He said they had not had a great increase in water or sewer but were given inaccurate information about what the rates would be initially. Councilor McLain talked about needing to work with the City of Portland to reduce costs. She suggested conservation. Mr. Vecchio said the Green Team's conservation efforts had been phenomenal. They were working closely with Ron Carley from the City of Portland on water run off. They had a lot of projects that would save sewer costs.

**8. COUNCILOR COMMUNICATION**

Councilor McLain said they were working on the Regional Solid Waste Management Plan (RSWMP). There would be opportunities for council to talk with citizens about solid waste issues. She detailed some of the "Let's Talk" opportunities.

Councilor Park talked about the Metro Transportation Improvement Plan (MTIP) 150% list, which had been released today.

Councilor Burkholder talked about Car Free Day. September 6<sup>th</sup> they were celebrating alternative transportation.

**9. ADJOURN**

There being no further business to come before the Metro Council, Deputy Council President Newman adjourned the meeting at 3:02 p.m.

Prepared by

Chris Billington  
Clerk of the Council



**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF SEPTEMBER**  
**9, 2004**

Item	Topic	Doc Date	Document Description	Doc. Number
4	Quarterly Report	April through June 2004	To: Metro Council From: Casey Short, Financial Planning Manager Re: Quarterly Report Fourth Quarter FY 2003-04	090904c-01

## YOUR OPINION

# Milwaukie deserves attention of everyone involved

**T**he present lively discussion in Milwaukie regarding placement of a transit center at Kellogg Lake is just another in the 10-year battle over light rail that has torn this city apart and impeded any attempts at revitalization and growth.

The City Council is scheduled to consider the siting issue at its Sept. 21 meeting.

Milwaukie and Clackamas County defeats of light-rail funding measures in 1996 and 1998 weren't about rail at all — they were about density and livability. Metro and TriMet ran those campaigns in such a ham-handed manner, pushing their own brand of Orwellian new urbanism, it's no wonder the voters turned against them.

There are many similarities between the 1996-98 era and the present, and they aren't pretty.

Earlier there was a push by Metro to have Milwaukie designated a future regional center as opposed to a town center, raising density goals to approximately the levels of Portland's Northwest 23rd Avenue and West Burnside Street area.

This was not received well by



### MY TURN

Ed Zumwalt

Milwaukie residents, but after many hours of public testimony, the City Council opted for the regional designation.

This was shortly after the 1996 rail election in which TriMet tried to push light rail east on Monroe Street, which would have basically destroyed the Historic Milwaukie Neighborhood. A December 1997 recall election ensued, which removed the mayor and two council members.

Again, we sit at the crossroads: The stars are aligned almost exactly as they were at the time of that ill-advised recall.

The city manager seems to favor light rail, maybe because he sees it as inevitable, which it is; his engi-

neers and community staff are all avid light-rail advocates, and they work closely with Metro and TriMet; and our council is about evenly divided on the issue.

Anything missing? The citizens — the 62 percent of Milwaukie's voters who sent light rail down to defeat in '98 on livability issues.

Here we are seven years down the road, and history is about to repeat itself.

There have been endless hours of testimony before the council against the proposed Kellogg Lake site, arguments ranging from environmental impacts on the lake area, neighborhood traffic cut-through, excessive busing through the downtown core, McLoughlin congestion at the two proposed lights near Southeast River Road, lack of economic development, and loss of real estate values.

How do we resolve such polarization? It's not going to be easy, but it can and must be done if this little town is to survive and flourish.

First of all, we must realize we are in a unique position: We have a

chance to rebuild our town practically from scratch, and the responsibility is ours to make it the best it can possibly be, utilizing our great natural riverfront and expanding our vision from there.

To realize this dream, everyone must come to the table, and here are a few suggestions:

♦ **Metro and your various political minions:** Please quit perpetuating the myth that Milwaukie is a poor regional partner. You have been guilty of running poor campaigns with bad ideas, and we won't go along with them. It's our city.

♦ **TriMet:** Work with us on transit routing and a center that will truly benefit our city in every way, including economic development.

♦ **Oregon Department of Transportation:** Independently change the intersection at McLoughlin and River Road. That death trap has been on and off priority lists for years, and improvements there are long overdue.

♦ **Clackamas County Board of Commissioners:** Please quit

treating us with benign neglect; work with us and afford us the respect that we deserve as the gateway to north Clackamas County and help us realize our dream.

♦ **Milwaukie city manager, engineers, and planners:** We understand you are professionals and have been given the charge to rebuild a town, but please, not at the cost of livability — it is too rare. Take a good look at our past before you jump into the future.

♦ **City Council:** Please realize that our tax base doesn't rest with businesses alone. Residential taxes bring approximately 80 percent of revenue. Be very careful you don't abdicate your responsibility to long-range vision by capitulating to regional interests for quick-fix gratification.

Simplistic and naive? Probably, but something must be done to spare us another miserable 10 years. The time for game playing is over — our city is on the line.

Ed Zumwalt is chairman of the Historic Milwaukie Neighborhood Association.