

BEFORE THE METRO COUNCIL CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING AN) RESOLUTION NO. 05-3525
EXEMPTION FROM COMPETITIVE BIDDING)
REQUIREMENTS AND AUTHORIZING THE)
CHIEF OPERATING OFFICER TO ISSUE A)
DESIGN / BUILD REQUEST FOR PROPOSALS)
(RFP), FOR THE DESIGN, ENGINEERING AND)
CONSTRUCTION OF INNOVATIVE) Introduced by Michael J. Jordan, Chief
STORMWATER IMPROVEMENTS AT THE) Operating Officer, with the concurrence of
OREGON ZOO) Council President David Bragdon

WHEREAS, the City of Portland Bureau of Environmental Services entered into an Intergovernmental Agreement (IGA) with Metro, authorizing expenditure of \$200,000 in Federal Environmental Protection Agency (EPA) Innovative Wet Weather Grant funds for stormwater management improvements at the Oregon Zoo;

WHEREAS, the purpose of the stormwater management improvements is to retrofit existing development at the Oregon Zoo with stormwater facilities that will improve water quality, reduce the overall volume of runoff, and provide an educational opportunity for Zoo visitors, enhancing the public's knowledge of stormwater management problems and solutions ("Innovative Stormwater Improvements");

WHEREAS, the Metro Code requires that this contract be subject to competitive bidding, unless an exemption is obtained from the Metro Contract Review Board;

WHEREAS, Metro Code Section 2.04.054(c) authorizes, where appropriate, the use of alternative contracting practices that take account of market realities and modern and innovative contracting methods, which are consistent with the public policy of encouraging competition;

WHEREAS, the Zoo proposes to issue a Contractor-Led Design / Build Request for Proposals and a subsequent Cost-Plus Contract, not-to-exceed a guaranteed-maximum-price of \$175,000 (allowing \$25,000 for project expenditures outside the general contract and a contingency fund for unanticipated scope impacts);

WHEREAS, combining design and construction into one contract creates a cost savings by focusing design efforts only on improvements that can be constructed within available grant funds, and allows construction to begin on one improvement while subsequent improvement details are concurrently designed (expediting the work); and

WHEREAS, this proposed Design / Build RFP encourages competition through the use of multiple evaluation criteria, including contractor fees, professional qualifications and experience, and schedule control; now therefore

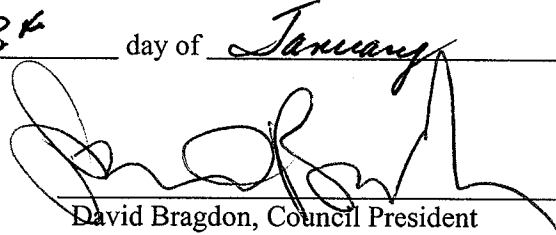
BE IT RESOLVED:

1. That the Metro Contract Review Board exempts the Oregon Zoo Innovative Stormwater Improvements contract from competitive bidding requirements, and authorizes the Chief Operating

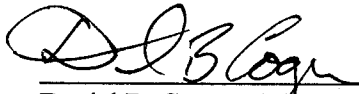
Officer to employ an RFP process, using the evaluation criteria attached as Attachment 1 to the accompanying Staff Report.

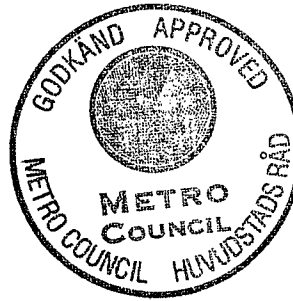
2. That the Metro Council Contract Review Board authorizes the Chief Operating Officer to execute a contract for the design, engineering and construction of Innovative Stormwater Improvements at the Oregon Zoo with the selected proposer.

ADOPTED by the Metro Council this 13th day of January, 2005.


David Bragdon, Council President

Approved as to Form:


Daniel B. Cooper, Metro Attorney



STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 05-3525, FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION FROM COMPETITIVE BIDDING REQUIREMENTS AND AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A DESIGN / BUILD REQUEST FOR PROPOSALS (RFP), FOR THE DESIGN, ENGINEERING AND CONSTRUCTION OF INNOVATIVE STORMWATER IMPROVEMENTS AT THE OREGON ZOO

Date: December 20, 2004

Prepared by: Lee Campbell and Teri Dresler

BACKGROUND

Metro and the City of Portland Bureau of Environmental Services entered into an Intergovernmental Agreement (IGA) authorizing the expenditure of \$200,000 provided by the City for numerous Stormwater Improvements at the Oregon Zoo. Multiple potential stormwater improvements at the Zoo are identified, but not all can be done within the \$200,000 budget.

Due to physical conditions and circumstances that cannot be determined until construction reaches certain stages, it is unknown the degree of stormwater construction that can be accomplished within the \$200,000. These conditions may lend themselves to a variety of construction techniques and alternatives that call for the flexibility in construction methods and alternatives, particularly in the ways such techniques can address both the unknown factors and use the funds judiciously.

With these unknowns, a standard public improvement bidding process using a design bid step and then a general contractor build construction process is ill advised. The method of installing specific improvements must be tailored to available funds and must maximize available resources. The process must allow for changes in the design; that is not easily possible in a standard bid contract without considerable expense. Lastly, the design and construction of stormwater systems is a specialized skill that requires special procurement attention.

The Zoo will use the design/build approach to these stormwater improvements. A guaranteed-maximum-price (GMP) contract allows work to be maximized without risking schedule impacts of re-bidding, if bids exceed available funds. A cost savings is realized by focusing design efforts only on improvements that can be constructed within established funds. Combining design and construction into a single contract allows construction to begin on one improvement while subsequent improvement details are concurrently designed. This in turn expedites the work.

It is advantageous to carefully evaluate proposals to hire the firm offering the mix of expertise, experience and knowledge that will maximize the use of the available funds and allow for engineering flexibility.

An exemption from the standard bid process will not encourage favoritism or diminish competition for the contract. The Oregon Zoo will use a competitive selection process in the Request for Proposals with multiple selection criteria. The process is excerpted below from the RFP document.

EVALUATION AND SELECTION PROCESS

The proposals will be evaluated by an Evaluation Committee consisting of not less than five (5) individuals who have expertise in relevant areas ("Evaluators"). Working independently with copies of the written proposals, the Evaluators will assign scores to each proposal for each of the five categories described under Proposal Format (above). The five (5) categories and the highest possible score for each are as follows:

<u>Category</u>	<u>Max. Score</u>
1. <i>Proposal Format</i>	<i>10 points</i>
2. <i>Contractor Qualifications</i>	<i>25 points</i>
3. <i>Design Team Qualifications</i>	<i>20 points</i>
4. <i>Fees / Cost Control</i>	<i>25 points</i>
5. <i>Schedule Control</i>	<i>20 points</i>

Total Maximum Possible Score: 100 points

NOTE: A detailed description of the Evaluation Criteria (as written in the RFP), is attached, as Attachment 1.

For each proposal, the total score from each Evaluator shall be computed; this figure will be added to that proposal's scores from the other Evaluators, giving the full "Evaluation Score" for each written proposal.

METRO may choose to add a second step to the evaluation process. If, at the conclusion of evaluation of the written proposals, it is determined to be in the best interests of METRO, oral evaluations will also be conducted. The top-scoring Proposers, not more than three, (3) shall be invited to the oral interview. The same criteria used to evaluate the written responses will be used to evaluate the finalists during the oral evaluations. No additions, deletions or substitutions may be made to proposals during the oral evaluations that cannot be viewed as clarification.

After the oral evaluation, each evaluator will independently assign a score to each evaluation criterion and the criteria scores for the oral evaluation will be summed. The oral evaluation scores and the written evaluation scores will be

summed resulting in a final score. The award will be given to the proposal having the highest final score.

ANALYSIS/INFORMATION

1. **Known Opposition:** There is no known opposition to this proposed resolution.
2. **Legal Antecedents:** Metro Code Section 2.04.054(c) provides that the Metro Contract Review Board shall, where appropriate, direct the use of alternate contracting practices that take account of market realities and modern and innovative contracting methods, which are consistent with the public policy of encouraging competition.

Metro Code Section 2.04.052(a)(1) provides that the procedures for the issuance of competitive Requests for Proposals, when authorized as an exception to competitive bid requirements shall comply with all state law requirements that are generally applicable to local governments.

3. **Anticipated Effects:** The Zoo will issue a Contractor-Led Design / Build Request for Proposals and a subsequent Cost-Plus Contract, not-to-exceed a guaranteed-maximum-price of \$ 175,000 (allowing \$25,000 for project expenditures outside the general contract, and a contingency fund for unanticipated scope impacts).
4. **Budget Impacts:** The FY 04-05 budget was amended by Metro Ordinance 04-1068 (adopted 12/9/04) to recognize the \$200,000 in grant funds and a corresponding increase in capital outlay in the Zoo Operating Fund.

RECOMMENDED ACTION

Chief Operating Officer recommends passage of Ordinance 05-3525.

ATTACHMENT 1

PROPOSAL FORMAT / EVALUATION CRITERIA

All proposals shall be scored on the following criteria:

1.1 Format (10 Points)

- 1.1.1. Provide a cover letter, stating that the information provided is “true and complete”.
- 1.1.2. Attach the Contractor Identification Form (enclosed)
- 1.1.3. Attach the Resident Contractor Form (enclosed).
- 1.1.4. Attach a Proposal Security Deposit (in the amount of \$ 20,000).
- 1.1.5. Provide the requested information (Items 1.2 – 1.5) in a thorough manner. Refer to Proposal Requirements (following this section).
- 1.1.6. Submit seven (7) copies of the proposal.

1.2 Contractor Qualifications (25 Points)

- 1.2.1 How many years has your organization been in business as a Contractor?
- 1.2.2 Provide licensing information.
- 1.2.3 Under what former names has your organization operated?
- 1.2.4 Experience
 - A. List the type of work your organization normally performs with its own forces
 - B. Does your firm own or are you able to obtain the necessary equipment for this job?
 - C. Has your organization previously performed a design / build contract?
 - D. List similar projects completed by your organization:
 - E. List any Stormwater projects
 - F. List any projects for public facilities
- 1.2.5 Claims and Suits
 - A. Has your organization ever failed to complete any work awarded to it?
 - B. Are there any outstanding judgments, claims, arbitration proceedings, or suits pending or outstanding against your organization or officers?
 - C. Has your organization filed any lawsuits or requested arbitration with regard to construction contracts within the last five years?
 - D. Have any officers or employees been convicted of any crimes relative to a project such as this?
- 1.2.6 References
 - A. List the major construction projects your organization has in progress: project, owner, contract amount, percent complete, scheduled completion date and contact person.

- B. List the major construction projects your organization has completed in the last 3 years: project, owner, contract amount, percent complete, scheduled completion date, and contact person.
- C. List three subcontractor references.
- D. List three supplier references.
- E. List a bank reference.
- F. Prior to award of the Contract, the Contractor may be required to submit to Metro their latest balance sheet and income statement, with the last audit date and name of firm preparing the audit (if available).

1.3. Design Qualifications (20 points)

Provide all the information requested (above) under Contractor Qualifications, for the proposed design consultant team.

1.4. Fees / Cost Control (25 points)

- 1.4.1. Describe the proposed methods (and computer programs) that will be utilized for controlling design / construction costs to stay within the \$175,000 cap.
- 1.4.2. Submit a not-to-exceed cost to provide Design Services for this project, including a breakdown of hours anticipated for each phase of work (as described in the Overall Scope of Work) and an hourly rate for each design team member.
- 1.4.3. Submit a not-to-exceed cost to provide Contractor General Conditions Services, including a breakdown of hours and hourly rates for:
 - A. Project Management
 - B. Pre-construction Services (design coordination, estimating services, bid process)
 - C. Construction Supervision / Coordination
 - D. Construction Cost Accounting.
- 1.4.4. Submit the Contractor percentage fee (mark-up) for all labor / material provided for this project. (This mark-up does not apply to Design Services or General Conditions fees. It does apply to self-performed work).

1.5. Schedule (20 points)

- 1.5.1. Describe the proposed method (and computer programs) that will be utilized for Schedule Control.
- 1.5.2. Submit a proposed project schedule, with an assumed Start Date of February 1, 2005 and a Completion Date of June 30, 2005.
 - A. Show Design work, Reviews and Construction completion for each project element.
 - B. Schedule project elements in the order listed in the Scope of Work.
 - C. Identify Critical Path.