

METROPOLITAN EXPOSITION-RECREATION COMMISSION

Resolution No. 97-58

Accepting the Bid of M. Stearns Construction Co., Inc., in the amount of \$433,000, for the Completion of the OCC Concessions Remodel Project, Phase II, and authorizing the Chairman and Secretary Treasurer to become signatory to a contract on behalf of the Commission with M. Stearns Construction Co., Inc., for the Bid Amount.

Whereas, in January of 1996, the Commission authorized the expenditure of funds for the completion of Phase I of the OCC Concessions Remodel Project for the purpose of increasing food service revenues and providing expanded services to the OCC tenants, with the intent of authorizing the completion of Phase II when funds were budgeted; and

Whereas, Phase II funds were subsequently budgeted over fiscal years 96/97 and 97/98 for the completion of the project, however, funds budgeted for the 96/97 fiscal were not spent due to design and contract issues; and

Whereas, due to the Bid Amount, funds are available in the 97/98 Capital Budget for the completion of Phase II; and

Whereas, Staff has reviewed the Bid submittal and found it in compliance with the Specifications,

BE IT THEREFORE RESOLVED that the Metropolitan Exposition-Recreation Commission accepts the Bid of M. Stearns Construction Co., Inc., in the amount of \$433,000, and further authorizes the Chairman and Secretary/Treasurer to become signatory to a contract with M. Stearns Construction Co., Inc., for the Bid Amount.

Passed by the Commission on November 12, 1997.


Chair


Secretary/Treasurer

APPROVED AS TO FORM:
Daniel B. Cooper, General Counsel

By: 
Kathleen Pool
Senior Assistant Counsel

MERC Staff Report

Agenda Item/Issue: Approving Agreement for Phase II, OCC Concessions Remodel

Resolution No.: 97-58

Date: November 12, 1997

Presented By: Jeff Blosser

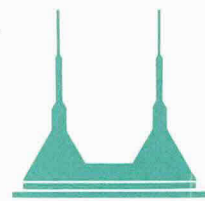
Background/Analysis: In December of 1996, work was completed on the first phase of the OCC Concessions Remodel Project. The Project was broken up into two phases due to budgetary constraints as the entire project was originally bid at approximately 1.3 million dollars, which was in excess of the anticipated budget of \$900,000. The final cost of Phase I totaled approximately \$875,000. It was anticipated that Phase II would cost somewhere in the vicinity of \$700,000, and was originally budgeted over two fiscal years so that the work could be completed in the summer months of 1997. However, because of design and contract issues, only minimal expenses were incurred during the 96/97 fiscal as only about \$8,000 of the \$400,000 budget was spent.

Bids for Phase II were opened on October 28, 1997, at the MERC Offices. One Bid was submitted from M. Stearns Construction Co., Inc., Portland, OR, in the amount of \$433,000. Bid documents were in compliance with the requirements of the Specifications.

Fiscal Impact: Funds are currently available in the OCC Capital Budget. Please refer to Jeff Blosser's correspondence of November 3, 1997, attached hereto.

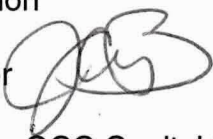
In addition to the Bid Amount, design obligations and permits and fees will increase the necessary allocation to the project to \$470,00 to \$480,000 as explained in Mr. Blosser's correspondence.

Recommendation: Staff recommends that the Commission accept the Bid of M. Stearns Construction Co., Inc., in the amount of \$433,000 to complete Phase II of the OCC Concessions Remodel Project in accordance with the Specifications, and further authorize the Chairman and Secretary Treasurer to become signatory to a contract with M. Stearns Construction Co., Inc., for the Bid Amount.



November 3, 1997

OREGON CONVENTION CENTER
METRO ER COMMISSION
MEMORANDUM

TO: MERC Commission
FROM: Jeffrey A. Blosser 
RE: Re-Prioritizing the OCC Capital Needs

As you all know, we have been working to complete Phase II of the OCC Concessions remodel project. We had budgeted \$400,000 in 1996-97 and \$300,000 in this budget year to finish this project. It was anticipated that we would have to do this in pieces due to event schedule and costs. We were not able to complete the final punchlist items - mainly, the fire alarm system tie-in for the Phase I Concessions remodel until early this spring which slowed down Phase II.

We now have the bid prices in and we can do both sides of Phase II at the same time for \$470,000-\$480,000. This is great news since we suspected it might cost as much as \$700,000 which is what we budgeted. But since we did not spend the \$400,000 from last year, this dropped to the unappropriated balance and we have budget authority to spend \$300,000 on this project for this year.

With this in mind, we are informing you of the following reallocation of capital outlay and operating capital projects to Concessions Phase II project.

Concessions Phase II	\$300,000
Reallocate \$100,000 from Signage Project for this year	\$100,000
Push the purchase of a Boom Truck Until next fiscal year	\$ 50,000
Expenditure of up to \$50,000 from Operating capital to complete Equipment purchases	<u>\$ 50,000</u>
Total	\$500,000

MERC Commission
November 3, 1997
Page Two

This reallocation plan is within the Commission's authority and will allow for OCC to finish this concession remodel to generate additional concessions income.

cc: Mark B. Williams
Faye Brown
Mark Hunter
Norm Kraft
Mike Dubey

**SECTION 00500
CONSTRUCTION AGREEMENT**

This Construction Agreement is made by and between M. Sterns Construction Company, Inc., Portland, OR, hereinafter called Contractor and The Metropolitan Exposition-Recreation Commission; a metropolitan commission established by METRO to renovate, maintain and operate metropolitan convention, trade and spectator facilities pursuant to ORS 268.395, 268.400 and 268.310(6); hereinafter called MERC.

The Contractor and MERC agree as follows:

1. Contract Documents

The Contract Documents consist of this Construction Agreement, the Advertisement for Bids, the Invitation to Bid, the Instructions to Bidders, the Bid Forms (including Schedule of Bid Prices, Surety, MBE/WBE Business Program Compliance, Prevailing Wage Rate Compliance, Resident/Non-resident Bidder Status, Signature Page, Non-Collusion Affidavit, Bid Bond, MBE/WBE Utilization and the Recycled Materials Certificate), the Performance and the Labor and Materials Payment Bonds, the General Conditions, the Supplementary Conditions, the Technical Specifications, the Drawings, the approved and updated Construction Schedule, and other information and data as listed in the Supplementary Conditions, and any modifications of any of the foregoing in the form of Addenda or Change Orders in accordance with the terms of the Contract. Where applicable, reference to this Construction Agreement herein shall be deemed to refer to all of the Contract Documents.

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

2. Scope of Work

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

3. Contract Amount

As consideration for Contractor's performance hereunder, MERC agrees to pay Contractor the Contract Amount as adjusted by approved Change Orders issued pursuant to the Contract Documents. Contractor agrees to accept the Contract Amount as full payment for Contractor's performance of the above described Work.

The Contract Amount is Four Hundred Thirty Three Thousand dollars, (\$433,000 and no/100 dollars). MERC shall make payments to Contractor in the manner and at the times provided in the Contract Documents.

4. Additional or Deleted Work

Contractor shall, when so instructed by MERC under the procedures of the Contract Documents, perform additional Work or delete Work in accordance with the Contract Documents. Any increase or decrease in the Contract Amount shall be determined pursuant to the applicable provisions of the Contract Documents.

5. Time of Completion; Adjusted Payments

Time is of the essence of this Construction Agreement. The Contract Time shall commence upon issuance of the Notice to Proceed. Contractor shall commence work under this Contract within no more than (10) calendar days after issuance of written Notice to Proceed. Contractor shall bring the work to substantial completion no later than February 28, 1998. By executing this Construction Agreement, Contractor confirms and accepts that the Contract Time so stated is a reasonable period for performance of all of the Work.

If Contractor fails to substantially complete the Work, within the Contract Time, as determined by MERC in accordance with the Contract Documents, Contractor shall be liable for adjusted payments to MERC as may be described in the Contract Documents.

6. Bonds

Contractor submits herewith a Performance Bond and a separate Labor and Materials Payment Bond, both in a form acceptable to MERC and otherwise in accordance with the Contract Documents and each in the Contract Amount to ensure full compliance, execution and performance of this Contract by Contractor and payment by Contractor of labor and material Suppliers as more fully described in the Contract Documents.

7. Remedies for Default

If Contractor fails to perform as specified in the Contract Documents, MERC shall be entitled to all the rights and remedies which this Contract provides, as well as all remedies provided by law. This Contract shall not be construed as limiting or reducing the remedies provided by law which MERC would have in the absence of any provision of the Contract.

8. Laws of Oregon Apply

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

9. Entire Agreement

The Contract Documents constitute the final written expression of all of the terms of this Construction Agreement and are a complete and exclusive statement of those terms. Any and all representations, promises, warranties, or statements by either party that differ in any way from the terms of this written agreement shall be given no force and effect. This Contract shall be changed, amended, or modified only by written instrument signed by both MERC and Contractor. This Contract shall not be modified or altered by any course of performance by either party.

CONTRACTOR

By: 

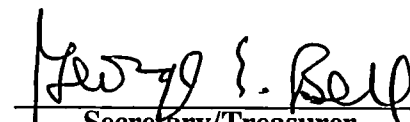
Title: PRESIDENT

Date: 11-14-97

MERC

By: 
Chairman

Date: 11/21/97

By: 
Secretary/Treasurer

Date: 11/21/97