

Date: 09/22/2008

---



**FORMAL  
INVITATION TO BID 109525**

**MDC PROJECT MISCELLANEOUS PARTS**

**Bids Due**  
**October 7, 2008**  
**5:00 P.M. PST**

Submit sealed Bids, one (1) complete original and three (3) complete copies, to the following address:

| <b>Submit bids to:</b>                                                                                    | <b>Refer Questions to:</b>                                                                                                                                                                              |
|-----------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>City of Portland<br/>Bureau of Purchases<br/>1120 SW Fifth Avenue, Room 750<br/>Portland, OR 97204</i> | <i>Susan M. Scanlan<br/>Senior Procurement Specialist<br/>Phone: 503-823-4044<br/>Fax: 503-823-6865<br/>email: <a href="mailto:susan.scanlan@ci.portland.or.us">susan.scanlan@ci.portland.or.us</a></i> |

**I. INTRODUCTION****BACKGROUND**

This Invitation for Bids is for the Bureau of Technology Services, MDC Replacement Project as identified herein and does not commit the City to pay any costs incurred by any offeror in the submission of a bid. Offerors shall include in their bids all costs for all components, permits, equipment, and shipping necessary to provide services and supplies required.

**SPECIFICATIONS:**

The successful Contractor shall provide miscellaneous parts for the City of Portland's MDC Replacement Project as indicated below. No substitutions will be allowed. See Section III, 1.1.

200 ea Gamber-Johnson 19 Dal Hi-Gan Dock; 3-year warranty; part #7160-0021-02

200 ea Lind DC Power Adapters; part #PA 1650-1253; 3' cable

**II. GENERAL REQUIREMENTS AND INSTRUCTIONS TO BIDDERS**

All bids are subject to the provisions and requirements of the Oregon Revised Statutes and the Portland City Code (PCC), including PCC 5.33.

**BID PREPARATION**

**BID FORMAT:** Bids must be typewritten or prepared in ink and must be submitted on the form provided in the Invitation to Bid. No oral, telegraphic, telephone or facsimile bids will be accepted.

**CONFORMANCE TO BID REQUIREMENTS:** Bids must conform to the requirements of the Invitation to Bid. All necessary attachments (residency statement, bid bond, references, descriptive literature, etc.) must be submitted with the bid and in the required format. Bid prices must be for the unit indicated on the bid. Failure to comply with all requirements may result in bid rejection.

**CONFLICT OF INTEREST:** By submitting a bid, a Bidder certifies that no officer, agent or employee of the City who has a pecuniary interest in this bid has participated in the Contract negotiations on the part of the City, that the bid is made in good faith without fraud, collusion, or connection of any kind with any other Bidder of the same invitation to bids, and that the Bidder is competing solely in its own behalf without connection with, or obligation to, any undisclosed person or firm.

**COST OF BIDDING:** This invitation to bid does not commit the City to pay any costs incurred by any Bidder in the submission of a bid, or in making necessary studies or designs for the preparation thereof, or for procuring or Contracting for the items to be furnished under the invitation to bid.

**USE OF BRAND OR TRADE NAMES:** Any brand or trade names used by the State in bid specifications are for the purpose of describing and establishing the standard of quality, performance and characteristics desired and are not intended to limit or restrict competition. Bidders may submit bids for substantially equivalent products to those designated unless the Invitation to Bid provides that a specific brand is necessary because of compatibility requirements, etc. All such brand substitutions shall be subject to purchaser's approval.

**PRODUCT IDENTIFICATION:** Bidders must clearly identify all products bid. Brand name and model or number must be shown. The City reserves the right to reject any bid when the product information submitted with the bid is incomplete.

**FOB DESTINATION:** BID PRICES MUST BE F.O.B. DESTINATION FREIGHT PREPAID AND ALLOWED with all transportation and handling charges paid by the Bidder.

**EXCEPTIONS:** Any deviation from solicitation specifications, terms and conditions may result in bid rejection.

**DELIVERY:** Delivery time must be shown in number of calendar days after receipt of order.

**REQUIRED MARKINGS ON BID ENVELOPE:** Please mark the bid envelope as follows:

Bid #109525, October 7, 2008, 5:00 PM:  
City of Portland  
Bureau of Purchases  
1120 SW Fifth Avenue, room 750  
Portland, OR 97204

Bids that are not properly marked may be rejected. City of Portland is not responsible for the proper identification and handling of any bid not submitted in a timely manner or incorrectly marked.

**SIGNATURE ON BID:** Bids must be signed in ink by an authorized representative of the Bidder. Signature on a bid certifies that the bid is made without connection with any person, firm or corporation making a bid for the same goods and/or services and is in all respects fair and without collusion or fraud. Failure to sign is cause for bid rejection.

Signature on a bid also certifies that the Bidder has read and fully understands all solicitation specifications, terms and conditions. No consideration will be given to any claim resulting from bidding without comprehending all requirements of the Invitation to Bid

**BID MODIFICATION:** Modifications or erasures made before bid submission must be initialed in ink by the person signing the bid. Bids, once submitted, may be modified in writing before the time and date set for bid closing. Any modifications shall be prepared on company letterhead, signed by an authorized representative, and state that the new document supersedes or modifies the prior bid. Modification must be submitted in a sealed envelope clearly marked "Bid Modification" and identifying the bid number and closing date. Bidders may not modify bids after bid closing time.

**BID WITHDRAWALS:** Bids may be withdrawn in writing on company letterhead signed by an authorized representative and received by the Bureau of Purchases prior to bid closing time. Bids may also be withdrawn in person before bid closing time upon presentation of appropriate identification.

**LATE BIDS:** Sealed bids must be received and time-stamped by the Bureau of Purchases prior to bid due date.. Late bids will not be considered for award.

**ENVIRONMENTALLY PREFERABLE PROCUREMENT:** Pursuant to the City's Sustainable City Principles, which direct City Bureaus to pursue long-term social equity, environmental quality, and economic vitality through innovative and traditional mechanisms, Bidders are encouraged to incorporate these Principles into their scope of work with the City wherever possible. There fore in accordance with the Principles and the City's Sustainable Procurement Policy, it is the policy of the City of Portland to encourage the use of products or services that help to minimize the human health and environmental impacts of City operations. Bidders are encouraged to incorporate environmentally preferable products or services into their responses wherever possible. "Environmentally preferable" means products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service. Packaging should be minimized to the maximum extent possible without compromising product quality. The City encourages packaging that is reusable, recyclable in local recycling programs, is made from recycled materials, and/or is collected by the vendor for reuse/recycling.

**ADDENDA TO PLANS OR SPECIFICATIONS:** If, in the opinion of the Purchasing Agent, additional information or interpretation should be provided, an Addendum will be made available to all known specification holders. Any Addendum will be issued seventy-two (72) hours or more before the scheduled closing time for submitting bids, not including Saturday, Sunday, and legal holidays. The City shall post all Addenda on the Bureau of Purchases website. Failure of a Bidder to receive an Addendum will not excuse a Bidder from compliance with any Addendum that was posted on the website.

**ORAL INSTRUCTIONS:** Oral instructions or information concerning the ITB documents or the project given out by officers, employees, or agents of the City to prospective Bidders are not binding unless confirmed by Addendum.

**QUESTIONS OR CLARIFICATIONS:** It is the Bidder's responsibility to ask questions, request changes or clarifications, or inform the City of Portland, Bureau of Purchases if it believes the language, specifications or requirements of an ITB are ambiguous, contradictory, or have other problems. Unless a different time is provided in the ITB, questions received less than seven (7) calendar days prior to the date bids are due may not be answered. Clarifications of any provision of the solicitation document are binding only if the City amends the solicitation document by Addendum.

**PROTEST OF SOLICITATION SPECIFICATIONS:** A Bidder who believes specifications are unnecessarily restrictive or limit competition may submit a protest, in writing, to the Purchasing Agent. To be considered, protests must be received at least five days before the date bids are due (ten days if the bid is for a public improvement). Envelopes containing protests should be marked as follows:

Solicitation Protest  
Bid Number  
Closing Date

#### BID OPENING

Bids will be publicly opened at the scheduled opening time stated in the Solicitation. Award decisions will not be made at the bid opening.

#### BID EVALUATION AND AWARD

Award will be made to the lowest responsive and responsible Bidder

**EVALUATION CRITERIA:** Bids will be awarded based upon the evaluation criteria in the Invitation to Bid and in accordance with Section 5.33 of City Code.

**RECIPROCAL PREFERENCE:** In determining the "lowest responsible Bidder", the City will add a percent increase to each out-of-state Bidder's bid price which is equal to the percent given to local Bidders in that Bidder's home state. For example, if the "lowest responsible Bidder" is from a state that grants a 10 percent preference to local Bidders, the City will add 10 percent to that Bidder's price when evaluating the bid.

#### **LOCAL CONTRACTING**

The City: prefers goods or services that have been manufactured or produced by a local business if price, fitness, availability and quality are otherwise equal; desires to employ local businesses in the purchase, lease, or sale of any personal property, public improvements or services; and wants the residents of the State of Oregon and SW Washington to benefit from optimizing local businesses and services, and the local employment opportunities they generate.

**DELIVERY:** Ability to meet the City's required delivery date shall be used to determine responsiveness.

Cash Discounts: Cash discounts will not be considered for award purposes unless stated in the bid documents.

**PAYMENT:** The City's standard payment term is Net 30 days. Bids which require payment in less than 30 days after receipt of invoice or delivery of goods, whichever is later, may be rejected.

**BID REJECTION:** The City reserves the right to reject any and all bids.

**CANCELLATION:** The City reserves the right to cancel this solicitation at any time without award.

#### **BID RESULTS**

Bidders who receive awards will be notified of bid results via the Bureau of Purchases website; unsuccessful Bidders will not be directly notified. Bid results are available by phone.

#### **PROTESTS**

A written protest regarding the procurement process or this solicitation document must be submitted within 7 days after a solicitation document is advertised. A written protests regarding contract award must be submitted in writing within 7 days after the award of a contract or Notice of Intent to Award, whichever occurs first. A written protest of any Addendum must be submitted by the close of the next business day after issuance of the Addendum. Late protests will not be considered. See PCC 5.33.730 and 740.

### **III. SUPPLEMENTAL REQUIREMENTS**

#### **1.1 SOLE BRAND**

This sole brand requirement is to assure continuous interoperability with the existing Panasonic equipment presently loaded into City patrol cars as part of the deployment of the MDC Replacement Project. The requirement for the specific brand named item(s) is required for purposes of the interoperability of the equipment, materials or supplies; other brands will not be considered.

**1.2 PRODUCT/SERVICE DELIVERY:** Bid shall identify delivery date in days after receipt of order.

#### **1.3 INTERGOVERNMENTAL CO-OPERATIVE PURCHASING**

The Bidder awarded the contract agrees to extend identical prices and services under the same terms and conditions to all public agencies. Quantities stated herein reflect the City of Portland usage only. Purchases from other agencies do not affect the Contractor's obligation to the City of Portland. Other agencies will execute their own Contracts with the Bidder. The successful Contractor shall provide quarterly usage reporting of the City of Portland and that of other public agencies. Any Bidder, by written notification included with their bid, may decline to extend the prices and terms of this bid to any and/or all other public agencies.

#### **1.4 ADDITIONAL PURCHASES**

The City reserves the right to purchase additional equipment *[or materials]* beyond the quantities stated in the bid documents at the same prices submitted by the Bidder. Such additional purchases are not guaranteed and will be made at the City's sole discretion.

#### **2.0 PREPARATION OF BIDS**

##### **2.1 PRE-BID MEETING**

There will be no pre-bid meeting or site visit scheduled for this project.

## 2.2 MINIMUM REQUIREMENTS

The Bidder shall be expected to meet the specified terms and conditions and provide the equipment specified herein.

## 2.3 INTENT OF SPECIFICATIONS

The intent of these specifications is to provide the City with the parts mentioned herein that will result in fully operational laptops in patrol cars. Bidders shall include in their bids all costs for all components and labor necessary to ensure that the parts provide fully functional laptops, regardless of any apparent omission of any particular component of these specifications.

If it appears the City omitted an important component of any item identified in this bid, the Bidder shall bring that matter to the attention of the City during the period of time available for requesting clarification [as indicated in Section I] The specifications in this ITB will be part of the Contract between the City and the successful Bidder(s).

## 2.4 SILENCE OF SPECIFICATION

The silence or omission of the specifications as to any detail means that only the best commercial practices are to prevail in this ITB and resulting Contract; only materials and workmanship of first quality are to be used.

## 2.5 NEW/LATEST MODEL

Parts and materials must be new or the most current model. Surplus, remanufactured, and used products are prohibited unless expressly stated otherwise in the specifications. Current model means: the item or model being manufactured at the time of receipt of the award or any subsequent year item or model manufactured during the time the Contractor has to make deliver under the resulting Contract.

## 2.7 TAXES

Taxes, whether State or Federal, shall not be included in the bid prices. A tax exemption certificate will be provided by the City on request.

## 3.0 SUBMISSION OF BIDS

### 3.1 BID SUBMITTAL

By submitting a bid, the Bidder agrees to furnish any and all equipment, supplies and/or services required by the ITB, at the prices quoted, pursuant to all requirements and specifications as contained therein.

All bids must be clearly and distinctly typed or written with ink or indelible pencil. Do not erase mistakes. Instead, cross out mistakes and correct them and corrections typewritten or written in ink adjacent thereto, and initialed in ink by the party signing the bid, or his/her authorized representative. As a result of any of these actions, if the intent of the Bidder is not clearly identifiable, the interpretation most advantageous to the City will prevail. All bids must be on the form furnished by the City, or it may be rejected by the City. The omission of such items as delivery dates, or any other required information may cause the offer to be considered non-responsive.

City is not responsible for the accuracy of this list. Information is provided for Bidder's convenience only.

☐ REPRESENTATIONS, CERTIFICATIONS, ACKNOWLEDGMENTS, AND OFFER (Submit with offer)

☐ NON-COLLUSION AFFIDAVIT ((Submit with offer)

☐ CURRENT PRICE LIST (Submit with offer)

☐ EQUAL BENEFITS COMPLIANCE DECLARATION WORKSHEET

*All Bids shall include the items listed herein along with any Bidder supplied supplemental pages, line drawings, and/or brochures required for clarity. Lack of these items may cause the City to reject the offer as non-responsive.*

## 3.2 BID PRICES

The prices submitted shall be firm during the Contract period of one year. If unit prices are requested, they shall be shown for each unit on which there is a bid. The Bid price includes the cost to obtain all permits and licenses that may be required to perform the Contract. All prices quoted shall include all packing, handling, shipping charges, and the warranty provisions and requirements as listed in these specifications, FOB delivered and unloaded at the designated location(s). If assembly is required, offered prices shall include all costs associated with delivery, assembly, set-up and proper disposal of packaging materials. The offer price shall be exclusive of any sales, purchaser, or consumer tax. Submit unit prices if requested.

Bid prices shall remain valid for 60 calendar days from bid opening unless otherwise indicated within the ITB. If the bid is

accepted, prices shall remain firm for the specified Contract period.

### **3.3 BID PRICING FORM**

The Bidder shall include unit and extended pricing for all equipment offered on the form provided by the City within this solicitation or may be rejected. In the event of a conflict between unit pricing and extended pricing, unit pricing shall prevail.

### **3.4 BID BOND**

A bid bond is not required.

## **IV. STANDARD TERMS AND CONDITIONS FOR CITY OF PORTLAND CONTRACTS**

The following terms and conditions apply to any contract awarded:

- 1. DEFINITIONS:** The definitions found in PCC 5.33.010A shall apply to the contract:
- 2. INDEPENDENT CONTRACTOR STATUS:** The Contractor is engaged as an independent Contractor and is responsible for any federal, state, and local taxes and fees applicable to payments hereunder. The Contractor, its Subcontractors, and their employees are not employees of the City and are not eligible for any benefits through the City including, without limitation, federal social security, health benefits, workers' compensation, unemployment compensation, and retirement benefits.
- 3. NO THIRD PARTY BENEFICIARIES:** Contractor and City are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, assigns or provides any benefit or right, whether directly, indirectly, or otherwise, to third persons.
- 4. SUCCESSORS IN INTEREST:** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and approved assigns.
- 5. COMPLIANCE WITH APPLICABLE LAW:** In connection with its activities under this Contract, Contractor shall comply with all applicable federal, state and local laws and regulations including the City's Equal Benefits Ordinance and all its administrative rules, all of which are incorporated herein by reference. Failure to comply with the Ordinance permits the city to impose sanctions or require remedial actions as stated in Section 13 of the Rules. All statutory, charter and ordinance provisions applicable to public Contracts in the City of Portland and the State of Oregon shall be followed with respect to this Contract. Any action or suits involving any question arising under this Contract must be brought in the appropriate court in Multnomah County Oregon. Additional conditions applicable to this solicitation and/or any resultant purchase order or Contracts are included in Appendix A.
- 6. BUSINESS COMPLIANCE:** The Bidder must be in compliance with the laws regarding conducting business in the City of Portland before an award may be made. The Bidder shall be responsible for the following:
  - 6.1 CERTIFICATION AS AN EEO AFFIRMATIVE ACTION EMPLOYER:** All Bidders must be certified as Equal Employment Opportunity Affirmative Action Employers as prescribed by Chapter 3.100 of the Code of the City of Portland. Failure to receive EEO certification prior to the date and time of bid opening may result in delaying the award of the Contract or issuance of purchase order. Details of certification requirements are available from the Bureau of Purchases, 1120 SW Fifth Avenue, Room 750, Portland, Oregon 97204, (503) 823-6855, website: <http://www.portlandonline.com/omf/purchasing>.
  - 6.2 NON-DISCRIMINATION IN EMPLOYEE BENEFITS (EQUAL BENEFITS):** Bidders are encouraged to submit the Equal Benefits Compliance Worksheet/Declaration Form with their response. If not submitted, you will be contacted and required to provide this form prior to Contract award; otherwise your bid may be rejected. If your company does not comply with Equal Benefits and does not intend to do so, you must still submit the Form. The Equal Benefits Compliance Worksheet/Declaration Form can be obtained from the following web site: <http://www.portlandonline.com/omf/purchasing>
    - Fill out the form properly. You may call the Bureau of Purchases at 503-823-6855 to ensure you correctly complete the form. You may also call the Buyer listed on the front page of this solicitation document for assistance.
    - There are five options on the Worksheet/Declaration Form to pick among. They range from full compliance (Options A, B, C), to one that requires advance authorization by the City (Option D – Delayed Compliance), to Non Compliance. Select the option that is true of your company's standing at the time you submit your bid or proposal. You cannot change your answer after you submit the Worksheet/Declaration Form.
    - Option D is only used if you have an official waiver from the City. Waivers are only issued by the Bureau of Purchases.

- The Form provides the City your declared Equal Benefit status. However, the City issues the final determination of your Equal Benefit status for purposes of the Contract award.

If information on your form is conflicting or not clearly supported by the documentation that the City receives, the City may seek clarification to ensure we properly classify your compliance.

**6.3 CITY OF PORTLAND BUSINESS LICENSE:** Prior to execution of a Contract, Contractor shall provide City of Portland business license number, or shall provide proof of exemption from said license, as issued by the City of Portland Bureau of Revenue. Failure to do so within twenty (20) days after Bidder receives tender of the Contract may result in withdrawal of the Contract award. Information related to obtaining a business license may be found on the following website: <http://www.pdxbl.org/BizInfo/blfaq.html#licenses>

**7. GOVERNING LAW / VENUE:** The provisions of this Contract shall be construed in accordance with the provisions of the laws of the State of Oregon without reference to its conflict of laws provisions. Any action or suits involving any question arising under this Contract shall be brought in the appropriate court in Multnomah County, Oregon. By executing this Contract the Contractor agrees to *in personam* jurisdiction of the Oregon courts.

**8. NONDISCRIMINATION:** Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans With Disabilities Act of 1990 (Pub L. No. 101-336) including Title II of that Act, ORS Chapter 659.425, and all regulations and administrative rules established pursuant to those laws.

**9. INDEMNITY:** Contractor shall hold harmless, defend, and indemnify the City of Portland, its officers, employees, and agents, from all claims, demands, suits, actions, losses, damages, liabilities, costs and expenses of whatsoever nature, including all attorney's fees and costs, resulting from or arising out of the activities of the Contractor or its officers, employees, Subcontractors, or agents including intentional acts, or of its Subcontractors, agents or employees under this Contract.

**10. ASSIGNMENT OF ANTI-TRUST RIGHTS:** By entering into a Contract, the Contractor, for consideration paid to the Contractor under the Contract, does irrevocably assign to the City of Portland any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future, including, at the City's option, the right to control any such litigation on such claim for relief or cause of action, by reason of violation of 15 USC SS 1-15 or ORS 646.725 or ORS 646.730, in connection with any goods or services provided to the Contractor by any person, which goods or services are used, in whole or in part, for the purpose of carrying out the Contractor's obligation under this Contract.

In the event the Contractor hires Subcontractors to perform any of the Contractor's duties under the Contract, the Contractor shall require the Subcontractor to irrevocably assign to the City of Portland, as a third party beneficiary any right, title or interest that has accrued or may accrue to the Subcontractor by reasons of any violation of 15 USC SS 1-15, ORS 646.725 or ORS 646.730, including, at the City's option, the rights to control of any litigation arising thereunder, in connection with any goods or services provided to the Subcontractor by any person, in whole or in part, for the purpose of carrying out the Subcontractor's obligations as agreed to by the Contractor in pursuance of the completion of the Contract.

In connection with this assignment, it is an express obligation of the Contractor that it will take no action which will in any way diminish the value of the rights conveyed or assigned hereunder to the City of Portland. It is an express obligation of the Contractor to advise the City Auditor or the Office of the City Attorney of Portland, Oregon:

- A. In advance, of its intention to commence any action on its own behalf regarding such claims for relief or causes of action;
- B. Immediately, upon becoming aware of the fact that an action has been commenced on its own behalf by some other person or persons, of the pendency of such action; and
- C. The date on which it notified the obligor(s) of any such claims for relief or causes of action of the fact of its assignment to the City of Portland.

Furthermore, it is understood or agreed that in the event that any payment under such claim is made to the Contractor, it shall promptly pay over to the City of Portland its proportionate share thereof, if any, assigned to the state hereunder.

**11. SEVERABILITY:** In the event that a court, government agency, or regulatory agency with proper jurisdiction determines that this Contract, or any provision of this Contract, is unlawful, this Contract, or that provision of the Contract to the extent it is unlawful, shall terminate. If a provision of this Contract is terminated but the parties can legally, commercially, and practicably continue without the terminated provision, the remainder of this Contract shall continue in effect.

**12. SURVIVAL:** All obligations relating to confidentiality, indemnification, publicity, representations and warranties, proprietary rights, limitations of liability, if any, and obligations to make payments shall survive the termination or expiration of this Contract.

- 13. ASSIGNMENT AND SUBCONTRACTING:** This Contract or any interest therein shall not be assigned, transferred or subcontracted to any other person or entity without the prior written consent of the City of Portland. Notwithstanding City approval of a Subcontractor, the Contractor shall remain obligated for full performance hereunder, and the City shall incur no obligation other than its obligations to the Contractor. The Contractor agrees that if Subcontractors are employed in the performance of this Contract, the Contractor and its Subcontractors are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation.
- 14. LIENS:** Contractor shall not permit any claim to be filed or prosecuted against the City or any lien against the property purchased in connection with this Contract and agrees to assume responsibility should such lien or claim be filed.
- 15. FORCE MAJEURE:** Neither City nor Contractor shall be held responsible for performance if its performance is prevented by unforeseeable acts or events beyond the party's reasonable control including, but not limited to: acts of God; fire, flood, earthquakes or other catastrophes; strikes or other labor unrest; power failures, electrical power surges or current fluctuations; nuclear or other civil or military emergencies, or acts of legislative, judicial, executive, or administrative authorities.
- 16. EXECUTION OF CONTRACT:** The Bidder to whom award is made shall execute and return the contract in the required number of copies, and shall furnish all required bonds and insurance certificates satisfactory to the city within twenty (20) days after the Bidder receives the Contract.
- 17. FAILURE TO EXECUTE CONTRACT:** Failure on the part of the Bidder to whom the contract is awarded to execute the contract and deliver the contract, all required bonds and insurance certificates within the time required permits the City to cancel the award of the contract and charge Bidder for the difference in price between its bid and that of the next lowest responsible bidder.
- 18. AMENDMENTS:** All changes to this Contract, including changes to the scope of work and Contract amount, must be made by written amendment and approved by the Purchasing Agent to be valid. Contractor understands that City employees have no actual or apparent authority to enter into amendments, except as may be specifically granted by the City Council to the Purchasing Agent, or to waive the approval of the City Attorney's office.
- 19. NON-WAIVER:** No waiver, consent, modification, or change of terms of this Contract shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change if made, shall be effective only in specific instances and for the specific purposes given. The failure of the City to enforce any provision of this Contract shall not constitute a waiver of that or any other provision.
- 20. COORDINATION WITH OTHER CONTRACTORS AND OTHER SERVICES:** The Contractor shall cooperate fully with other Contractors and City employees providing systems or support to the City during installation, operation, or maintenance of the goods and services. This includes planning for and integration of the goods and services provided under this Contract with those provided by others. Further, Contractor shall make every reasonable effort to cooperate with City to minimize and/or prevent any degradation of the other computer and telecommunications systems, equipment, or services of the City by the installation, operation, or maintenance of the goods and services. Contractor's failure to cooperate with the City and other Contractors may be grounds for termination as provided herein.
- 21. ACCESS TO RECORDS:** The Contractor shall maintain professional accounting standards and on a current basis, and the City and its duly authorized representatives shall have access to, the books, documents, papers, and records of the Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts for a period of three (3) years after final payment. Copies of applicable records shall be made available upon request.
- 22. AUDITS:** The City, either directly or through a designated representative, may conduct financial and performance audits of the billings and services specified in this Contract at any time in the course of the Contract and during the six (6) year period established by ACCESS TO RECORDS. Audits shall be conducted in accordance with generally accepted auditing standards.
- If an audit discloses that payments to the Contractor were in excess of the amount to which the Contractor was entitled, then the Contractor shall repay the amount of the excess to the City. Under no circumstances will the payment of previous invoices constitute an acceptance of the charges associated with those invoices. If any audit shows performance of services is not efficient in accordance with Government Auditing Standards, or that the program is not effective in accordance with Government Auditing Standards, the City may pursue remedies as provided under EARLY TERMINATION OF THE CONTRACT and REMEDIES. In addition, the Contractor agrees to abide by the standards of the Office of the Comptroller set forth in May, 2002 Office of Justice Programs (OJP) Financial Guide, including without limitation in accordance with Office of Management and Budget (OMB) Circulars A87, A-102, A-122, A-128, A-133. All financial records, supporting documents, statistical records and all other records pertinent to this Contract shall be retained by the Contractor for a minimum of five (5)

years for purposes of State of Oregon or the OJP Financial Guide from the Office of the Controller and apprise itself of all rules and regulations set forth.

**23. PURCHASING FROM CITY EMPLOYEES:** No purchase can be made from any business with which a City employee is associated unless authorized by PCC 5.33.070.

**24. TERMINATION:** The City, by written notice to the Contractor, may terminate this Agreement: a) for any reason deemed appropriate in its sole discretion, or b) for a material breach of contract.

## **V. ADDITIONAL CONTRACT TERMS AND CONDITIONS APPLICABLE TO THIS CONTRACT**

### **1.1 PERFORMANCE BOND AND PAYMENT BOND**

No performance or payment bonding is required for this project.

### **1.2 WORKERS' COMPENSATION INSURANCE – PROOF OF COVERAGE**

Prior to the performance of any work under a Contract awarded by the City, the Contractor shall comply with the workers' compensation law, ORS Chapter 656, as it may be amended, and if workers' compensation insurance is required by ORS Chapter 656, the Contractor shall maintain coverage for all subject workers as defined by ORS Chapter 656 and shall maintain a current, valid certificate of workers' compensation insurance on file with the City Auditor for the entire period during which work is performed under the Contract.

#### Workers' Compensation

Prior to the performance of any work under a Contract awarded by the City, the Contractor shall comply with the workers' compensation law, ORS Chapter 656, as it may be amended, and if workers' compensation insurance is required by ORS Chapter 656, the Contractor shall maintain coverage for all subject workers as defined by ORS Chapter 656 and shall maintain a current, valid certificate of workers' compensation insurance on file with the City Auditor for the entire period during which work is performed under the Contract.

#### Certificate of Insurance

As evidence of the required insurance coverage, Contractor shall furnish acceptable insurance certificates to the City with the return of the signed Contract. The certificates shall specify the City of Portland as additional insured and shall include a 30-day notice of cancellation clause.

Notwithstanding the naming of additional insured, said policy will protect each insured in the same manner as though a separate policy has been issued to each; but nothing herein will operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured.

## **DELIVERY / INSTALLATION**

### **2.1 DELIVERY**

All materials, goods or equipment shall be FOB freight assumed, delivered to the City of Portland, Bureau of Technology Services, 3732 SE 99<sup>th</sup> Ave., Portland, OR 97266. All bid prices offered shall be inclusive of all shipping and delivery costs (freight assumed). Delivery shall be FOB destination to the following address:

Bureau of Technology Services  
3732 SE 99<sup>th</sup> Ave.  
Portland, OR 97266

The Contractor(s) must be prepared to furnish the items requested within 30 days after receipt of an order. Contractor(s) must have adequate stock available. The City may terminate the Contract if repetitive "back orders" or out-of-stock conditions occur. Items not delivered within 30 days from date of order, may be purchased from other sources and the Contractor shall be liable for any excess costs incurred. The Contract price includes all costs associated with delivery, assembly, setup, and proper disposal of packaging material.

**NOTE:** Contractor shall fax such notifications to: Lonnie Atkinson at 503-823-4349. If the ordered item(s) are not delivered within 30 days from the order date, the City of Portland, at its sole discretion, may purchase that same item(s) from other sources and the Contractor shall be liable for the excess costs incurred, including the difference in unit price and freight charges. Repeated late deliveries may be cause for Contract cancellation.

Delivery of the item(s) on the purchase order shall not be completed until all discrepancies have been corrected. Items not meeting Contract specifications shall be returned at Contractor's expense. Contractor shall replace rejected items within 10 days after receipt of re-order request.

Acceptance occurs when the City authorizes payment of the invoice.

## **2.2 ADDITIONAL PURCHASES**

The City reserves the right to purchase additional equipment *[or materials]* beyond the quantities stated in the bid documents at the same prices submitted by the Bidder. Such additional purchases are not guaranteed and will be made at the City's sole discretion.

## **2.3 CERTIFICATION**

For commercial products inclusive of industry standardized products, in lieu of normal sampling and testing procedures by the Bidder and the City, the City may accept from Bidder two (2) copies of the manufacturer's certification with respect to the product involved, under conditions set forth as follows:

Certification shall state that the named product conforms to City's requirements and that representative samples thereof have been sampled and tested as specified. Certification shall either be accompanied with a certified copy of test results, or certify that such test results are on file with the manufacturer and will be furnished to the City upon request. Certification shall give the name and address of the manufacturer, testing agency and the date of applicable testing.

City shall not be responsible for any costs of the certification or for any costs of the sampling and testing of products in connection therewith.

## **3.0 INSPECTION, TESTING, AND CONTRACT ADMINISTRATION**

### **3.1 INSPECTION OF GOODS**

No equipment, supplies, and/or services received by an agency or jurisdiction pursuant to a Contract shall be deemed accepted until the agency has had reasonable opportunity to inspect said equipment, supplies, and/or services.

All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the Contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.

### **3.2 ACCEPTANCE AND TESTING**

The City shall conduct testing on each piece of equipment prior to acceptance and payment. The acceptance tests shall be in accordance with the Technical Specifications for each piece of equipment/apparatus. Deviations from the City's specification will be not allowed unless addressed by a formal change order or by written Addendum. The City reserves the right to have Bidder submit written verification of any test (s) required of Bidder in these specifications.

### **3.3 REJECTION OF DELIVERED GOODS**

The City's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or Contractual remedies the City may have. The City reserves the right to return any such rejected shipment at the Contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.

### **SPECIAL CONDITIONS**

*Where special conditions are written in the specifications, these special conditions shall take precedence over any general conditions listed elsewhere in the bid solicitation in the event of a conflict. These "Terms and Conditions" are not to be construed as exclusive remedies or as a limitation upon rights or remedies that may be or may become available under ORS Chapter 71-83 (Universal Commercial Code).*

## **VI. TECHNICAL REQUIREMENTS**

### **1. GENERAL REQUIREMENTS**

All specified equipment shall be purchased new directly from Gamber-Johnson. Lind or an authorized distributor/reseller of the aforementioned products. This equipment will be used for the City of Portland or any other government agency doing business with the City of Portland. All orders shall include an original packing list directly from the shipper.

### **2. SPECIFICATIONS**

Miscellaneous parts for the City of Portland's MDC Replacement Project as indicated below. No substitutions will be allowed. See Section III, 1.1.

200 ea Gamber-Johnson 19 Dal Hi-Gan Dock; 3-year warranty; part #7160-0021-02

200 ea Lind DC Power Adapters; part #PA 1650-1253; 3' cable

**VII. ATTACHMENTS**

1. REPRESENTATIONS, CERTIFICATIONS
2. NON-COLLUSION AFFIDAVIT
3. OFFER FORM
4. EQUAL BENEFITS COMPLIANCE DECLARATION/WORKSHEET *[if required]*

**VIII. EXHIBIT**

- A. STANDARD GOODS AND SERVICES CONTRACT
- B. TECHNICAL SPECIFICATIONS

APPENDIX A

## ***ATTACHMENT 1***

## TITLE OF PROJECT

## REPRESENTATIONS, CERTIFICATIONS, AND ACKNOWLEDGMENTS

The Bidder represents and certifies as part of the following bid:

| BID FORM         |                                                                               |          |      |            |                 |
|------------------|-------------------------------------------------------------------------------|----------|------|------------|-----------------|
| ITEM NO.         | SUPPLIES / EQUIPMENT                                                          | QUANTITY | UNIT | UNIT PRICE | EXTENDED AMOUNT |
| 1.               | 200 ea Gamber-Johnson 19 Dal Hi-Gan Dock; 3-year warranty; part #7160-0021-02 |          | each | \$         | \$              |
| 2.               | 200 ea Lind DC Power Adapters; part #PA 1650-1253; 3' cable                   |          | each | \$         | \$              |
| TOTAL BID AMOUNT |                                                                               |          |      |            | \$              |
|                  |                                                                               |          |      |            |                 |

**Payment will be based upon completed work for the prior 30 day period.**

The undersigned having full knowledge of the specifications for the item(s) listed herein offers and agrees that this bid shall be irrevocable for at least ninety (90) calendar days after the bid opening date and time, and if accepted shall furnish any and/or all items(s) at the prices offered, all required documents, licenses and certifications, guarantees, titles and warranties as required and deliver at the designated point(s) within the time specified in the schedule.

## VARIANCES

Please note any variance from specifications. (Use separate sheet and attach to bid.)

FIRM OR CORPORATION NAME: \_\_\_\_\_

DOING BUSINESS AS (if applicable): \_\_\_\_\_

**SIGNATURE OF AUTHORIZED PERSON:**

PRINT OR TYPE: \_\_\_\_\_  
(NAME) (TITLE)

**BID DATE:** \_\_\_\_\_

**Bidders will complete the following information regarding their firm:**

MAILING ADDRESS:

(Street or P.O. Box)

(City, State, Zip Code)

NAME OF LOCAL REPRESENTATIVE (if applicable): \_\_\_\_\_

AREA CODE AND TELEPHONE NUMBER: \_\_\_\_\_ FAX NUMBER: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_ INTERNET ADDRESS: \_\_\_\_\_

**TYPE OF BUSINESS ORGANIZATION:**

Business Designation (check one):

\_\_\_\_\_ Individual \_\_\_\_\_ Sole Proprietorship \_\_\_\_\_ Partnership \_\_\_\_\_ Estate/Trust  
\_\_\_\_\_ Corporation \_\_\_\_\_ Public Service Corporation \_\_\_\_\_ Government/ Non-Profit

**RESIDENT BIDDER**

All Bidders must state whether or not they are an Oregon resident Bidder. As defined in ORS 279.029, a resident Bidder is one who has paid unemployment taxes or income taxes in the state during the twelve (12) calendar months immediately preceding bid submission, has a business address in Oregon, and has stated in their bid to be a resident Bidder. **Check one:**

Bidder is a ☐ resident Bidder, or ☐ non-resident Bidder.

FEDERAL TAX IDENTIFICATION NO: \_\_\_\_\_

CITY OF PORTLAND BUSINESS LICENSE NO. : \_\_\_\_\_

Will your company participate in Intergovernmental Cooperative Purchasing? YES ☐ NO ☐

If Yes: Is your company capable of providing the City with quarterly reports on other public agency usage of this ICP contract?  
YES ☐ NO ☐

*An Bidder submitting a bid certifies that no officer, agent or employee of the City who has a pecuniary interest in this bid has participated in preparation of the bid, that the bid is made in good faith without fraud, collusion, or connection of any kind with any other Bidder of the same call for bids, and that the Bidder is competing solely in its own behalf without connection with, or obligation to any undisclosed person or firm.*

## ATTACHMENT 2

NON-COLLUSION AFFIDAVIT  
BID FORM

STATE OF \_\_\_\_\_

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

COUNTY OF \_\_\_\_\_

I, **(Type/Print Name)** \_\_\_\_\_, state that I am **(Position Title)** of **(Name of Firm)** \_\_\_\_\_ and that I am authorized to execute this affidavit on behalf of this firm, and its owners, directors, and officers. I am the person responsible in my firm for the price(s) and the amount of this bid.

I state that:

1. The price(s) and the 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.
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 firm or person who is a Bidder or potential Bidder, and the price(s), will not be disclosed before bid opening.
3. No attempt has been made or will be made to induce any firm or person to refrain from bidding on this contract, or to submit a bid higher than this bid, or to submit any intentionally high or noncompetitive bid or other form of complementary bid.
4. The bid of this firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive bid.
5. **(Name of Firm)** \_\_\_\_\_, its affiliates, subsidiaries, officers, directors and employees are not currently under investigation by any governmental agency and have not in the last four years been convicted 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 described.

I state that **(Name of Firm)** \_\_\_\_\_ understands and acknowledges that the above representations are material and important, and will be relied on by **THE CITY OF PORTLAND, OREGON** in awarding the contract(s) for which this bid is submitted. My firm understands that any misstatement in this affidavit is and shall be treated as fraudulent concealment from **THE CITY OF PORTLAND, OREGON** of the true facts relating to the submission of bids for this contract.

\_\_\_\_\_  
Signature

Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_  
**NOTARY PUBLIC**

My commission expires \_\_\_\_\_

## APPENDIX A

- Contractor shall observe all applicable state and local laws pertaining to public contracts including the City's Equal Benefits Ordinance and its administrative rules, all of which are incorporated by this reference. Failure to comply with the Ordinance permits the City to impose sanctions or require remedial actions as stated in Section 13.1 of the rules, ORS Chapters 279A, 279B and 279C require every public contract to contain certain provisions. Pursuant to those chapters, the following provisions shall be a part of this contract, as applicable.
- Pursuant to ORS 279B.220, on every public contract, the contractor shall make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract; shall pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract; not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished, and; pay to the Department of Revenue all sums withheld from employees under ORS 316.167.
  - Pursuant to ORS 279C.505, on public improvement contracts, the contractor shall make payments promptly, as due, to all persons supplying to such contractor labor or material for the prosecution of the work provided for in such contract. The contractor shall pay all contributions or amounts due the Industrial Accident Fund from such contractor or subcontractor incurred in the performance of the contract. The contractor shall not permit any lien or claim to be filed or prosecuted against the state, county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished. The contractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. Contractor shall demonstrate that an employee drug-testing program is in place.
  - Pursuant to ORS 279C.510 (1), in every public contract for demolition the contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective. Pursuant to ORS 279B.225 and 279C.510 (3) in every public contract and every public improvement contract for lawn and landscape maintenance, the contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.
  - Pursuant to ORS 279B.230(1), in every public contract, the contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services.
  - Pursuant to ORS 279B.230(2), in every public contract, all subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
  - Pursuant to ORS 279B.235(1), persons may not be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it. In such cases, the employee shall be paid a) at least time and half pay for all overtime in excess of 8 hours in any one day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or b) for all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and c) for all work performed on Saturday and on any legal holiday specified in ORS 279B.020.
  - Pursuant to ORS 279C.515(1), on public improvement contracts, if the contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the contractor or a subcontractor by any person in connection with the public contract as such claim becomes due, the proper officer or officers representing the state, county, school district, municipality, municipal corporation or subdivision thereof, as the case may be, may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the contractor by reason of such contract. The payment of a claim in the manner authorized by ORS 279C.515 shall not relieve the contractor or the contractor's surety from obligation with respect to any unpaid claims.
  - Pursuant to ORS 279C.515(2), on public improvement contracts, if the contractor or a first-tier subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract within 30 days after receipt of payment from the contract agency or a contractor, 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 279C.580(4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. 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 payment was received from the contracting agency or from the contractor, but the rate of interest may not exceed 30 percent. The amount of interest may not be waived.
  - Pursuant to ORS 279C.515 (3), in every public improvement contract and every contract related to the public improvement contractor, if the contractor or subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement 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 279C.580.
  - Pursuant to ORS 279C.520, no person shall be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279C.100, the employee shall be paid at least time and a half pay for all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or for all overtime in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and for all work performed on Saturday and on any legal holiday specified in ORS 279C.540. The contractor shall give notice to employees who work on a public contract in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work. In the case of contracts for personal services as defined in ORS 279C.100, an employee shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under these contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. sections 201 to 209 from receiving

overtime. Persons employed under contracts for services shall receive at least time and a half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279C.540 (1) (b)(B) to (G) and for all time worked in excess of 10 hours a day or in excess of 40 hours in a week, whichever is greater. The contractor shall give notice to employees who work on a contract for services in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

- Pursuant to ORS 279C.530(1), in every public improvement contract, the contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such contractor, of all sums which the contractor agrees to pay for such services and all monies and sums which the contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service. In every public contract, subject to ORS 279C, all employers working under the contract are subject employers that shall comply with ORS 656.017.

- Pursuant to ORS 279C.580(3)(a), the contractor shall include in each public improvement subcontract for property or services entered into by the contractor and a subcontractor, including a material supplier, for the purpose of performing a construction contract, a payment clause that obligates the contractor to pay the subcontractor for satisfactory performance under its subcontract within 10 days out of such amounts as are paid to the contractor by the public contracting agency under such contract, and an interest penalty clause that obligates the contractor to pay to the subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause included in the subcontract pursuant to ORS 279C.580 (3), for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made, and computed at the rate specified in ORS 279C.515 (2).

- Pursuant to ORS 279C.580(4), the contractor shall include in each of its subcontracts for a public improvement, for the purpose of performance of such contract condition, a provision requiring the subcontractor to include a payment clause and an interest penalty clause conforming to the standards of ORS 279C.580 (B) (4) in each of its subcontracts and to require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

- Pursuant to ORS 279C.830(1)(a) workers shall be paid not less than the specified minimum hourly rate of wage in accordance with ORS 279C.838 and 279C.840.

July 25, 2008