

BEFORE THE CONTRACT REVIEW BOARD
OF THE METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING AN)
EXEMPTION TO METRO CODE CHAPTER)
2.04.043 COMPETITIVE BIDDING)
PROCEDURES AND AUTHORIZING PAYMENT)
OF PURCHASE ORDER NO. 5529FM TO)
THE BEST LOCK COMPANY UNDER)
METRO CODE CHAPTER 2.04.060 SOLE)
SOURCE CONTRACT PROVISIONS)

RESOLUTION NO. 90-1216

Introduced by Rena Cusma,
Executive Officer

WHEREAS, The Metro Washington Park Zoo, in March 1989, entered into a sole source contractual obligation with the Best Lock Company of Gresham, Oregon for the purpose of replacing and repairing Best Lock components used throughout the Zoo, pursuant to Metro Code Chapter 2.04.041(b)(7) exempting the contract from competitive bidding; and

WHEREAS, Payments to date for work performed by Best Lock have been authorized through Local Purchase Orders, pursuant to Metro Code Chapter 2.04.043(c) which allows appropriate Zoo administrative approval of purchase orders of \$10,000 or less; and

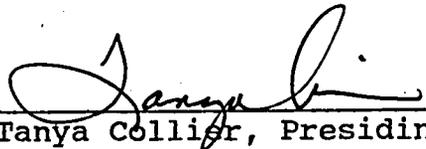
WHEREAS, Under Ordinance No. 89-271E (Amending Metro Code Chapter 2.04, Contracting Procedures), adopted by the Metropolitan Service District Council, March 23, 1989, sole source contracts may not exceed \$2,500 unless the Contract Review Board shall have specifically exempted the contract from public bidding (Metro Code Chapter 2.04.060); and

WHEREAS, There remains an outstanding payment to Best Lock Company of \$7,036.59 per Purchase Order No. 5529FM for work completed at the Zoo; now, therefore,

BE IT RESOLVED,

That the Contract Review Board of the Metropolitan Service District authorizes payment of Purchase Order No. 5529FM to Best Lock Company, based on the findings, as stated in the Staff Report, identifying the Best Lock Company to be the only qualified provider of the lock services required at the Metro Washington Park Zoo.

ADOPTED by the Contract Review Board of the Metropolitan Service District this 8th day of February, 1990.



Tanya Collier, Presiding Officer

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ZOO COMMITTEE REPORT

RESOLUTION NO. 90-1216, AUTHORIZING AN EXEMPTION TO METRO CODE CHAPTER 2.04.043 COMPETITIVE BIDDING PROCEDURES AND AUTHORIZING PAYMENT OF PURCHASE ORDER NO. 5529FM TO THE BEST LOCK COMPANY UNDER METRO CODE CHAPTER 2.04.060 SOLE SOURCE CONTRACT PROVISIONS

Date: February 2, 1990

Presented By: Councilor DeJardin

COMMITTEE RECOMMENDATION: At the February 1, 1990, Zoo Committee meeting, Councilors Gardner, McFarland and myself were present and voted unanimously to recommend Council adopt Resolution No. 90-1216. Councilors Knowles and Ragsdale were excused.

COMMITTEE DISCUSSION/ISSUES: Resolution No. 90-1216 authorizes payment of a final purchase order of \$7,036.59 to the Best Lock Company of Gresham, Oregon. Contract Review Board authorization of the purchase order is required because the work has been on a sole source basis and exceeds \$2,500 (Metro Code Chapter 2.04.060, ...sole source contracts may not exceed \$2,500 unless the Contract Review Board shall have specifically exempted the contract from public bidding...). The Committee reviewed the staff report and Council staff highlighted the following points: (a) the original lock work was estimated at less than \$10,000, and was identified under sole source exemption because Best Lock of Gresham is the only Best Lock service provider in the metropolitan area; (b) at the time of the original purchase order, February 1989, the contract provision for sole source purchases over \$2,500 (noted above) had not yet been adopted in the Code; (c) payment of the final \$7,036.59 purchase order was held up by the Finance and Administration Director because, as a sole source purchase, it was in violation of the \$2,500 sole source Code provisions. Best Lock completed all of the lock work required by the Zoo, including unanticipated servicing for the Africafe basement area. The Committee clarified with staff the transactions to date but raised no additional issues or concerns. Council staff noted they would be working with Zoo staff to keep them abreast of Code changes to avoid a repeat of this purchase problem.

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STAFF REPORT

REQUESTING AN EXEMPTION
TO METRO CODE CHAPTER 2.02.043
COMPETITIVE BIDDING PROCEDURES
AND APPROVAL OF RESOLUTION NO. 90-1216

Date: January 24, 1990

Presented by: A. M. Rich

FACTUAL BACKGROUND AND ANALYSIS:

The Zoo uses the Best Lock system for securing its facilities. Ten years had passed since the last re-coring and re-keying was done. Many locks were worn and/or damaged and needed replacement and new facilities needed locks. It was estimated that the project would cost under \$10,000 and the work proceeded on a Purchase Order last fiscal year.

Best Lock Company was contracted with for this service on a sole source basis because 1) the locks in both the doors and padlocks throughout the Zoo were "inherited" from the City of Portland when they transferred the Zoo to Metro, 2) construction companies have installed Best Locks in new construction awarded by Metro, 3) the locks are designed by Best Lock Company and under their patent will accept only Best Lock cores and keys, and 4) these locks are still provided only by Best Lock Company of Gresham, Oregon.

With new facilities coming on line and the discovery of locks not identified in the original estimate the project extended into this fiscal year and exceeded the original estimate. An outstanding bill of \$7,036.59 remains to be paid.

The work has been done and staff recommends that the Council authorize this exemption so final payment to Best Lock Company in the amount of \$7,036.59 can be made. (See Appendix A for additional background information.)

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends Contract Review Board approval of Resolution No. 90-1216.



METRO

Memorandum

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Date: December 7, 1989
To: Dick Engstrom, Deputy Executive Officer
From: Ray Phelps, ^{Ray} Director of Finance and Administration
Regarding: Payment Authorization for work at Metro's Zoo

Attached are several documents pertaining to a contract let by Zoo staff for work on various locks at the Zoo. It is my opinion that Accounting cannot process the most recent payment request in that this expenditure violates Metro Code.

The work was performed by Best Lock Co., Inc., 422 N.E. 9th, Gresham. The work was performed under the provisions of Metro Code 2.04.041 (see attached) for the reason listed in paragraph (b)(7):

"Contracts for warranties in which the supplier of the goods of(sic) services covered by the warranty has designated a sole provider for the warranty service."

All of the work performed by Best Lock Co., Inc. was performed in calendar year 1989. The total expenditure to-date by Metro for this work is \$15,952.12. The work was authorized by Zoo staff through a Local Purchase Order. The maximum allowable expense using a Local Purchase Order is \$2,500.

Once the work performed by Best Lock Co., Inc. exceeded the \$2,500 level, Zoo staff increased the authorization level to \$10,000. As you know, Metro Code provides an exception for Zoo staff to approve Purchase Orders up-to the \$10,000 level. No other department at Metro has this authority.

Monday, December 4, 1989, the Accounting Section received a Payment Authorization Form for the amount of \$7,036.59. This amount of expenditure is in excess of the Zoo's authorized level of approval.

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Issues that need to be resolved before processing of this payment request.

1. Was this purchase properly made under the provisions of Metro Code? Specifically, should this work have been bid rather than the work authorized for a sole source vendor? There is no justification in record to identify that repair (replacement?) of the locks at the Zoo is a sole source circumstance.

2. What is Metro's authority for paying the \$7,036.59 invoice? The Accounting Section will need written authorization of the appropriate authority before the section may process the request for payment.

public interest to do so, for example, when all bids exceed the budget or estimate for that project.

(d) Bonds:

(1) Bid security not exceeding 10 percent of the amount bid for the contract is required unless the contract is for \$15,000 or less.

(2) Labor and Materials bond in an amount equal to 100 percent of the contract price is required for contracts over \$15,000.

(3) Performance bond in an amount equal to 100 percent of the contract price is required for contracts over \$10,000. If the contract is under \$50,000, the performance bond and labor and material bond may be one bond; if the contract is \$50,000 or more, there shall be two bonds.

(4) Bid security, labor and material bond and performance bond may be required even though the contract is of a class not identified above, if the department head of the initiating department determines it is in the public interest.

(5) Bid security and bonds may be provided in the form of a surety bond, cash, cashier's check or certified check.

(Ordinance No. 82-130, Sec. 2; amended by Ordinance No. 84-175, Sec. 16; Ordinance No. 84-176, Sec. 4; Ordinance No. 84-179, Sec. 2; all previous Ordinances repealed by Ordinance No. 87-216, Sec. 2, amended by Ordinance No. 87-223, Sec. 1)

2.04.041 Requirement of Competitive Bidding, Exemptions:

(a) State Law: The following contracts are exempt from the competitive bidding selection process pursuant to State Statute:

(1) Contracts with other public agencies or the federal government.

(2) Contracts made with qualified nonprofit agencies providing employment opportunities for the handicapped.

(3) Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and 414.145.

(4) Contracts for supplies estimated to be less than \$500.

(b) Board Rule: The following classes of public contracts are exempt from the competitive bidding process based on the

findings by the Contract Review Board that the exemption will not encourage favoritism or substantially diminishing competition for public contracts and that such exemptions will result in substantial cost savings:

- (1) Purchase and sale of Zoo animals.
- (2) Purchase and sale of Zoo gift shop retail inventory and resale items.
- (3) All contracts estimated to be less than \$15,000 provided that the selection process described in the appropriate Code sections is followed.
- (4) Contracts estimated not to exceed \$25,000 for road, highway or parking lot maintenance provided that at least three (3) competitive quotes are obtained, if available, and a record of said quotes and efforts to obtain them are maintained.
- (5) Emergency contracts when the Executive Officer makes written findings that an emergency exists and that the emergency consists of circumstances that could not have been reasonably foreseen and requires prompt execution of a contract to remedy that condition. An emergency contract must be awarded within sixty (60) days of the declaration of the emergency unless the Board grants an extension.
- (6) Purchase of food items pursuant to Section 2.04.090.
- (7) Contracts for warranties in which the supplier of the goods or services covered by the warranty has designated a sole provider for the warranty service.
- (8) Contracts for computer hardware and software. Selection procedures for these contracts, however, must follow the RFP process outlined in Section 2.04.050, "Personal Services Contracts."
- (9) Contracts under which Metro is to provide a service only and incurs no financial obligation to another party.
- (10) Contracts for the lease or use of the Oregon Convention Center or other facilities operated by the Metropolitan Exposition-Recreation Commission.

(c) Board Resolution: Specific contracts, not within the classes exempted in subsection (b) above, may be exempted by the Board by resolution subject to the requirements of ORS 279.015(2) and ORS 279.015(5). The Board shall, where appropriate, direct the use of alternate contracting and purchasing practices that take account of market realities and modern innovative contracting and purchasing methods, which are consistent with the public policy of encouraging competition.

DATE: December 7, 1989

TO: Ray Phelps, Director of Finance and Administration, through
Jennifer Sims, Manager of Financial Services, through
Dox Cox Jr., Chief Accountant

FROM: Dave Given, Senior Accountant

RE: STATUS OF ZOO EXPENDITURES INCURRED THIS YEAR TO THE
BEST LOCK COMPANY

The following list contains the expenditures made by the Zoo during the fiscal year.

DOCUMENT NO.	DATE	AMOUNT	STATUS
PAYMNT AUTH-AD	12/4/89	\$7,036.59	PAYMENT PENDING
PAYMNT AUTH-VS	8/21/89	53.90	PAID 9/01/89
PAYMNT AUTH-VS	8/3/89	284.31	PAID 8/11/89
PAYMNT AUTH-FM	9/23/89	31.99	PAID 9/29/89
TOTAL PA'S		\$7,406.79	
P.O. #3225FM	7/19/89	48.59	PAID 8/4/89
P.O. #5447VS	3/30/89	533.08	PAID 8/18/89
P.O. #5529	5/10/89	1,690.84	PAID 10/20/89
P.O. #5529	5/10/89	1,181.96	PAID 8/18/89
P.O. #5529	5/10/89	4,048.32	PAID 9/15/89
TOTAL PO#5529		\$6,921.12	AUTHORIZED AMT = \$3,997.50
P.O. #29542AM	6/7/89	151.74	PAID 10/13/89
P.O. #29624ED	6/28/89	44.10	PAID 8/4/89
P.O. #32225FM	7/19/89	13.22	PAID 11/17/89
P.O. #32249FM	7/27/89	145.48	PAID 10/13/89
P.O. #33246FM	9/27/89	256.73	PAID 10/20/89
P.O. #33246FM	9/27/89	369.45	PAID 11/09/89
TOTAL PO #33246		626.18	AUTHORIZED AMOUNT = \$450
P.O. #33878VS	10/13/89	34.82	PAID 11/03/89
TOTAL PAYMENTS THIS VENDOR		515,025.12	

WASHINGTON PARK ZOO

MEMO

November 29, 1989

TO: Kay Rich, Assistant Director

FROM: Dick Karnuth, ^{DK} Safety/Security Manager

SUBJECT: Zoo Re-Lock Process: Purchase Order Clarification

The purchase order has been exceeded beyond that which we originally felt was required. I have outlined below the reasons.

As you recall Best Lock Co. was retained for the re-keying/re-coring project because the zoo has Best Locks throughout the complex. However, many more locks than originally estimated were found to be beyond repair because of age, and, the AfriCafe basement came on line earlier than forecasted. Because it was critical, for security reasons, that the project be completed these conditions were immediately addressed and Best Lock Co. continued to work off the same purchase order number.

Now, Best Lock needs to be paid. Attached is a Payment Authorization Request to rectify this situation. I respectfully recommend that it be processed as expeditiously as possible.

WASHINGTON PARK ZOO

MEMO

TO: Kay Rich, Assistant Director
DK 12/18/89
FROM: Dick Karnuth, Safety/Security Manager
SUBJECT: Response to the Dec. 11, 1989 memo from Dep. Exec. Officer,
to the Zoo Director.

This is an explanation of circumstances leading up to the current overage in the re-core/re-key project.

PROJECT IMPLEMENTATION

The first P.O. (5447-VS) for \$533.08 was received from down town on 3/30/89 and covered Visitor Services cores and keys. The second P.O. (5529) was received from down town on 5/10/89. Between those two dates I had several telephone conversations with the Contract Specialist in Finance and Administration regarding the contract process (which requires bid notification) and the purchase order method. I assumed I had provided the necessary information to justify "sole source" since the purchase order was approved. However, in a recent telephone conversation I was informed that written justification should have been done by me, that it is not a responsibility of the Contracts Specialist.

PROJECT OPERATION

As you recall, it became apparant at the end of phase II that there was insufficient funds originally budgeted to complete the re-coring and re-keying of the entire zoo (animal management and perimeter gates and doors during Phase III). The vendor continued to use the original purchase order #5529 and continued to supply parts and installation in order to complete the project. Because Africa came on line and because many more door locks and padlocks were so badly worn (they have been in use since the city of Portland operated the zoo) they could not accept cores and had to be replaced. This resulted in the increased costs which ran over the authorized PO limit.

CONCLUSION

I deeply regret the confusion which has arisen from procedural non-compliance. I recommend one of the following actions:

1. Issue a new PO for payment of the invoice for \$7,036.59 which the Zoo Director or Assistant Director can sign.
2. Request that the matter be placed on the zoo committee and council agenda, if Mr. Engstrom is unable to approve the purchase order authorization after receiving this response to his two questions, and that an explanation be given to questions posed by councilors. The justification-for-sole-source memo which I provided to Leona on 11/16/89 be "officially" submitted to the Contract Specialist, and, a recommendation to pay the vender for services and parts also be given to the council.

WASHINGTON PARK ZOO

MEMO

TO: Leona Meliza

11/16/89

FROM: Dick Karnuth *DK*

SUBJECT: Re-coring Zoo Locks

There was \$6,000.00 approved in the Visitor Services FY 89-90 budget to accomplish the task of re-coring and providing employees the keys to operate the locks in their assigned work areas.

The locks in both the doors and in the padlocks throughout the Zoo were:

1. "inherited" from the City of Portland when they managed the zoo;
2. provided by the construction company(s) awarded bids by Metro;
3. designed by Best Lock Company and under their patented process will accept only Best Lock cores and keys;
4. (and still are) provided only by Best Lock Co. of Gresham, Oregon and by no other company, wholesale or retail outlet in the U.S.A.

Please be advised that the contracts specialist, Amha Hazen, was provided this "sole source" information and after thorough review, approved of this process in April, 1989.