

BEFORE THE METRO CONTRACT REVIEW BOARD

**FOR THE PURPOSE OF AUTHORIZING)
AN EXEMPTION TO METRO CODE)
CHAPTER 2.04.060 PERSONAL SERVICES)
CONTRACTS SELECTION PROCESS, AND)
AUTHORIZING A SOLE SOURCE CONTRACT)
WITH THE PORTLAND ART MUSEUM FOR)
SPONSORSHIP OF A ONE-DAY EVENT TO)
EMPHASIZE WASTE REDUCTION AND)
RECYCLING IN THE MUSEUM FAMILY)
SUNDAY SERIES, SUNDAY, MARCH 14, 1993)**

RESOLUTION NO. 93-1752

**INTRODUCED BY
RENA CUSMA,
EXECUTIVE OFFICER**

WHEREAS, Metro supports promotional events that provide educational activities to the public concerning waste reduction and recycling; and

WHEREAS, the Portland Art Museum has introduced the series Museum Family Sundays to provide fun work and play activities for children and their families; and

WHEREAS, the Portland Art Museum will stage a Sunday event to focus on recycling that includes art making from recycled and "found" materials, creation of sculptures from recycled materials, and performances about recycling and the environment; and

WHEREAS, the Museum Family Sunday events have attracted up to 2,500 participants per event, and children's audiences are a high priority for furthering the waste reduction and recycling objective; and

WHEREAS, the Portland Art Museum has requested that Metro be a sponsor of this event, providing a direct contribution of \$5,000 financial assistance for program costs and technical assistance for event planning and development; and

WHEREAS, Portland Art Museum is the only organization appropriate to perform the services as outlined in the contractual Scope of Work; and

WHEREAS, the Executive Officer has reviewed the contract with the Portland Art Museum for the Museum Family Sunday event on Sunday, March 14, 1993, and hereby recommends Council approval; now, therefore,

BE IT RESOLVED, THAT

The Metro Contract Review Board hereby exempts the attached contract (Exhibit "A" hereto) with the Portland Art Museum from the competitive proposal requirement pursuant to Metro Code Chapter 2.04.060 because the Board finds that the Portland Art Museum the sole provider of the required service.

ADOPTED by the Metro Contract Review Board this 11th day of February,
1993.


Judy Wyers, Presiding Officer



METRO

2000 SW First Ave.
Portland, OR 97201-5398
(503) 221-1646

Procurement Review Summary

To: Procurement and Contracts Division

Vendor

From

Date 1/22/93

Portland Art Museum

Department Solid Waste

1219 S.W. Park Avenue

Division Administration

Subject

Portland, OR 97205

Name Judith Mandt

Bid

Contract

Vendor no.

Title Administrative Manager

RFP

Other

Contract no. 902883

Extension 235

Purpose Stage a recycling education event as part of Museum Family Sunday series, 1993

Expense

Procurement Personal/professional services Services (LM) Construction IGA

Revenue

Budget code(s) 531-310 320-524 190-75000 / \$2,500

Price basis

Term

Contract

531-310500-524190-75000 / \$2,500

Unit

Completion

Grant

Total

Annual

Other

Other

Multi-year**

This project is listed in the
199 2 -199 3 budget.

Payment required

2/15/93

Yes

Type A

Lump sum

Beginning date

No

Type B

Progress payments

4/15/93
Ending date

Total commitment	Original amount	\$ <u>5,000</u>
	Previous amendments	\$ <u>-0-</u>
	This transaction	\$ <u>5,000</u>
	Total	\$ <u>5,000</u>
	A. Amount of contract to be spent fiscal year <u>1992 - 93</u>	\$ <u>5,000</u>
	B. Amount budgeted for contract <u>Misc. Professional Serv.</u>	\$ <u>-0-</u>
	C. Uncommitted/discretionary funds remaining as of <u>1/22/93</u>	\$ <u>500,000 +</u> ***

Approvals

Judith Mandt
Division manager

Bob Mont
Department director

Labor

Fiscal

Budget

Risk

Legal

Competitive quotes, bids or proposals:

N/A -- Sole Source

Submitted by _____ \$Amount _____ M/W/DBE _____ Foreign or Oregon Contractor _____

Submitted by _____ \$Amount _____ M/W/DBE _____ Foreign or Oregon Contractor _____

Submitted by _____ \$Amount _____ M/W/DBE _____ Foreign or Oregon Contractor _____

Comments: _____

Attachments:

- Ad for bid
- Plans and specifications
- Bidders list (M/W/DBEs included)

Instructions:

1. Obtain contract number from procurement division.
Contract number should appear on the summary form and all copies of the contract.
2. Complete summary form.
3. If contract is:
 - A. Sole source, attach memo detailing justification.
 - B. Less than \$2,500, attach memo detailing need for contract and contractor's capabilities, bids, etc.
 - C. More than \$2,500, attach quotes, evaluation form, notification of rejection, etc.
 - D. More than \$10,000 or \$15,000 attach RFP or RFB respectively.
 - E. More than \$50,000, attach agenda management summary from council packet, bids, RFP, etc.
4. Provide packet to procurement for processing.

Special program requirements:

General liability: _____ / _____ / _____

Liquidated damages \$ _____ day

- Workers comp
- Auto
- Professional liability
- Prevailing wages
- Non-standard contract
- Davis/Bacon

Dates:

Ads _____ (Publication) _____

Pre-bid meeting _____ Bid opening** _____

Filed with council _____ For action _____

Filed with council committee _____ For hearing _____

Project estimate: _____

Funding:

- Local/state
- Federal
- Other

Bond requirements:

_____ % Bid \$ _____

_____ % Performance \$ _____

_____ % Performance/payment* \$ _____

_____ % L/M \$ _____

* Separate bonds required if more than \$50,000.

** Minimum period: two weeks from last day advertised.




METRO

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

Memorandum

DATE: January 22, 1993

TO: Contracts Management 

FROM: Judith Mandt, Administration Manager

SUBJECT: Sole Source Justification for Solid Waste Contract No. 902883
Portland Art Museum, \$5,000; 2/15/1993 - 4/15/1993

This contract is a sole source contract with the Portland Art Museum, a non-profit organization which provides cultural, artistic, and educational services to residents of the entire Metro region and state. The Museum is the only organization of its kind in Oregon and the only entity that stages the *Museum Family Sunday* events in the Metro region, thus necessitating exemption to competitive bidding procedures and initiation of a sole source contract for services.

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SOLID WASTE COMMITTEE REPORT

RESOLUTION NO. 93-1752 AUTHORIZING AN EXEMPTION TO THE METRO CODE CHAPTER 2.04.060, PERSONAL SERVICES CONTRACTS SELECTION PROCESS, AND AUTHORIZING A SOLE-SOURCE CONTRACT WITH THE PORTLAND ART MUSEUM FOR SPONSORSHIP OF A ONE-DAY EVENT TO EMPHASIZE WASTE REDUCTION AND RECYCLING IN THE MUSEUM FAMILY SUNDAYS SERIES SCHEDULED FOR SUNDAY MARCH 14, 1993

Date: February 8, 1993

Presented By: Councilor McLain

COMMITTEE RECOMMENDATION: At its February 2, 1993 meeting the Committee voted unanimously to recommend Council adoption of Resolution No. 93-1752. Present and voting were Councilors McFarland, McLain and Wyers. Councilors Buchanan and Washington were excused. Also in attendance was Councilor Gates.

COMMITTEE DISCUSSION/ISSUES: Judith Mandt, SW Administrative Manager and Judy Schultz, Art Museum Assistant Education Curator, presented the Staff Report. Ms. Mandt stated that the resolution would authorize a sole-source contract with the Portland Art Museum to assist in the development and staging of a special Sunday activity emphasizing the art of recycling. The Art Museum is conducting a Museum Family series of five Sunday events during the year. The March 14 Day will focus on recycling. Ms. Mandt pointed out that the money for this event was not budgeted but sufficient funds are available in the Waste Reduction Program materials and services category.

In response to a question from Councilor McLain, Ms. Schultz pointed out that participation in the Museum Family Sunday series according to their survey information comes from throughout the whole metropolitan area. It is not just a City of Portland event. Ms. Schultz pointed out that a major the point of the event is to educate people about the need to reduce the waste produced and to recycle material already produced.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 93-1752 FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO THE METRO CODE CHAPTER 2.04.060, PERSONAL SERVICES CONTRACTS SELECTION PROCESS, AND AUTHORIZING A SOLE-SOURCE CONTRACT WITH PORTLAND ART MUSEUM FOR SPONSORSHIP OF A ONE-DAY EVENT TO EMPHASIZE WASTE REDUCTION AND RECYCLING IN *THE MUSEUM FAMILY SUNDAYS* SERIES SCHEDULED FOR SUNDAY, MARCH 14, 1993.

Date: January 22, 1993

Presented by: Judith Mandt

PROPOSED ACTION

Adoption of Resolution No. 93-1752 would authorize an exemption to competitive contract procedures and authorize the execution of the attached personal services contract (Attachment A) with the Portland Art Museum. The contract will provide services in developing and staging a special Sunday activity emphasizing the art of recycling as part of the *Museum Family Sundays* series to be conducted this year. On Sunday, March 14, the Museum will host a day focusing on recycling by offering such activities as creation of a giant sculpture from recycled products, artmaking with recycled goods, performances about recycling, etc.

FACTUAL BACKGROUND

The Portland Art Museum began the *Museum Family Sundays* as a series of special Sunday activities that brings families to the museum for planned events that offer children and their families a festival day to work and play together. Hands-on artmaking with materials and movies, guided tours and mixtures of entertainment combine to create a lively day for family members. Events have attracted up to 2,500 people and are offered five Sundays a year.

The Metro Solid Waste Department was asked by Art Museum event planners to participate as sponsors in this event because of this particular Sunday's emphasis on recycling related activities. This Family Sunday was chosen to coincide with the Museum's exhibition "Portland Collects" (running March 5 through April 18), an exhibition that assembles art work from private collections throughout the region, emphasizing art durable, and encouraging people to collect and maintain lasting art.

Event design includes instruction to participants in take-home art projects made from recyclable and recycled or "found" materials, participatory exhibits and booths, and entertainment staged in the Swan Auditorium by local performing arts groups whose performances carry the reduce, reuse, recycle message. Performing groups are yet to be scheduled, however, there are imaginative productions focusing on this written and performed by talented local groups. Metro's recycling puppet show designed by the Oregon Puppet Theater as a 1% For Recycling Program grant will be included in the day's activities. Event invitations will encourage attendees to bring

their own materials for art projects, however they will also be provided with materials assembled for the event by the Museum.

Metro was asked to help sponsor the event with a contribution of \$5,000 to help cover the cost of purchasing materials to assemble participants' art projects, payment of honoraria for performing artists, and payment to student art teachers. Additionally, we are asked to provide technical assistance on recycling and environmental matters. As a sponsor, Metro will be named in up to seven print ads in the Oregonian and in 75 radio spots on K103 FM leading up to the event, and on flyers and printed materials; loan of one piece of art for a lobby or conference room for six months from the Rental/Sales Gallery; and the opportunity to host one reception at the Museum, fee-waived.

This type of activity is consistent with Metro's long-term objectives. It is an excellent opportunity for Metro to gain increased exposure for the agency and to deliver the Waste Reduction message to a high priority audience -- children and their families -- while also supporting the arts. The Museum has indicated a desire to continue these events in future years and reflective of that interest, the event is included in the proposed FY 1993-94 Solid Waste Department budget.

Exemption from the competitive bidding procedures and authorization of a sole source contract is requested because the Portland Art Museum is the only organization of its type offering or capable of performing this service.

BUDGET IMPACT

The Solid Waste FY 1992-93 budget did not include this item in its miscellaneous professional services budget. It is a new program in which we were only recently asked to participate. The \$5,000 cost of this contract can be covered through cost savings from other contracts in the Waste Reduction Division materials and services category.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 93-1752.

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is between Metro, a metropolitan service district organized under the laws of the State of Oregon and the Metro Charter, referred to herein as "Metro," located at 2000 S.W. First Avenue, Portland, OR 97201-5398, and Portland Art Museum, referred to herein as "Contractor," located at 1219 S.W. Park Avenue, Portland, Oregon 97205-2486.

In exchange for the promises and other consideration set forth below, the parties agree as follows:

1. **Duration.** This personal services agreement shall be effective February 15, 1993, and shall remain in effect until and including April 15, 1993, unless terminated or extended as provided in this Agreement.
2. **Scope of Work.** Contractor shall provide all services and materials specified in the attached "Exhibit A -- Scope of Work," which is incorporated into this Agreement by reference. All services and materials shall be provided by Contractor in accordance with the Scope of Work, in a competent and professional manner. To the extent that the Scope of Work contains additional contract provisions or waives any provision in the body of this Agreement, the Scope of Work shall control.
3. **Payment.** Metro shall pay Contractor for services performed and materials delivered in the amount(s), manner and at the time(s) specified in the Scope of Work for a maximum sum not to exceed FIVE THOUSAND AND NO/100 DOLLARS (\$5,000).
4. **Insurance.**
 - a. Contractor shall purchase and maintain at the Contractor's expense, the following types of insurance, covering the Contractor, its employees, and agents:
 - (1) Broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and
 - (2) Automobile bodily injury and property damage liability insurance.
 - b. Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
 - c. Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.

d. Contractor, its subcontractors, if any, and all employers working under this Agreement that are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Contractor shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If Contractor has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached, as Exhibit B, in lieu of the certificate showing current Workers' Compensation.

e. If required by the Scope of Work, Contractor shall maintain for the duration of this Agreement professional liability insurance covering personal injury and property damage arising from errors, omissions, or malpractice. Coverage shall be in the minimum amount of \$500,000. Contractor shall provide to Metro a certificate of this insurance, and 30 days' advance notice of material change or cancellation.

5. Indemnification. Contractor shall indemnify and hold Metro, its agents, employees and elected officials harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Agreement, or with any patent infringement or copyright claims arising out of the use of Contractor's designs or other materials by Metro and for any claims or disputes involving subcontractors.

6. Maintenance of Records. Contractor shall maintain all of its records relating to the Scope of Work on a generally recognized accounting basis and allow Metro the opportunity to inspect and/or copy such records at a convenient place during normal business hours. All required records shall be maintained by Contractor for three years after Metro makes final payment and all other pending matters are closed.

7. Ownership of Documents. All documents of any nature including, but not limited to, reports, drawings, works of art and photographs, produced by Contractor pursuant to this Agreement are the property of Metro, and it is agreed by the parties that such documents are works made for hire. Contractor hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such documents.

8. Project Information. Contractor shall share all project information and fully cooperate with Metro, informing Metro of all aspects of the project including actual or potential problems or defects. Contractor shall abstain from releasing any information or project news without the prior and specific written approval of Metro.

9. Independent Contractor Status. Contractor shall be an independent contractor for all purposes and shall be entitled only to the compensation provided for in this Agreement. Under no circumstances shall Contractor be considered an employee of Metro. Contractor shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified in the Scope of Work. Contractor is solely responsible for its performance under this Agreement and the quality of its work; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified in the Scope of Work; and for meeting all

other requirements of law in carrying out this Agreement. Contractor shall identify and certify tax status and identification number through execution of IRS form W-9 prior to submitting any request for payment to Metro.

10. Right to Withhold Payments. Metro shall have the right to withhold from payments due to Contractor such sums as necessary, in Metro's sole opinion, to protect Metro against any loss, damage, or claim which may result from Contractor's performance or failure to perform under this Agreement or the failure of Contractor to make proper payment to any suppliers or subcontractors.

11. State and Federal Law Constraints. Both parties shall comply with the public contracting provisions of ORS chapter 279, and the recycling provisions of ORS 279.545 - 279.650, to the extent those provisions apply to this Agreement. All such provisions required to be included in this Agreement are incorporated herein by reference. Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations including those of the Americans with Disabilities Act.

12. Situs. The situs of this Agreement is Portland, Oregon. Any litigation over this agreement shall be governed by the laws of the state of Oregon and shall be conducted in the circuit court of the state of Oregon, for Multnomah County, or, if jurisdiction is proper, in the U.S. District Court for the District of Oregon.

13. Assignment. This Agreement is binding on each party, its successors, assigns, and legal representatives and may not, under any circumstance, be assigned or transferred by either party.

14. Termination. This Agreement may be terminated by mutual consent of the parties. In addition, Metro may terminate this Agreement by giving Contractor five days prior written notice of intent to terminate, without waiving any claims or remedies it may have against Contractor. Termination shall not excuse payment for expenses properly incurred prior to notice of termination, but neither party shall be liable for indirect or consequential damages arising from termination under this section.

15. No Waiver of Claims. The failure to enforce any provision of this Agreement shall not constitute a waiver by Metro of that or any other provision.

16. Modification. Notwithstanding and succeeding any and all prior agreement(s) or practice(s), this Agreement constitutes the entire Agreement between the parties, and may only be expressly modified in writing(s), signed by both parties.

PORTLAND ART MUSEUM

METRO

By: _____

By: _____

Print name and title

Print name and title

Date: _____

Date: _____

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ATTACHMENT A

PROJECT TITLE: *MUSEUM FAMILY SUNDAY*

CONTRACTOR: Portland Art Museum
1219 S.W. Park Avenue
Portland, OR 97205

PROJECT CONTACTS: Craig A. Vincent-Jones, Director of Development
Judy Schultz, Associate Curator of Education

CONTRACT TERM: February 15, 1993 through April 15, 1993

CONTRACT AMOUNT: \$5,000

SCOPE OF WORK

The Contractor will schedule, plan, and stage a public event to emphasize waste reduction and recycling to be offered as part of the *Museum Family Sunday* series at the Portland Art Museum on Sunday, March 14, 1993. The event will consist of art instruction, entertainment, and education pertaining to the subject of recycling for participants attending the event.

The Contractor shall be responsible for the following:

1. Work with Metro representatives to plan event, develop agenda, and identify potential performing artists for the event.
2. Contract with and plan work program of art instructors and performing and visual artists to perform services in conducting the event. Examples of services to be included are activities such as creation of a giant sculpture from recycled products, artmaking with recycled goods, and performance of productions related to waste reduction and recycling. Contractor shall be responsible to pay those performing services.
3. Work with Metro representatives to select and purchase art media and materials for art projects featured at event.
4. Develop and mail invitations, work with print and electronic media to publicize event, produce flyers and brochures, lobby signs and other event related materials. Metro will be identified as a sponsor on all such materials and media contacts for event as identified in Scope of Work Attachment A.1.
5. Provide a written summary of the event, to include number and description of participants, and activities of event staff and volunteers; selections of advertising materials and promotional activities; general assessment of success of event and participants' response to theme; possible suggestions for emphasis of future event.

Metro will be responsible for working with Contractor to provide technical assistance as needed and help with identifying performing groups for event's activities.

Payment: Payment shall be made in a lump sum payment of \$5,000 upon execution on contract and receipt of invoice from Contractor. Contractor shall provide Metro with expense summary sheet following event.

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ATTACHMENT A.1.

January 7, 1993

RECEIVED
JAN 7 1993

Ms. Judith Mandt
Assistant Solid Waste Director
METRO
2000 SW First Avenue
Portland, OR 97201-5398

Dear Ms. Mandt:

Oftentimes the complexities of our society keep us from maintaining quality interaction with those we hold dearest. Families are burdened with increasing challenges and children are sometimes forgotten. Yesteryear's unique opportunities for families to play and work together seem too rare in today's busy world.

MUSEUM FAMILY SUNDAYS is a series of special Sunday activities targeting area children and their families and offers an exciting festival of fun by combining hands-on artmaking with movies, guided exhibition tours and lively mixtures of entertainment. Anywhere between 1,000 and 2,500 children and their family members attend each *Museum Family Sunday*.

We are in hopes that Metro will join the Museum on one such day. On Sunday, March 14, the Museum will host a day focusing on recycling. While planning has only just begun, some ideas for activities include the creation of a giant sculpture from recycled products, art-making with recycled goods, a performance about recycling and encouraging the participants to bring their own recycled goods to use on the day.

The Museum is choosing this special emphasis on recycling in order to coincide with the exhibition *Portland Collects* (running March 5 through April 18, 1993), an exhibition which will assemble art work from private collections throughout the region. It is an exhibition which encourages people to collect, and that is an idea which naturally extends to recycling.

We would like Metro to consider sponsoring the March *Museum Family Sunday* for \$5,000. That amount is required to cover the costs of materials, performance artists, student art teachers and a variety of other, smaller necessities.

With a speedy response, Metro could also participate in the initial planning of the day--it is involvement which we would truly appreciate. The agency's expertise on recycling and environmental matters would add immeasurably to the formula.

Given Metro's increasing involvement with the arts, we made the assumption that your partial sponsorship of *MUSEUM FAMILY SUNDAYS* would coincide well with the agency's long-term goals. In addition, the children's audience is a high priority for both the Museum and Metro. Sponsorship of the March *Museum Family Sunday* would also generate extensive visibility for Metro: as a sponsor Metro would be included in 4-7 Oregonian print ads preceding the day, on up to 75 radio spots on K-

Ms. Judith Mandt/Metro

Page 2

103 FM and on flyers and materials distributed that day. Metro would also receive Corporate Medici benefits for their donation (outlined in the accompanying brochure).

The possibility of a partnership between the Portland Art Museum and Metro is an exciting one. It is hopefully a relationship that we could pursue annually in similar activities. We look forward to talking to you about this further. In the meantime, if you have any questions, please do not hesitate to call either of us at (503) 226-2811. Thank you, once again, for your time and consideration.

Sincerely,



Craig A. Vincent-Jones
Director of Development



Judy Schultz
Associate Curator of Education

CAVJ:JS:st
Encl.