

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING AN)	RESOLUTION NO. 95- 2120
EXEMPTION TO COMPETITIVE BIDDING)	
PROCEDURES PURSUANT TO METRO CODE)	
CHAPTER 2.04.041 (c), AND AUTHORIZING)	Introduced by Mike Burton,
THE EXECUTIVE OFFICER TO EXECUTE A)	Executive Officer
MULTI-YEAR CONTRACT WITH THE)	
OREGON HISTORICAL SOCIETY)	

WHEREAS, Metro, via intergovernmental agreement with Multnomah County, assumed management of the Bybee House and Howell Territorial Park pursuant Council Resolution No. 93-1877; and

WHEREAS, for several years Oregon Historical Society (OHS) has provided aspects of operations and maintenance of the Bybee House, Barn Museum and Howell Territorial Park via contract with Multnomah County, including provision of educational interpretive services of the house, farm shed and historical objects and management of the reservations system for the park; and


WHEREAS, OHS is uniquely qualified to perform cultural and historic interpretive services relating to the Bybee House, Barn Museum and related orchards, gardens and historical equipment at Howell Territorial Park; and

WHEREAS, OHS has demonstrated an ability to provide these services and manage the reservations system for Howell Territorial Park cost effectively under prior contracts with Multnomah County; now, therefore,

BE IT RESOLVED,

1. The Contract Review Board finds that exemption from competitive bidding requirements will not encourage favoritism in the award of public contracts or substantially diminish competition for public contracts let by Metro.
2. The Contract Review Board finds that award of this contract will result in substantial cost savings to Metro in provision of subject services at Howell Territorial Park.
3. The Contract Review Board exempts the contract with Oregon Historical Society from the competitive bidding requirements pursuant to Metro Code Section 2.04.060.
4. The Contract Review Board authorizes the Executive Officer to execute a MULTI-year contract with the Oregon Historical Society substantially in compliance with the contract form and contract terms reviewed today.

ADOPTED by the Metro Contract Review Board, this 30 day of March, 1995.



J. Ruth McFarland, Metro Presiding Officer

PERSONAL SERVICES AGREEMENT

BYBEE HOUSE AT HOWELL TERRITORIAL PARK MANAGEMENT SERVICES

This Agreement, dated this day of April, 1995 is by and between Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, with a mailing address of 600 NE Grand Avenue, Portland, Oregon 97232-2736 and the Oregon Historical Society, with a mailing address of 1200 SW Park Avenue, Portland, Oregon, 97205; hereinafter referred to as the "OHS."

WITNESSETH;

WHEREAS, Metro, via intergovernmental agreement with Multnomah County, assumed management of the Bybee House and Howell Territorial Park pursuant Council Resolution No. 93-1877; and

WHEREAS, for several years OHS has provided aspects of operations and maintenance of the Bybee House, Barn Museum and reservations system for Howell Territorial Park via contract with Multnomah County, including provision of educational interpretive services of the house, farm shed and historical objects and management of the reservations system for the park; and

WHEREAS, Metro believes OHS is uniquely qualified to perform such services and desires OHS to continue to provide the services; now, therefore,

IN CONSIDERATION of those mutual interests and based upon the terms and conditions contained herein, the parties agree as follows:

1. DURATION: This agreement shall be effective from July 1, 1994 to June 30, 1995 with the option to renew annually thereafter for a period not to exceed four additional years (through June 30, 1999).
2. SCOPE OF WORK: Both parties shall provide the funding, pursue the work tasks, and secure the products detailed in "Exhibit A - Scope of Work," attached, by and through the project managers identified herein below.
3. PROJECT MANAGER AUTHORITY:
 - A. The OHS Project Manager shall be Carla Simon, Curator/Bybee-Howell Site Manager, or other such person as shall be designated in writing by OHS. The OHS Project Manager is authorized to carry out all OHS actions referred to herein;

B. The Metro Project Manager shall be Dan Kromer, Operations and Maintenance Supervisor or other such person as shall be designated in writing by Metro. The Metro Project Manager is authorized to carry out all Metro actions referred to herein.

4. **AUTHORITY & RESOURCES:** Both parties certify that they have the authority to execute this agreement and sufficient funds, forces, and other resources available and authorized to finance and accomplish the tasks outlined in "Exhibit A - Scope of Work," attached.

5. **LIABILITY AND INDEMNIFICATION:** Both parties shall indemnify for, and hold the other harmless from, all claims arising out of its negligent or intentional misconduct or that of its officers, employees, or agents. It shall be liable to the other for any damage to the other's property or injury to the other's officers, employees or agents caused by its negligent or intentional misconduct subject to the provisions of the Oregon Tort Claims Act and the Oregon Constitution.

Both parties shall protect, defend and hold the other harmless from and indemnify for any and all liability settlements, losses, costs and expenses in connection with any action, suit or claim resulting from its negligent errors, omissions or acts performed pursuant to this Agreement subject to the provisions of the Oregon Tort Claims Act and the Oregon Constitution.

6. **WORKERS' COMPENSATION:** Both parties and all employers working under this Agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires Workers' Compensation coverage for all subject workers.

7. **MAINTENANCE OF RECORDS:** All records relating to the Scope of Work shall be maintained on a generally recognized accounting basis and both parties shall have the opportunity to inspect and/or copy such records at a convenient place during normal business hours. All required records shall be maintained for at least three years after project completion.

8. **PUBLIC DOCUMENTS:** All records, reports, data, documents, systems and concepts, whether in the form of writings, figures, graphs or models that are prepared or developed in connection with this project shall become public property.

9. **PROJECT INFORMATION:** Both parties shall share all project information and fully cooperate with one another on all aspects of the project including actual or potential problems or defects. Project news may be issued jointly or individually with prior notice the other party.

10. **TERMINATION FOR DEFAULT:** Either party may be deemed to be in default if it fails to comply with any provisions of this Agreement or if its progress in performance of its obligations is so unsatisfactory that continuation of the project created by this Agreement is seriously impaired. Prior to termination under this provision, the aggrieved party shall provide written notice of the specific act of default and allow thirty (30) days within which to cure the defect. In the event the defect is not cured within that period, the aggrieved party may terminate all or any part of this Agreement.

The party deemed in default shall be liable to the aggrieved party for all reasonable costs and damages incurred as a result of the termination for default.

If, after notice of termination, the parties agree or a court finds that there was no default or that circumstances were beyond the defending party's control, the parties may allow the work to continue or treat the incident as a termination for convenience, in which case the rights of the parties shall be the same as if the termination had been for convenience.

11. **TERMINATION FOR CONVENIENCE:** Either party may terminate all or part of this contract upon determining that termination is in the public interest. Termination under this paragraph shall be effective upon delivery of the written notice of termination.
12. **NONDISCRIMINATION:** During the term of this Agreement, both parties shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age or national origin.
13. **ADHERENCE TO LAW:** Both parties shall comply with all applicable provisions of ORS Chapters 187 and 279, and all other terms and conditions required to be included in public contracts including but not limited to all federal and state civil rights and rehabilitation statutes, rules and regulations are hereby included and incorporated by reference.
14. **LITIGATION:** In the event of any litigation concerning this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs, including fees and costs on appeal to an appellate court.
15. **INTEGRATION:** This Agreement contains the entire, complete and final working Agreement between the parties and supersedes all prior written or oral discussions or agreements related to the development and pursuit of this project.
16. **AMENDMENT PROVISION:** The terms of this Agreement may only be amended by mutual agreement in writing and signed by the parties.
17. **ASSIGNMENT:** Neither party may assign, delegate, or subcontract for performance of

any of its responsibilities under this Agreement, except as provided in Section I.B.7 of this Agreement without the prior written consent of both Project Managers.

18. SEVERABILITY: Should any provision of this agreement be found illegal or unenforceable by a court of proper jurisdiction, the offending provision shall be stricken, but the balance of this agreement will nevertheless remain in full force and effect.
19. PUBLIC LAW: Both parties shall comply with all relevant laws of the state of Oregon and to the extent those laws shall apply to this agreement they are hereby specifically incorporated by reference.
20. LAW OF OREGON: This Agreement shall be governed by the laws of the state of Oregon, and the parties agree to submit to the jurisdiction of the courts of the state of Oregon.

OREGON HISTORICAL
SOCIETY

METRO

Chet Orloff
Executive Director

Mike Burton
Executive Officer

Date

Date

APPROVED AS TO FORM

Dan Cooper
Metro General Counsel

EXHIBIT A - SCOPE OF WORK

1. DESCRIPTION OF SERVICES.

OHS Will provide the following services:

- A. Provide for certain aspects of operations and maintenance of the Bybee House and Barn Museum at Howell Territorial Park, as well as the accurate educational interpretation of the house, farm shed, and historical objects associated with the site except as noted in I.C. below.
 - 1) Provide maintenance functions at the same level as agreed to in Multnomah County Contract No. 300523, dated September 9, 1992, as amended. This includes paying typical utility costs including telephone, garbage and electricity.
 - 2) Interpretive staff will be on site from noon to 5 PM every Saturday and Sunday from June 1 to September 4, 1994, between June 1 and September 3, 1995 up to and including the Labor Day Weekend in succeeding years.

- B. Manage the reservation system for Howell Territorial Park which includes the following:
 - 1) Make reservation bookings, handle inquiries, receive all reservation fees, and provide an audit-worthy monthly revenue report to Metro Regional Parks and Greenspaces that includes dates, times and contact persons for all reservations and events hosted during the month. A check for thirty (30) percent of the revenues generated during the month shall be submitted along with the report to the attention of Kathie Smith by the fifteenth (15th) day of the following month.
 - 2) Provide all staffing necessary for the reservation program, a qualified person on-site during each event, open and close facilities, make restrooms, telephone and changing facilities accessible, and provide general litter pickup after each event. Staff shall hold current basic first-aid and CPR cards.

- 3) Provide a fee schedule for reservations and events and a standard reservations form to be approved by Metro Regional Parks and Greenspaces Department. Reservations fees shall include the cost of alcohol permits. As an example the current group picnic reservations schedule for Oxbow Park is as follows:

<u>No. of People</u>	<u>Cost per Group</u>
1-50	\$110
51-150	\$160
151-300	\$210

The cost of an alcohol permit is implicit in the schedule. The reservations form shall indicate that alcohol is permitted to be served subject to permittees compliance with Title 10 of the Multnomah County Code. A copy of Title 10 shall be provided in advance to every reservation-holder/permittee so that he/she may familiarize him/herself and his/her groups with the rules governing activities at Howell Park..

- 4) If alcohol is to be sold by permittee on the Park premises, Metro must approve sales prior to the dates of events for which reservations have been made. Permittee shall also be required to obtain an Oregon Liquor Control Commission (OLCC) permit in advance of the event.
- 5) Require facility renters to develop and execute a legal liability release protecting Metro for any personal property damage or personal injuries that may be incurred by reservation-holders, members of their groups and attendees of events at the House and Park..
- 6) Enforce a 500 person maximum capacity for public use of the House and Park.
- 7) OHS may contract for services and utilize volunteers to assist in execution of the responsibilities agreed to in this contract, provided proof of adequate insurance addressing workers compensation and professional liability for such contractors and volunteers is submitted to and approved by Metro.

C. Metro will provide the following services:

- 1) Routine grounds maintenance, except for the orchard which will be a joint project with Metro assuming lead role. The herb garden and annual planting will be the responsibility of OHS.
- 2) Administer any special use permits outside the reservation program for the House and Park.

- 3) Pay the usual monthly invoices associated with the facility's security system.
- 4) Continue the enhancement of the pasture and wetland areas.
- 5) Manage the contract with Bird of Prey Rescue Northwest, Inc.
- 6) Provide OHS with copies of Title 10 of the Multnomah County Code.
- 7) Provide examples of Regional Parks and Greenspaces Department's fee schedules and reservations forms as requested by OHS. Should OHS choose to use the Department's standard reservations form, the Department will provide OHS with the necessary supply of forms.

2. PUBLICITY

Metro reserves the right to review and approve, in writing, all written materials which are intended to promote the use of Bybee House and Howell Territorial Park or special events held therein plus reprinting of existing brochure.

3. COMPENSATION

Metro shall pay Contractor \$10,305.00 per year as a fixed fee.

Upon receipt of signed contract, Contractor may invoice Metro and Metro may prepay for the full amount. All correspondence shall be submitted to this address: Metro Regional Parks and Greenspaces Department, 600 NE Grand Avenue, Portland, Oregon 97232-2736.

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 95-2120 FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO COMPETITIVE BIDDING PROCEDURES PURSUANT TO METRO CODE CHAPTER 2.04.041 (c), AND AUTHORIZING THE EXECUTIVE OFFICER TO EXECUTE A MULTI- YEAR CONTRACT WITH THE OREGON HISTORICAL SOCIETY

Date: March 17, 1995

Presented by: Patrick Lee

FACTUAL BACKGROUND AND ANALYSIS

For several years, the Oregon Historical Society, under contract to Multnomah County, has provided cultural and historical interpretive services for facilities at Howell Territorial Park, including the Bybee House, Barn Museum, orchard and herb garden. OHS has also been responsible for managing the reservations system for the House and Park since 1993 as part of this contract. The Multnomah County contract (contract no. 300523) expired in 1994. It was the practice of Multnomah County and OHS to enter multi-year contracts with annual renewal provisions.

In December 1993 the Metro Council adopted Resolution No. 93-1877 executing an intergovernmental agreement consolidating the Multnomah County Park Services Division and the Metro Greenspaces programs. Effective January 1, 1994 Metro assumed management responsibility for Bybee House and Howell Territorial Park, including assignment of OHS contract management responsibility from the County.

Approval of this contract will continue the partnership with the Oregon Historical Society in managing and providing direct public services at Howell Territorial Park. The Historical Society furnishes the Bybee House with period artifacts, and is uniquely qualified to interpret the cultural and historical attributes of the House and Park. The Society has also demonstrated an ability to effectively manage the reservations system. Terms of this contract are substantially the same as those of Multnomah County contract no. 300523 and are articulated in Exhibit "A" of the proposed personal services agreement.

FISCAL IMPACT

Compensation in the amount of \$10,305 annually is provided by Metro to OHS on a fixed fee basis for execution of the scope of work. Funds for the current fiscal year's compensation are transferred to Metro from the Multnomah County General Fund and passed through to OHS. This will also be the funding arrangement for FY 1995-96. The OHS contract is designated a "B" contract in the adopted FY 1994-95 budget. Renewal of the contract is also anticipated in the FY 1995-96 Proposed Budget.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 95-2120.