

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING THE)
CHIEF OPERATING OFFICER TO EXECUTE)
AMENDMENT 1 TO THE CONTRACT NO.)
922793 WITH REISCHMAN CONCERTS LLC)
FOR PROVISION OF CONCERTS AT THE)
OREGON ZOO)
)

RESOLUTION NO. 05-3572
Introduced by Chief Operating Officer
Michael Jordan with concurrence of Council
President Bragdon

WHEREAS, Metro operates the Oregon Zoo; and,

WHEREAS, the Oregon Zoo has a five year contract beginning in 2001 with Reischman Concerts LLC to provide concerts at the Zoo during the summer months; and,

WHEREAS, the contract between the Oregon Zoo and Reischman is in the final year and ends September 2005; and,

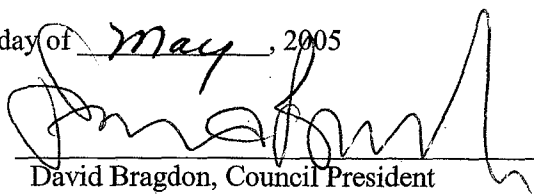
WHEREAS, the costs for each of the first four years exceeded the contracted amount for each year and resulted in revenues to the Zoo exceeding projections; and,

WHEREAS, Metro Code 2.04.046 limits increases in cost amount through amendments for contracts that exceed \$1,000,000 that may be authorized by the Chief Operating Officer to \$100,000; and,

WHEREAS, Amendment No. 1 to the contract is proposed to increase the contract by \$435,000 for the last year of the contract; now therefore,

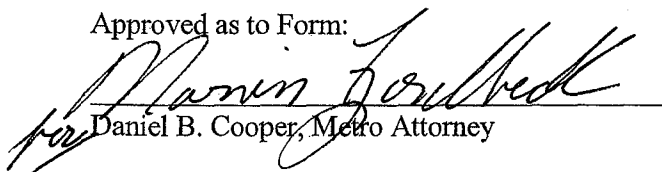
BE IT RESOLVED that the Metro Council, sitting as the Metro Contract Review Board, authorizes the Chief Operating Officer to execute Amendment 1 to Contract No. 922793 in a form substantially similar to that set forth as the attached Exhibit "A".

ADOPTED by the Metro Council this 5th day of May, 2005



David Bragdon, Council President

Approved as to Form:



Daniel B. Cooper, Metro Attorney



Exhibit A
Resolution No. 05-3572



600 NE Grand Ave.
Portland, OR 97232-2736
(503) 797-1700

Amendment

AMENDMENT NO. 1

CONTRACT NO. 922793

This Amendment hereby amends the above titled contract between Metro, a metropolitan service district organized under the law of the State of Oregon and the Metro Charter, and **Reischman Concerts LLC**, hereinafter referred to as "Contractor."

This amendment is a change order to the original Scope of Work as follows:

The contract is increased by \$435,000 for a total contract amount of \$2,608,734. The contract is extended to October 30, 2005.

Except for the above, all other conditions and covenants remain in full force and effect.

IN WITNESS TO THE ABOVE, the following duly authorized representatives of the parties referenced have executed this Amendment.

Metro

Signature Date

Signature Date

Name

Name

Title

Title

STAFF REPORT

IN CONSIDERATION OF RESOLUTION 05-3572 FOR THE PURPOSE OF
AUTHORIZING THE CHIEF OPERATING OFFICER TO EXECUTE
AMENDMENT 1 TO THE CONTRACT NO. 922793 WITH REISCHMAN
CONCERTS LLC FOR PROVISION OF CONCERTS AT THE OREGON ZOO

Date: April 27, 2005

Prepared by: David Biedermann and Teri Dresler

BACKGROUND

The Oregon Zoo currently contracts with Reischman Concerts LLC to provide the concert series at the Zoo each summer. This contract began in February 2001 and is currently set to conclude September 30 2005 (and will be re-bid).

The Zoo concert budget increased over the last four years, but the contract was never amended to reflect those changes. This was not a problem initially, as the contract expenditure did not approach the contract limit until this year.

A number of factors led to the increased costs. In spite of the fact the contract was built assuming a standard 3% increase in all expenses every year, we found artist fees increase dramatically year-to-year due to competition and greatly exceed that 3% factor. In addition, other concert expenses have increased, such as insurance, sound, production and labor, causing the budget to increase each year beyond the projections made when the contract was initially created.

Some of these extra expenses were anticipated at the time that budgets were developed, thus the appropriate line items were increased. Other costs (band-related, such as increased backline, food & transportation needs) were unexpected, so their costs were absorbed out of other Zoo event budgets each year. In 2002, 2003 and 2005, Council-approved budget concert add packages totaled \$206,596.

Nonetheless, the expenditures to Reischman for concert production for the final season of concerts are expected to exceed the legal amount of the contract, even though the budget exists. To rectify that, we are requesting an amendment to this contract.

Original contract amount	\$2,173,734
Amount spent YTD	\$2,038,304
Amount remaining	\$ 135,429

Requested amendment **\$ 434,838**

Proposed revised total contract amount: \$2,608,734

This amendment is for \$435,000, which will give appropriate contract authority to the Oregon Zoo and the contractor. The Oregon Zoo budget includes the authorized appropriation for this amendment.

The following is a pro forma business plan built on the 2004 season.

Projected Gross Revenues for 2005 Concert Season

Average 2004 <u>premium</u> attendance	3,493	9 concerts	31435
Average food/bev per cap	\$9.80		\$ 308,063.00
Projected attendance per cap	\$22.83		\$ 717,661.05
		Projected premium gross	\$1,025,724.05
Average 2004 <u>weekday</u> attendance	2,600	9 concerts	23400
Average food/bev per cap	5.88		\$ 137,592
Average attendance per cap	2.86		\$ 66,924
		projected Wednesday gross	\$ 204,516
		PROJECTED GROSS 2005	\$1,230,240.05
		SPONSORSHIP	\$ 110,000.00
		TOTAL	\$1,340,240.05

In order to conduct the concert season for the final year of the contract, a contract amendment is required to increase the contract amount. In addition, the amendment will extend the contract one additional month (to October 30 2005) to allow final processing of remaining bills following the last concert of the season.

The Metro Code outlines amendments to contracts that are greater than \$100,000 over the original amount are subject to Council approval.¹

¹ Metro Code 2.04.046. Contracts with an initial amount of greater than \$50,000 may be amended provided that any amendment that increases the total amount payable to an amount more than \$100,000 greater than the initial contract amount shall be subject to approval by the Metro Council.

The Code further states the Metro Council will determine whether it is appropriate to amend the contract considering the policies outlined in ORS 279A.015 and ORS 279B.010.²

ANALYSIS/INFORMATION

1. **Known Opposition:** None.
2. **Legal Antecedents:** Metro Code 2.04.046
3. **Anticipated Effects:** The contract amount increase and extension will allow the final year of the contract to be fulfilled.
4. **Budget Impacts:** The Oregon Zoo has the authorized appropriation for this contract amount increase and extension.

RECOMMENDED ACTION

Chief Operating Officer recommends passage of Resolution 05-3572.

² **279A.015 Policy.** It is the policy of the State of Oregon, in enacting the Public Contracting Code, that a sound and responsive public contracting system should:

- (1) Simplify, clarify and modernize procurement practices so that they reflect the market place and industry standards.
- (2) Instill public confidence through ethical and fair dealing, honesty and good faith on the part of government officials and those who do business with the government.
- (3) Promote efficient use of state and local government resources, maximizing the economic investment in public contracting within this state.
- (4) Clearly identify rules and policies that implement each of the legislatively mandated socioeconomic programs that overlay public contracting and accompany the expenditure of public funds.
- (5) Allow impartial and open competition, protecting both the integrity of the public contracting process and the competitive nature of public procurement. In public procurement, as set out in ORS chapter 279B, meaningful competition may be obtained by evaluation of performance factors and other aspects of service and product quality, as well as pricing, in arriving at best value.
- (6) Provide a public contracting structure that can take full advantage of evolving procurement methods as they emerge within various industries, while preserving competitive bidding as the standard for public improvement contracts unless otherwise exempted. [2003 c.794 §3]

279B.010 Policy. In addition to the policy stated in ORS 279A.015, it is the policy of the State of Oregon that public contracting activities should:

- (1) Provide effective outcomes that represent optimal value to the contracting agency and, to the greatest extent feasible, be consistent with market practices;
- (2) Seek consistency in procurement practices between contracting agencies covered under the Public Contracting Code while preserving each contracting agency's ability to adopt rules to maximize the contracting agency's effectiveness; and
- (3) Apply innovative practices while maintaining quality and integrity. [2003 c.794 §48]