

**METROPOLITAN EXPOSITION-RECREATION COMMISSION**

**Resolution No. 97-30**

Declaring Soderstrom Architects to be a "Sole Source" provider for professional services relating to the second phase and completion of the Oregon Convention Center concession's remodel project and authorizing staff to enter into a contract with Soderstrom Architects for architectural and management services to complete the project.

The Metropolitan Exposition-Recreation Commission finds:

1. That the architectural services provided by Soderstrom Architects, under phase one of the OCC concessions remodel project, included the design of the entire project of concession re-development and renovation.

2. That due to budget constraints the project was divided into two phases, to be completed as money was budgeted.

3. That because Soderstrom Architects designed the entire project, they possess the computerized design data for the remaining portion of the project. Further, they are the only practicable source of the design services required to complete the remodel.

4. That the MERC Commission has the authority under Metro Code to enter into contracts under a \$75,000.

5. That Soderstrom Architects was selected by Metro Property Services Division through an informal competitive process originally, with the intent of designing and managing the entire OCC Concession retro-fit project.

**BE IT THEREFORE RESOLVED** that the Metropolitan Exposition-Recreation Commission hereby declares the firm of Soderstrom Architects to be the "Sole Source" provider of professional services for the second phase of the Oregon Convention Center concessions project, exempt from competitive bidding requirements, and authorizes staff to enter into a contract with Soderstrom Architects for such professional services to complete the project.

Passed by the Commission on May 14, 1997.

Approved as to Form  
Daniel B. Cooper, General Counsel

By: Kathleen Pool  
Kathleen Pool  
Sr. Assistant Counsel

Alvin M. ...  
Chair

Banda S. ...  
Secretary-Treasurer

## PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is between the Metropolitan Exposition - Recreation Commission, herein after referred to as "MERC", located at 777 NE Martin Luther King Jr. Blvd., Portland, OR 97232 and Soderstrom Architects, P.C., referred to herein as "Contractor," for the Oregon Convention Center (OCC) Concession Facilities Upgrade Phase Two Project.

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

1. Duration. This Personal Services Agreement shall be effective May 27, 1997, and remain in effect until and including December 30, 1997, 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", otherwise referred to as the Contract Documents, which is incorporated into this Agreement by reference. All services and materials shall be provided by Contractor in accordance with the Contract Documents, in a competent and professional manner. To the extent that the Contract Documents contain additional contract provisions or waive any provision in the body of this Agreement, the Contract Documents shall control.

3. Payment. MERC shall pay Contractor for services performed and materials delivered as defined in the Scope of Work in accordance with Contractor's submittal of certification for work performed, for a maximum sum not to exceed the Contractor's Proposal Amount of Thirty Seven Thousand Dollars and no cents (\$37,000.00), unless this Agreement is amended by agreed upon "change order" in writing between Contractor and MERC, for an amount not to exceed limitations of MERC contract requirements.

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. MERC, its officials, departments, employees, and agents shall be named as ADDITIONAL INSURED. Notice of any material change or policy cancellation shall be provided to MERC 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 MERC 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 MERC a certificate of this insurance, and 30 days advance notice of material change or cancellation.

5. Indemnification. Contractor shall indemnify and hold MERC, 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 MERC 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 MERC 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 MERC 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 MERC, and it is agreed by the parties that such documents are works made for the copyright to all such documents.

8. Project Information. Contractor shall share all project information and fully cooperate with MERC, informing MERC 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 MERC.

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 MERC. Contractor shall provide all items necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified in the Contract Documents. 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 MERC.

10. Right to Withhold Payments. MERC shall have the right to withhold from payments due to Contractor such sums as necessary, in MERC's sole opinion, to protect MERC 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 385, and the recycling provisions of ORS 279.545 - 279.570, 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, MERC may terminate this Agreement by giving Contractor seven (7) 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 MERC 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.

SODERSTROM ARCHITECTS, P.C.

By: [Signature]

Title: PARTNER

Date: 5/29/97

MERC

By: [Signature]

Title: DIRECTOR

Date: 6/2/97