

**RESOLUTION NO. 1511**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GOLDEN AUTHORIZING THE EXECUTION OF A CONTRACT WITH THE FRIENDS OF THE ASTOR HOUSE MUSEUM AND CLEAR CREEK HISTORY PARK**

WHEREAS, the City of Golden City Council by Resolution 1014 approved a contract on July 22, 1999 with the Friends of the Astor House Museum and Clear Creek History Park (Friends); and

WHEREAS, the contract between the City and Friends was extended by Resolution 1457, and will currently expire on December 31, 2004; and


WHEREAS, City Council desires to approve a new four year contract with Friends..

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO:

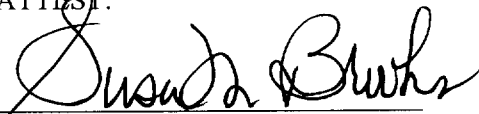
Section 1. City Council hereby approves the contract between the City and the Friends of the Astor House Museum and Clear Creek History Park for the period from January 1, 2005 through December 31, 2008, substantially in the form attached hereto.

Section 2. The Mayor is authorized to execute the contract on behalf of the City, subject to review and approval by the City Attorney.

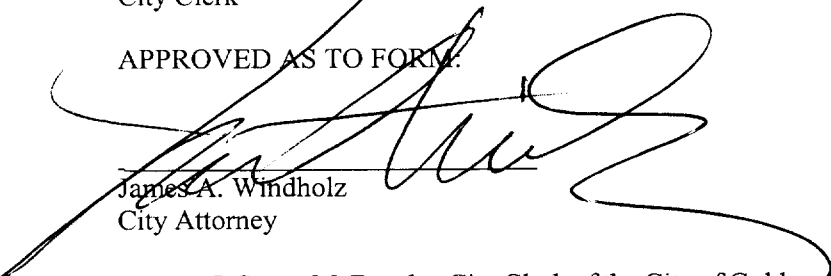
Adopted the 14th day of October, 2004.

  
\_\_\_\_\_  
Charles J Baroch  
Mayor

ATTEST:

  
\_\_\_\_\_  
Susan M. Brooks, MMC  
City Clerk


APPROVED AS TO FORM:

  
\_\_\_\_\_  
James A. Windholz  
City Attorney

I, Susan M. Brooks, City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing is a true copy of a certain Resolution adopted by the City Council of the City of Golden, Colorado at a regular meeting thereof held on the 14th day of October, A.D., 2004.

(SEAL)

ATTEST:

  
\_\_\_\_\_  
Susan M. Brooks, City Clerk of the City of Golden, Colorado

## AGREEMENT

THIS AGREEMENT is entered into by and between the City of Golden, Colorado, a municipal corporation ("City") and the Friends of the Astor House Museum ("AHM") and Clear Creek History Park ("CCHP"), a Colorado non-profit corporation ("Friends") effective the first day of January, 2005.

WHEREAS, the City is the owner of the following described real property and improvements thereon, said property hereinafter referred to as the Astor House and legally designated a Colorado Territorial Park by the City: Lot 9, Block 4, on the south side of Clear Creek, City of Golden, County of Jefferson, State of Colorado; and

WHEREAS, the City is the owner of the certain real property located north of Eleventh Street between Arapahoe Street and Maple Street known as Clear Creek History Park; and

WHEREAS, the City believes that the general welfare of the citizens of the City will be promoted through education, appreciation and understanding of the City's heritage by the preservation and historically accurate restoration of the improvements and grounds of the Astor House, and the operation of the Clear Creek History Park as a history based educational park; and

WHEREAS, the parties desire that Friends provide policy direction, fundraising assistance and general oversight, and that Friends delegates to the Executive Director (E.D) the responsibility to administer and manage programs, and to preserve and restore the Astor House as a historical hotel of the period 1867 to around the turn of the century, and the Clear Creek History Park as a history based educational park; and

THEREFORE, in consideration of the promises and covenants contained herein, the parties agree as follows:

1. Term. Friends shall be entrusted with the operation and management of the AHM and CCHP until December 31, 2008 or until this Agreement is extended or terminated as provided below. City Council may review Friends performance under this Agreement in January 2006, 2007, 2008. City Council may solicit reports from the City Historic Preservation Board to assist in the review of the Agreement. Upon such review, Council may ratify the terms of this Agreement, extend the Agreement under new terms as may be agreeable to both parties, or terminate this Agreement with or without cause. Any party shall have the right to terminate this Agreement upon 120 days written notice to the other party.
2. Friends of the Astor House Museum and Clear Creek History Park. The City intends the Friends to assist in providing direction for management of the two properties. The Friends Board of Directors will consist of a number of individuals as may be determined from time to time by the Board of Directors in accordance with the by-laws of the corporation. The Historic Preservation Board will be advised of the appointees. The

Friends Board is organized as an Internal Revenue Code Section 501(c)(3) organization and may accept grants and donations. The Articles of Incorporation and By-laws of the Organization are attached as Exhibit A. The duties of the Board will be to advise and assist the City as follows:

- a. To clarify the museum's missions
- b. To set and revise operational policies
- c. To be responsible for fundraising
- d. To oversee annual plans/ projects
- e. Define criteria to determine success or failure of the museums
- f. Ensure financial solvency
- g. Enhance public image for the museums
- h. Support and evaluate the performance of the Executive Director (ED)

The Friends Board will be empowered to accept donations of money for museum improvements and artifacts to be displayed as per artifact collection policy, or used for educational programs, and any other items supporting museum operations.

3. Use of Golden Landmarks Artifact Collection. The parties acknowledge that most of the current collection of artifacts housed at AHM and a small portion of the collection at CCHP are the property of the Golden Landmarks Association ("GLA"), which have been loaned to the city under the provisions of a separate Agreement between GLA and the City. Under that Agreement, Friends shall be responsible for the care and upkeep of said collection including participation in the yearly inventory, cataloging changes to the collection, condition reporting, determining displays and the removal of artifacts to storage, and routine cleaning and dusting by the biweekly general housekeeper. Those items contained in the collection are as detailed in the Inventory and Assessment to be completed according to the provisions of the agreement between GLA and the City. Any additions to the GLA collection to be housed at the two properties shall be subject to the prior approval of the City, Friends and the E.D.

4. Use of Other Historic Artifacts. Friends shall not accept long term (over one year) loans or permanent donations of artifacts for display or use in educational programs at the two properties, unless specifically authorized by the Friends Board and the City Manager when the estimated value of such donation exceeds \$5,000. Friends shall timely notify the City of any donation where the estimated value of the donation is \$5000 or greater. Any donations shall become the property of the City, upon authorization of the donation. Friends shall be responsible for the care and upkeep of said collections including cataloging changes to the collection, condition reporting, maintaining a computer database of the collection, determining displays and the removal of artifacts to storage, the deaccessioning of artifacts, and routine curation.

5. Management Responsibilities: During the term of this Agreement, Friends shall be responsible for the administration, program management, , preservation, and restoration of the two properties. Included within such responsibilities, shall be:

- a. Preparation and implementation of one year and five year business plans for development, operation, and improvement of the properties.
- b. Program planning and the implementation of comprehensive and coordinated educational and cultural appreciation activities (coordinated with other local attractions).
- c. Make recommendations for capital improvement and preservation of Astor House and Clear Creek History Park structures that will ensure the safety and proper care of cultural appreciation activities.
- d. Grant administration.
- e. Day-to-day operations of the properties, including public relations, and marketing
- f. Solicitation and coordination of volunteer efforts.
- g. The preparation and adequate public notice of scheduled uses of the properties by the general public and special groups or organizations, the establishment and adequate public notice of the fee and rental schedules for the aforementioned uses, and the establishment and public notice of rules regulating the aforementioned uses.

6. Use of Premises:

Friends and the E.D. agree to use and occupy the properties in a careful, safe, and proper manner, and that it will not use or permit such premises to be used for any purposes prohibited by the laws of the United States, the State of Colorado, the County of Jefferson, or the City of Golden. Friends will not intentionally use or keep any substance or material in or about the premises which may vitiate or endanger the validity of the insurance on the premises or buildings, or increase the premiums for such insurance. The parties recognize that the educational programs at the Clear Creek History Park may include the use of wood burning appliances, controlled open fires, and the operation of a blacksmith shop. Friends will not permit any nuisance upon such premises.

7. Museum Goals. The Astor House Museum and Clear Creek History Park are an integral part of the Golden community's efforts to promote the appreciation and understanding of the cultural and historic heritage of the area. The goals for these two museums shall be to:

- a. Tell a story of our past, through:
  - 1. Accurate interpretation of history
  - 2. Promoting interest and awareness of historic preservation
  - 3. Encouraging heritage tourism
  - 4. Experiential education that relates the past to today
  - 5. Preservation of historic resources
  - 6. Community participation and volunteerism
  - 7. Partnerships with other preservation entities
  - 8. Contributions to regional historic efforts
  - 9. Promoting the sense of community that Golden residents identify as an integral part of community character
  - 10. Increased attendance and support for museums and activities
- b. Be financially stable, professionally managed facilities.
- c. Be accessible to the community both weekends and weekdays, and for reasonable hours.

8. Business Plan - Performance Evaluation. In March of each year that this agreement is effective, the Friends Board shall submit to the City a financial statement of the prior year, signed off as to accuracy by the Executive Director, President or Chair of the Board, and Treasurer of the Board of Friends. In September of each year that this Agreement is effective, the Friends Board shall submit to the City an annual budget for the next calendar year, and the current multi-year business plan for the operation of the museum. The annual budget shall include all projected revenues and expenditures for the operation of the museum, and preservation and enhancement of the collection of artifacts to be used therein. The annual budget, business plan and updates will be submitted to the City appointed Historic Preservation Board for review and recommendations to City Council. The Historic Preservation Board review shall primarily evaluate the facility operation, educational programming, and business planning. The initial 2005 through 2008 Business Plans are attached as Exhibit A.

9. City Services Provided

a. Astor House Museum: The city is responsible for the maintenance of the basic mechanical plumbing, heating and electrical systems; general insurance on the property, fixtures and artifacts both owned by the City and on loan; structural repairs other than those necessitated by the negligence of Friends; reasonable utility charges including gas, electric, trash removal, water and sewer, routine grounds maintenance, snow removal, irrigation system maintenance, internal environmental control and the monthly cost of the existing security system. Friends will be responsible for telephone systems upkeep and cost, as well as any heritage garden planting and garden maintenance.

b. Clear Creek History Park: The City is responsible for the maintenance of the basic mechanical plumbing, heating and electrical and electrical systems; general insurance on the property, fixtures and artifacts both owned by the City and on loan; structural repairs other than those necessitated by the negligence of Friends; reasonable utility charges including gas, electric, trash removal, water and sewer, routine grounds maintenance, snow removal, irrigation system maintenance, and the monthly cost of the existing security system for all the buildings, structures, fences and paths at the History Park. Friends will be responsible for telephone systems upkeep and cost, as well as any heritage garden planting and garden maintenance.

c. The City Facilities Manager shall have the right at any time to enter the premises and any structures thereon to examine and inspect same to determine the safety thereof. In September, there will be an annual joint inspection of both the Astor House Museum and Clear Creek History Park by Friends' staff and City Planning Department and Facilities staff to inspect both properties direct, order, cause or make such repairs, additions or alterations as it may deem necessary for proper safety or improvements thereof; provided that such repairs, additions and alterations are consistent with the Friends' preservation and restoration of the premises. Friends shall be responsible for obtaining such insurance as it may desire in conjunction with personal property owned by Friends.

10. Employees. Friends shall have complete authority over, and responsibility for, any and all of its employees working on the premises, including the hiring, firing and payment of adequate compensation. The City will have no authority over, or be responsible for, such employees. Notwithstanding the above, any employees working at the two properties will undergo background investigations and drug screening by the city, prior to the start of work at the two properties.

11. Assignment. Friends will not assign this Agreement or any interest therein, without the written consent of the City.

12. Revenues. Friends, through delegation to the E.D., shall be responsible for collecting all admittance fees, rental fees, and use fees of the AHM and CCHP. All revenues will be used for site operations and improvements. Friends shall include an annual report with respect to revenues generated by the two properties in the annual audited financial statement, budget and business plan update

13. Concessions. Friends may maintain concession facilities on the premises, if such facilities sell or dispense items consistent with historical purposes for the two properties, as determined by the City, and as recommended by the Friends.

14. Compensation for Astor House Museum. Subject to annual appropriation by the City for the year 2005 the total aggregate management fee shall be \$5,521 per month.

Subject to annual appropriation, the City will make every effort consistent with sound citywide budgeting practices to increase such funding as follows. For the years 2006 the total aggregate management fee, subject to annual appropriation, shall be \$ 6,100 per month. For the years 2007 the total aggregate management fee, subject to annual appropriation, shall be \$ 6,342 per month. For the years 2008 the total aggregate management fee, subject to annual appropriation, shall be \$6,596 per month.

Compensation for the Clear Creek History Park. Subject to annual appropriation by the City, for the year 2005, the total aggregate management fee shall be \$5,521 per month.

Subject to annual appropriation, the City will make every effort consistent with sound citywide budgeting practices to increase such funding as follows. For 2006 the total aggregate management fee, subject to annual appropriation, shall be \$ 6,100 per month. For the years 2007 the total aggregate management fee, subject to annual appropriation, shall be \$6,342 per month. For the years 2008 the total aggregate management fee subject to annual appropriation shall be \$6,596 per month.

If City General Fund revenues fall more than 4% below budget projections, and City Departments are directed by the City Manager to reduce annual expenditures by a specific percentage, compensation under this contract for subsequent quarters will be reduced by a similar percentage, until such City departments are provided alternate direction or the completion of the fiscal year. Adjustments to annual compensation based upon revenue shortfalls shall be handled as part of the annual City budget approval process. To ensure effective planning, the City Finance Department will give Friends monthly sales tax updates of revenues and projections. Also, the City Finance Director will make every attempt to give Friends more than a 30 days notice in writing if their contracted compensation will be adjusted and the amount of that adjustment, so that Friends can anticipate financial modifications.

15. Termination. Upon Termination of this Agreement, all of the responsibilities and duties of the Friends and concerning the Astor House and Clear Creek History Park shall cease immediately, and the Friends may remove all personal property on the premises which the Friends owns. Any financial assets of the Friends Board shall be immediately turned over to the city upon notice by any party of Termination. Notwithstanding anything herein to the contrary, upon termination of this Agreement, any unspent Scientific and Cultural Facilities District grant funds shall be turned over to the Jefferson County Cultural Council immediately upon notice by any party of termination. Furthermore, any other unspent monies held by Friends as received from other grantors shall be returned to those grantors. All files and information related to artifacts owned or on loan to GLA or the Friends Board shall be turned over to the City. The management fee, according to paragraph 14, shall be paid until the effective date of termination. Upon termination any prior payments for periods after the date of termination shall be returned to the City.

16. Insurance. Friends shall provide a Certificate of General Liability Insurance with the City named as an additional insured, with minimum coverage of \$1,000,000 combined/single limit. The City will carry the following insurance for Friends - Landlord Liability, and Building Coverage and Contents, including the GLA collection. City-owned artifacts and artifacts under the City's responsibility and care are included on the insured property list and covered for loss with the stated deductible. If they so desire, Friends will also carry Board of Director's insurance and Property insurance for items owned by Friends (such as education collections, computers, and office equipment).

The anticipated 2005 cost of the Board of Directors insurance and Property insurance is \$2000 and shall be paid by Friends. Friends will continue to provide a Certificate of Worker's Compensation Coverage for their employees, as required by law. Upon presentation of proof of such required insurance and payment of premiums, the City will reimburse such costs up to \$1,000 for each year that this Agreement is in place.

17. Indemnification. The City, to the extent allowed by the City's Charter and Colorado law, and without waiving any of the provisions of the Colorado Governmental Immunity Act, and Friends agree to indemnify and hold harmless each other, their officers, employees, insurers, and self-insurance pool from and against all liability, claims, and demands, on account of injury, loss, or damage, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, its' act, omission, negligence, or other fault.

18. Entire Agreement. The parties acknowledge that this Agreement constitutes the entire Agreement between the parties. This agreement is intended to supersede and replace all prior agreements between the parties with respect to the AHM, CCHP, and Museum Management, Inc, whose part in the previous contractual agreement involving the City of Golden and Friends is null and void.



This Agreement has been executed the day and year first above written

FRIENDS OF THE ASTOR HOUSE MUSEUM AND CLEAR CREEK HISTORY  
PARK

By:

President

ATTEST:

By:

CITY OF GOLDEN

By:

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By:

City Clerk

Approved as to Form:

By:

City Attorney