

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO CODE ) Ordinance No. 09-1221C  
CHAPTER 6.01 REGARDING THE MERC GENERAL )  
MANAGER AND DECLARING AN EMERGENCY ) Introduced by Councilor Park and  
) Councilor Burkholder

WHEREAS, in 2000, the voters of the Portland region approved changes to Metro’s charter that improved the efficiency and accountability of regional government by providing direct elected-official oversight of senior staff members; and

WHEREAS, the change in governance at Metro created efficiencies, and improved accountability and transparency; and

WHEREAS, the facilities operated by the Metropolitan Exposition and Recreation Commission – the Oregon Convention Center, the Portland Center for the Performing Arts and the Portland Metropolitan Exposition Center require an annual budget of approximately \$40 million; and

WHEREAS, the value of the assets under MERC management total half of \$1 billion; and

WHEREAS, the elected members of the Metro Council ultimately are responsible for the fiscal management and health of the regional facilities managed by the Metropolitan Exposition and Recreation Commission; and

WHEREAS, the expertise of private citizens, working as a volunteer commission, provides valuable advice and direction on the management of enterprise-based facilities; and

WHEREAS, the members of the Metro Council continually seek improvements in the efficiency and effectiveness in the management of the facilities and programs under its control; now therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Chapter 6.01 of the Metro Code is hereby amended as set forth below:

- 1. Metro Code Chapter 6.01.020 “Definitions” is amended to add the following subsection (f):
  - (f) “MERC General Manager” means the chief administrative officer of the Commission or any other position employed by the Commission that directly reports to the Commission.
- 2. Metro Code Chapter 6.01.040 Powers is hereby amended as follows [new provisions underlined]:

The commission shall have the following power and authority: . . .

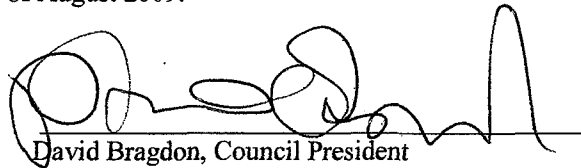
- (h) To employ, manage, and terminate such personnel as the commission may find necessary, appropriate, or convenient for its purposes under personnel rules adopted by the commission. Notwithstanding the foregoing, however, the Metro Chief Operating Officer shall employ, manage, and terminate the General

Manager. Neither the Metro Council nor any of its members shall direct or request the appointment of any person to, or removal from, office by the General Manager or any of the General Manager's subordinates.


And the Metro Council Also Ordains that:

3. Emergency Clause. This Ordinance being necessary for the health, safety, or welfare of the Metro area, for the reason that ~~a new fiscal year begins July 1, 2009, and~~ there is a need for the ~~Metro Council Chief Operating Officer~~ to have a role in the employment of the MERC General Manager immediately, an emergency is declared to exist and this Ordinance shall take effect immediately, pursuant to Metro Charter Section 39(1).

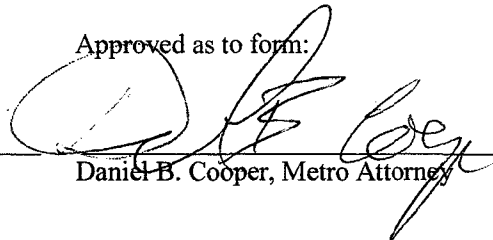
ADOPTED by the Metro Council this 13 day of August 2009.

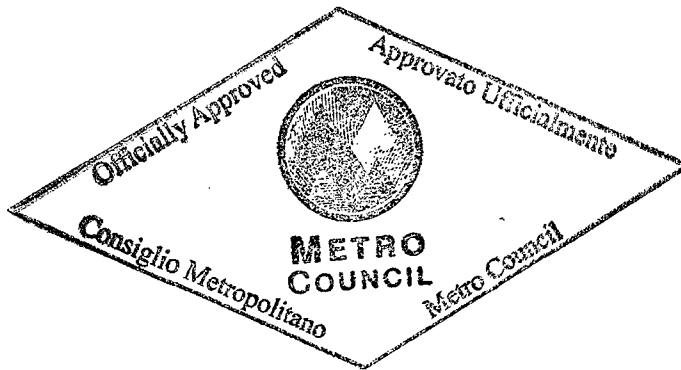
  
David Bragdon, Council President

Attest:

  
Tony Andersen, Recording Secretary

Approved as to form:

  
Daniel B. Cooper, Metro Attorney



TITLE VI

COMMISSIONS

CHAPTERS	TITLE
6.01	Metropolitan Exposition-Recreation Commission

CHAPTER 6.01

METROPOLITAN EXPOSITION-RECREATION COMMISSION

SECTIONS	TITLE
6.01.010	Purpose
6.01.020	Definitions
6.01.030	Commission Created
6.01.040	Powers
6.01.050	Budget and Accounts
6.01.060	Commission Meetings
6.01.070	Delegation
6.01.080	Filing and Effective Date of Commission Resolutions
6.01.090	Initial Charge to Commission (repealed Ord. 97-677B §3)
6.01.100	Commission Business Plans

6.01.010 Purpose

The purpose of this chapter is to establish a metropolitan commission to renovate, maintain, operate, and manage metropolitan convention, trade and spectator facilities pursuant to the Metro Charter. The commission established by this chapter is intended by the Metro Council to operate in a cost effective, independent, entrepreneurial and accountable manner, so as to provide the greatest benefit to the residents of the Metro region. The provisions of this chapter shall therefore be liberally construed so as to achieve these ends. The commission is subject to the authority of the Metro Auditor to perform the duties of that office.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 02-975, Sec. 1.)

6.01.020 Definitions

As used herein:

- (a) "Commission" means the Metropolitan Exposition-Recreation Commission established hereunder;
- (b) "Council" means the Metro Council;
- (c) "Councilor" means a member of the Council;
- (d) "Council President" means the Council President of Metro;

(e) "Metro Auditor" means the Office of Metro Auditor created pursuant to the Metro Charter;

(f) "MERC General Manager" means the chief administrative officer of the Commission or any other position employed by the Commission that directly reports to the Commission.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 09-XXXX; Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; Ordinance No. 02-975, Sec. 1.)

6.01.030 Commission Created

There is hereby created a Metropolitan Exposition-Recreation Commission consisting of seven (7) members. All members shall be residents of Metro.

(a) The Council President will make all appointments.

(b) The Council President may reject a nomination. Appointments of all members are subject to confirmation by the Metro Council.

(c) All members shall serve four (4) year-terms. Members may be re-appointed. Prior to December 31, 2001, a member may serve until the successor is confirmed; thereafter, upon the expiration of a term, the position shall be considered vacant until a member is appointed or re-appointed and confirmed.

(d) Nomination Process. The Council President will accept nominations to the commission as follows:

- (1) The County Commissions of Clackamas, Multnomah and Washington counties each shall nominate one (1) candidate. The candidates must be residents of the district and nominating county.
- (2) The City Council of the City of Portland shall nominate one (1) candidate for each of two (2) positions. The candidates must be residents of Metro and the City of Portland.
- (3) Two (2) nominees shall be at the sole discretion of the Council President. The candidates must be residents of Metro.

(e) Appointment Process.

- (1) For those positions on the commission which are subject to nomination by a local governmental

body, the Council President will receive the nominations from the relevant governing body and review the nomination prior to submitting the nomination to the Metro Council for confirmation. If the Council President fails to concur with any candidate so nominated by a local government, the Council President shall so notify the jurisdiction, which shall then nominate another candidate. This process shall continue until such time as the Council President agrees to transmit the name of the individual nominated by the local government. If an appointment submitted to the Council for confirmation as a result of this process is rejected by the Council, the Council President shall so notify the local government which shall nominate another candidate and the process shall continue until such time as a candidate nominated by a local government has been forwarded by the Council President to the Council for confirmation and has been confirmed.

- (2) If the Council fails to confirm an appointment made at the sole discretion of the Council President, the Council President may submit the name of another person for confirmation by the Council.

(f) A vacancy shall occur from the death, resignation, failure to continue residency within Metro and in the case of members nominated by a local government residency within the boundaries of the nominating government, or inability to serve of any member or from the removal of a member by the Council President, subject to approval of the removal by a majority of the members of the Council.

(g) Vacancies shall be filled pursuant to the procedure governing the initial appointment of members. A vacancy occurring prior to the expiration of a term shall be filled only until the end of the term.

(h) No person who is elected to a public office, or appointed to fill a vacancy in a public office, shall be eligible to serve.

(i) The commission may adopt its own rules of organization and procedure and may elect its own officers for such terms and with such duties and powers necessary for the performance of the functions of such offices as the commission determines appropriate.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 89-325, Sec. 1; Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; Ordinance No. 02-975, Sec. 1.)

6.01.040 Powers

The commission shall have the following power and authority:

(a) To renovate, equip, maintain and repair any convention, trade, and spectator buildings and facilities for which the commission is responsible, and to advise the public owners of these facilities on financial measures which may be necessary or desirable with respect to initial construction or major capital projects;

(b) To manage, operate and market the use of the convention, trade, and spectator buildings and facilities for which the commission is responsible;

(c) To acquire in the name of Metro by purchase, devise, gift, or grant real and personal property or any interest therein as the commission may find necessary for its purposes. The commission may recommend to the Council the condemnation of property for use by the commission but may not itself exercise the condemnation power;

(d) To lease and dispose of property in accordance with ORS 271.300 to 271.360;

(e) To maintain and repair any real and personal property acquired for the purposes of the commission;

(f) To lease, rent, and otherwise authorize the use of its buildings, structures and facilities; to fix fees and charges relating to the use of said buildings, structures and facilities; to establish any other terms and conditions governing use of its buildings and facilities; and to adopt any regulations deemed necessary or appropriate for the protection of users and for the protection and public use and enjoyment of its buildings and facilities;

(g) To perform planning and feasibility studies for convention, trade, and spectator facilities within Metro;

(h) To employ, manage, and terminate such personnel as the commission may find necessary, appropriate, or convenient for its purposes under personnel rules adopted by the commission.

Notwithstanding the foregoing, however, the Metro Chief Operating Officer shall employ, manage, and terminate the General Manager.

Neither the Metro Council nor any of its members shall direct or

request the appointment of any person to, or removal from, office by the General Manager or any of the General Manager's subordinates;

(i) To employ professional, technical, and other assistance as the commission may find necessary, appropriate, or convenient for its purposes;

(j) To enter into contracts of such types and in such amounts, including intergovernmental agreements, as the commission may deem necessary, appropriate, or convenient for the renovation, equipment, maintenance, repair, operation, and marketing of the use of buildings and facilities for which it is responsible, and for professional and other services, under contracting rules adopted by the commission;

(k) To enter into intergovernmental agreements for the transfer of convention, trade, or spectator buildings and facilities to Metro, or for the transfer of operating and administrative responsibilities for such buildings and facilities to the commission, provided that the Council has approved such acquisition or transfer;

(l) To accept gifts and donations and to contract for and receive federal and other aid and assistance;

(m) To determine the type, quality, and scope of services required by the commission in order to conduct its business in a cost effective, entrepreneurial, and independent manner, as required by this chapter. Services of Metro including accounting, personnel, risk management, public affairs, and other services shall be provided by Metro subject to compensation being provided by the commission to Metro. The commission may acquire such services by other means, provided that the Council determines by duly adopted resolution that the provision of such services by other means is cost effective and results in a net benefit to the residents of Metro and the regional facilities managed by the commission. The commission's legal services shall be provided to the commission by the Metro Attorney. The commission may purchase legal services outside of Metro only with the permission of the Metro Attorney;

(n) To recommend to the Council and to the other public owners of buildings and facilities managed by the commission such long-term revenue and general obligation measures and other revenue-raising measures for the benefit of the commission's purposes as the commission may deem appropriate for consideration by the Council, by the other public owners of buildings or facilities managed by the commission, or the electors of Metro, but the commission may not adopt such measures itself;



(o) To recommend to the Council the adoption of ordinances carrying criminal and civil penalties for their violation, but the commission may not adopt such ordinances itself;

(p) To do all other acts and things necessary, appropriate, or convenient to the exercise of the powers of the commission.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec 1; Ordinance No. 02-975, Sec. 1.)

6.01.050 Budget and Accounts

(a) General Requirements. The commission accounts shall be kept in conformity with generally accepted accounting practices and in accordance with the local budget law, provided that the local budget law shall control in the event of a conflict with generally accepted accounting practices, and the accounts shall be audited yearly at the same time and by the same auditor as are Metro's accounts.

(b) Procedure for Commission Approval of Proposed Budget. The commission annually shall prepare a proposed budget and shall approve the proposed budget by duly adopted resolution. The commission's deliberations and actions on its budget, including any work sessions or subcommittee sessions, shall be conducted as public meetings as required by the Oregon statutes governing public meetings. Prior to approving any proposed budget, the commission shall provide a reasonable opportunity for interested persons to testify and make their views known with respect to the proposed budget. The commission shall include in its budget necessary cost allocations for services provided by Metro as recommended by the Chief Operating Officer.

(c) Procedure for Submission of Commission Budget to Metro. The commission shall transmit its proposed budget to the Metro Chief Operating Officer at the same time that Metro departments do so. The Chief Operating Officer shall review the submitted budget and submit the commission's proposed budget to the Council with the Chief Operating Officer's general budget submission to the Council, together with any recommendations the Chief Operating Officer may have for changes in the commission's proposed budget. The Chief Operating Officer shall include in the submitted budget the necessary cost allocation for providing services to the commission. The commission's budget shall be subject to review and approval by the Council. The Council shall make the final determination of cost allocations for services provided by Metro.

(d) Content of Commission's Budget. To the maximum extent permitted by law, the commission's budget shall consist of one commission-wide series of appropriations in those categories which are required by local budget law, applicable to all buildings, facilities, and programs managed by the commission. Once the commission's budget has been adopted by the Council, any changes in the adopted appropriations not previously approved by the Council must be ratified in advance by the Council.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; Ordinance No. 02-975, Sec. 1; Ordinance No. 07-1164A, Sec. 5.)

6.01.060 Commission Meetings

All meetings of the commission shall be conducted as public meetings as required by Oregon law, except where executive sessions are permitted by law. The commission shall provide adequate notice of its meetings as required by law. All Metro elected officials shall receive notice of all meetings in the same form, manner and substance given to all commission members.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1.)

6.01.070 Delegation

The commission may delegate to its employees any of the power and authority of the commission subject to those limitations the commission deems appropriate. Any delegation shall be by resolution of the commission.

(Ordinance No. 87-225, Sec. 1.)

6.01.080 Filing and Effective Date of Commission Resolutions

(a) Within five (5) days after the passage of any resolution, the commission shall file a copy of the resolution with the Council Clerk, or such other officer as the Council may designate, who shall maintain a special record of the commission's resolutions which shall be accessible to the public under like terms as the ordinances of Metro. The Council Clerk or such other officer as the Council may designate shall immediately notify the Council of the receipt of the resolution.

(b) Resolutions of the commission shall be effective upon adoption or at such other time as specified by the commission.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 02-975, Sec. 1.)

6.01.100 Commission Business Plans

(a) The commission shall prepare business plans for each of its facilities and shall update those plans as needed. The commission shall provide all Metro elected officials with copies of its business plans.

(b) The commission regularly shall report to the Council. Such reports shall occur as directed by the Council, but in no event less than quarterly.

(c) The commission shall, on an annual basis, set goals and benchmarks for the performance of the buildings, facilities and services managed by the commission. Such goals and benchmarks shall be discussed in public meetings with reasonable opportunity for public input and shall be adopted by duly adopted resolutions of the commission. Copies of proposed goals and benchmarks shall be provided to all Metro elected officials no later than ten (10) working days prior to formal adoption by the commission. The commission shall include in its quarterly reports to the Council progress reports on the commission's progress towards meeting its adopted goals and benchmarks.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; Ordinance No. 02-975, Sec. 1.)

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CHAPTER 6.01 REGARDING THE MERC GENERAL )  
MANAGER AND DECLARING AN EMERGENCY ) Introduced by Councilor Park and  
Councilor Burkholder

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WHEREAS, the change in governance at Metro created efficiencies, and improved accountability and transparency; and

WHEREAS, the facilities operated by the Metropolitan Exposition and Recreation Commission – the Oregon Convention Center, the Portland Center for the Performing Arts and the Portland Metropolitan Exposition Center require an annual budget of approximately \$40 million; and

WHEREAS, the value of the assets under MERC management total half of \$1 billion; and

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2. Metro Code Chapter 6.01.040 Powers is hereby amended as follows [new provisions underlined]:

The commission shall have the following power and authority: . . .

- (h) To employ, manage, and terminate such personnel as the commission may find necessary, appropriate, or convenient for its purposes under personnel rules adopted by the commission. Notwithstanding the foregoing, however, the Metro Chief Operating Officer must approve of the General Manager’s initial hiring and

any employment contract. Employment of the General Manager may be terminated by either the Commission or the Chief Operating Officer. Neither the Metro Council nor any of its members shall direct or request the appointment of any person to, or removal from, office by the General Manager or any of the General Manager's subordinates.

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ADOPTED by the Metro Council this \_\_\_\_\_ day of July 2009.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to form:

\_\_\_\_\_  
Tony Andersen, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

TITLE VI

COMMISSIONS

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(g) Vacancies shall be filled pursuant to the procedure governing the initial appointment of members. A vacancy occurring prior to the expiration of a term shall be filled only until the end of the term.

(h) No person who is elected to a public office, or appointed to fill a vacancy in a public office, shall be eligible to serve.

(i) The commission may adopt its own rules of organization and procedure and may elect its own officers for such terms and with such duties and powers necessary for the performance of the functions of such offices as the commission determines appropriate.

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(a) To renovate, equip, maintain and repair any convention, trade, and spectator buildings and facilities for which the commission is responsible, and to advise the public owners of these facilities on financial measures which may be necessary or desirable with respect to initial construction or major capital projects;

(b) To manage, operate and market the use of the convention, trade, and spectator buildings and facilities for which the commission is responsible;

(c) To acquire in the name of Metro by purchase, devise, gift, or grant real and personal property or any interest therein as the commission may find necessary for its purposes. The commission may recommend to the Council the condemnation of property for use by the commission but may not itself exercise the condemnation power;

(d) To lease and dispose of property in accordance with ORS 271.300 to 271.360;

(e) To maintain and repair any real and personal property acquired for the purposes of the commission;

(f) To lease, rent, and otherwise authorize the use of its buildings, structures and facilities; to fix fees and charges relating to the use of said buildings, structures and facilities; to establish any other terms and conditions governing use of its buildings and facilities; and to adopt any regulations deemed necessary or appropriate for the protection of users and for the protection and public use and enjoyment of its buildings and facilities;

(g) To perform planning and feasibility studies for convention, trade, and spectator facilities within Metro;

(h) To employ, manage, and terminate such personnel as the commission may find necessary, appropriate, or convenient for its purposes under personnel rules adopted by the commission.

Notwithstanding the foregoing, however, the Metro Chief Operating Officer must approve of the General Manager's initial hiring and any employment contract. Employment of the General Manager may

be terminated by either the Commission or the Chief Operating Officer. Neither the Metro Council nor any of its members shall direct or request the appointment of any person to, or removal from, office by the General Manager or any of the General Manager's subordinates;

(i) To employ professional, technical, and other assistance as the commission may find necessary, appropriate, or convenient for its purposes;

(j) To enter into contracts of such types and in such amounts, including intergovernmental agreements, as the commission may deem necessary, appropriate, or convenient for the renovation, equipment, maintenance, repair, operation, and marketing of the use of buildings and facilities for which it is responsible, and for professional and other services, under contracting rules adopted by the commission;

(k) To enter into intergovernmental agreements for the transfer of convention, trade, or spectator buildings and facilities to Metro, or for the transfer of operating and administrative responsibilities for such buildings and facilities to the commission, provided that the Council has approved such acquisition or transfer;

(l) To accept gifts and donations and to contract for and receive federal and other aid and assistance;

(m) To determine the type, quality, and scope of services required by the commission in order to conduct its business in a cost effective, entrepreneurial, and independent manner, as required by this chapter. Services of Metro including accounting, personnel, risk management, public affairs, and other services shall be provided by Metro subject to compensation being provided by the commission to Metro. The commission may acquire such services by other means, provided that the Council determines by duly adopted resolution that the provision of such services by other means is cost effective and results in a net benefit to the residents of Metro and the regional facilities managed by the commission. The commission's legal services shall be provided to the commission by the Metro Attorney. The commission may purchase legal services outside of Metro only with the permission of the Metro Attorney;

(n) To recommend to the Council and to the other public owners of buildings and facilities managed by the commission such long-term revenue and general obligation measures and other revenue-raising measures for the benefit of the commission's purposes as the commission may deem appropriate for consideration by the Council, by the other public owners of buildings or

facilities managed by the commission, or the electors of Metro, but the commission may not adopt such measures itself;

(o) To recommend to the Council the adoption of ordinances carrying criminal and civil penalties for their violation, but the commission may not adopt such ordinances itself;

(p) To do all other acts and things necessary, appropriate, or convenient to the exercise of the powers of the commission.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec 1; Ordinance No. 02-975, Sec. 1.)

6.01.050 Budget and Accounts

(a) General Requirements. The commission accounts shall be kept in conformity with generally accepted accounting practices and in accordance with the local budget law, provided that the local budget law shall control in the event of a conflict with generally accepted accounting practices, and the accounts shall be audited yearly at the same time and by the same auditor as are Metro's accounts.

(b) Procedure for Commission Approval of Proposed Budget. The commission annually shall prepare a proposed budget and shall approve the proposed budget by duly adopted resolution. The commission's deliberations and actions on its budget, including any work sessions or subcommittee sessions, shall be conducted as public meetings as required by the Oregon statutes governing public meetings. Prior to approving any proposed budget, the commission shall provide a reasonable opportunity for interested persons to testify and make their views known with respect to the proposed budget. The commission shall include in its budget necessary cost allocations for services provided by Metro as recommended by the Chief Operating Officer.

(c) Procedure for Submission of Commission Budget to Metro. The commission shall transmit its proposed budget to the Metro Chief Operating Officer at the same time that Metro departments do so. The Chief Operating Officer shall review the submitted budget and submit the commission's proposed budget to the Council with the Chief Operating Officer's general budget submission to the Council, together with any recommendations the Chief Operating Officer may have for changes in the commission's proposed budget. The Chief Operating Officer shall include in the submitted budget the necessary cost allocation for providing services to the commission. The commission's budget shall be subject to review and approval by the Council. The Council shall

make the final determination of cost allocations for services provided by Metro.

(d) Content of Commission's Budget. To the maximum extent permitted by law, the commission's budget shall consist of one commission-wide series of appropriations in those categories which are required by local budget law, applicable to all buildings, facilities, and programs managed by the commission. Once the commission's budget has been adopted by the Council, any changes in the adopted appropriations not previously approved by the Council must be ratified in advance by the Council.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; Ordinance No. 02-975, Sec. 1; Ordinance No. 07-1164A, Sec. 5.)

6.01.060 Commission Meetings

All meetings of the commission shall be conducted as public meetings as required by Oregon law, except where executive sessions are permitted by law. The commission shall provide adequate notice of its meetings as required by law. All Metro elected officials shall receive notice of all meetings in the same form, manner and substance given to all commission members.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1.)

6.01.070 Delegation

The commission may delegate to its employees any of the power and authority of the commission subject to those limitations the commission deems appropriate. Any delegation shall be by resolution of the commission.

(Ordinance No. 87-225, Sec. 1.)

6.01.080 Filing and Effective Date of Commission Resolutions

(a) Within five (5) days after the passage of any resolution, the commission shall file a copy of the resolution with the Council Clerk, or such other officer as the Council may designate, who shall maintain a special record of the commission's resolutions which shall be accessible to the public under like terms as the ordinances of Metro. The Council Clerk or such other officer as the Council may designate shall immediately notify the Council of the receipt of the resolution.

(b) Resolutions of the commission shall be effective upon adoption or at such other time as specified by the commission.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 02-975, Sec. 1.)

6.01.100 Commission Business Plans

(a) The commission shall prepare business plans for each of its facilities and shall update those plans as needed. The commission shall provide all Metro elected officials with copies of its business plans.

(b) The commission regularly shall report to the Council. Such reports shall occur as directed by the Council, but in no event less than quarterly.

(c) The commission shall, on an annual basis, set goals and benchmarks for the performance of the buildings, facilities and services managed by the commission. Such goals and benchmarks shall be discussed in public meetings with reasonable opportunity for public input and shall be adopted by duly adopted resolutions of the commission. Copies of proposed goals and benchmarks shall be provided to all Metro elected officials no later than ten (10) working days prior to formal adoption by the commission. The commission shall include in its quarterly reports to the Council progress reports on the commission's progress towards meeting its adopted goals and benchmarks.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; Ordinance No. 02-975, Sec. 1.)

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO CODE ) Ordinance No. 09-1221A  
CHAPTER 6.01 REGARDING THE MERC GENERAL )  
MANAGER AND DECLARING AN EMERGENCY ) Introduced by Councilor Park and  
Councilor Burkholder

WHEREAS, in 2000, the voters of the Portland region approved changes to Metro’s charter that improved the efficiency and accountability of regional government by providing direct elected-official oversight of senior staff members; and

WHEREAS, the change in governance at Metro created efficiencies, and improved accountability and transparency; and

WHEREAS, the facilities operated by the Metropolitan Exposition and Recreation Commission – the Oregon Convention Center, the Portland Center for the Performing Arts and the Portland Metropolitan Exposition Center require an annual budget of approximately \$40 million; and

WHEREAS, the value of the assets under MERC management total half of \$1 billion; and

WHEREAS, the elected members of the Metro Council ultimately are responsible for the fiscal management and health of the regional facilities managed by the Metropolitan Exposition and Recreation Commission; and

WHEREAS, the expertise of private citizens, working as a volunteer commission, provides valuable advice and direction on the management of enterprise-based facilities; and

WHEREAS, the members of the Metro Council continually seek improvements in the efficiency and effectiveness in the management of the facilities and programs under its control; now therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Chapter 6.01 of the Metro Code is hereby amended as set forth below:

1. Metro Code Chapter 6.01.020 “Definitions” is amended to add the following subsection (f):
  - (f) “MERC General Manager” means the chief administrative officer of the Commission or any other position employed by the Commission that directly reports to the Commission.
2. Metro Code Chapter 6.01.040 Powers is hereby amended as follows [new provisions underlined]:

The commission shall have the following power and authority: . . .

- (h) To employ, manage, and terminate such personnel as the commission may find necessary, appropriate, or convenient for its purposes under personnel rules adopted by the commission. Notwithstanding the foregoing, however, the Metro Council must vote to approve of the General Manager’s initial hiring;

continuation of employment beyond August 1 of any year; termination; and compensation including, but not limited to, the salary and any salary changes or performance incentive payments. Neither the Metro Council nor any of its members shall direct or request the appointment of any person to, or removal from, office by the General Manager or any of the General Manager's subordinates.

And the Metro Council Also Ordains that:

3. Emergency Clause. This Ordinance being necessary for the health, safety, or welfare of the Metro area, for the reason that ~~a new fiscal year begins July 1, 2009, and~~ there is a need for the Metro Council to have a role in the employment of the MERC General Manager immediately, an emergency is declared to exist and this Ordinance shall take effect immediately, pursuant to Metro Charter Section 39(1).

ADOPTED by the Metro Council this \_\_\_\_\_ day of June 2009.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to form:

\_\_\_\_\_  
Tony Andersen, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney



**Exhibit A to Ordinance No. 09-1221A**

TITLE VI

COMMISSIONS

CHAPTERS	TITLE
6.01	Metropolitan Exposition-Recreation Commission

**Exhibit A to Ordinance No. 09-1221A**

CHAPTER 6.01

METROPOLITAN EXPOSITION-RECREATION COMMISSION

SECTIONS	TITLE
6.01.010	Purpose
6.01.020	Definitions
6.01.030	Commission Created
6.01.040	Powers
6.01.050	Budget and Accounts
6.01.060	Commission Meetings
6.01.070	Delegation
6.01.080	Filing and Effective Date of Commission Resolutions
6.01.090	Initial Charge to Commission (repealed Ord. 97-677B §3)
6.01.100	Commission Business Plans

6.01.010 Purpose

The purpose of this chapter is to establish a metropolitan commission to renovate, maintain, operate, and manage metropolitan convention, trade and spectator facilities pursuant to the Metro Charter. The commission established by this chapter is intended by the Metro Council to operate in a cost effective, independent, entrepreneurial and accountable manner, so as to provide the greatest benefit to the residents of the Metro region. The provisions of this chapter shall therefore be liberally construed so as to achieve these ends. The commission is subject to the authority of the Metro Auditor to perform the duties of that office.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 02-975, Sec. 1.)

6.01.020 Definitions

As used herein:

- (a) "Commission" means the Metropolitan Exposition-Recreation Commission established hereunder;
- (b) "Council" means the Metro Council;
- (c) "Councilor" means a member of the Council;
- (d) "Council President" means the Council President of Metro;

**Exhibit A to Ordinance No. 09-1221A**

(e) "Metro Auditor" means the Office of Metro Auditor created pursuant to the Metro Charter;

(f) "MERC General Manager" means the chief administrative officer of the Commission or any other position employed by the Commission that directly reports to the Commission.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 09-XXXX; Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; Ordinance No. 02-975, Sec. 1.)

6.01.030 Commission Created

There is hereby created a Metropolitan Exposition-Recreation Commission consisting of seven (7) members. All members shall be residents of Metro.

(a) The Council President will make all appointments.

(b) The Council President may reject a nomination. Appointments of all members are subject to confirmation by the Metro Council.

(c) All members shall serve four (4) year-terms. Members may be re-appointed. Prior to December 31, 2001, a member may serve until the successor is confirmed; thereafter, upon the expiration of a term, the position shall be considered vacant until a member is appointed or re-appointed and confirmed.

(d) Nomination Process. The Council President will accept nominations to the commission as follows:

- (1) The County Commissions of Clackamas, Multnomah and Washington counties each shall nominate one (1) candidate. The candidates must be residents of the district and nominating county.
- (2) The City Council of the City of Portland shall nominate one (1) candidate for each of two (2) positions. The candidates must be residents of Metro and the City of Portland.
- (3) Two (2) nominees shall be at the sole discretion of the Council President. The candidates must be residents of Metro.

(e) Appointment Process.

- (1) For those positions on the commission which are subject to nomination by a local governmental

**Exhibit A to Ordinance No. 09-1221A**

body, the Council President will receive the nominations from the relevant governing body and review the nomination prior to submitting the nomination to the Metro Council for confirmation. If the Council President fails to concur with any candidate so nominated by a local government, the Council President shall so notify the jurisdiction, which shall then nominate another candidate. This process shall continue until such time as the Council President agrees to transmit the name of the individual nominated by the local government. If an appointment submitted to the Council for confirmation as a result of this process is rejected by the Council, the Council President shall so notify the local government which shall nominate another candidate and the process shall continue until such time as a candidate nominated by a local government has been forwarded by the Council President to the Council for confirmation and has been confirmed.

- (2) If the Council fails to confirm an appointment made at the sole discretion of the Council President, the Council President may submit the name of another person for confirmation by the Council.

(f) A vacancy shall occur from the death, resignation, failure to continue residency within Metro and in the case of members nominated by a local government residency within the boundaries of the nominating government, or inability to serve of any member or from the removal of a member by the Council President, subject to approval of the removal by a majority of the members of the Council.

(g) Vacancies shall be filled pursuant to the procedure governing the initial appointment of members. A vacancy occurring prior to the expiration of a term shall be filled only until the end of the term.

(h) No person who is elected to a public office, or appointed to fill a vacancy in a public office, shall be eligible to serve.

(i) The commission may adopt its own rules of organization and procedure and may elect its own officers for such terms and with such duties and powers necessary for the performance of the functions of such offices as the commission determines appropriate.

**Exhibit A to Ordinance No. 09-1221A**

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 89-325, Sec. 1; Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; Ordinance No. 02-975, Sec. 1.)

6.01.040 Powers

The commission shall have the following power and authority:

(a) To renovate, equip, maintain and repair any convention, trade, and spectator buildings and facilities for which the commission is responsible, and to advise the public owners of these facilities on financial measures which may be necessary or desirable with respect to initial construction or major capital projects;

(b) To manage, operate and market the use of the convention, trade, and spectator buildings and facilities for which the commission is responsible;

(c) To acquire in the name of Metro by purchase, devise, gift, or grant real and personal property or any interest therein as the commission may find necessary for its purposes. The commission may recommend to the Council the condemnation of property for use by the commission but may not itself exercise the condemnation power;

(d) To lease and dispose of property in accordance with ORS 271.300 to 271.360;

(e) To maintain and repair any real and personal property acquired for the purposes of the commission;

(f) To lease, rent, and otherwise authorize the use of its buildings, structures and facilities; to fix fees and charges relating to the use of said buildings, structures and facilities; to establish any other terms and conditions governing use of its buildings and facilities; and to adopt any regulations deemed necessary or appropriate for the protection of users and for the protection and public use and enjoyment of its buildings and facilities;

(g) To perform planning and feasibility studies for convention, trade, and spectator facilities within Metro;

(h) To employ, manage, and terminate such personnel as the commission may find necessary, appropriate, or convenient for its purposes under personnel rules adopted by the commission. Notwithstanding the foregoing, however, the Metro Council must vote to approve of the General Manager's initial hiring; continuation of employment beyond August 1 of any year;

**Exhibit A to Ordinance No. 09-1221A**

termination; and compensation including, but not limited to, the salary and any salary changes or performance incentive payments.

Neither the Metro Council nor any of its members shall direct or request the appointment of any person to, or removal from, office by the General Manager or any of the General Manager's subordinates;

(i) To employ professional, technical, and other assistance as the commission may find necessary, appropriate, or convenient for its purposes;

(j) To enter into contracts of such types and in such amounts, including intergovernmental agreements, as the commission may deem necessary, appropriate, or convenient for the renovation, equipment, maintenance, repair, operation, and marketing of the use of buildings and facilities for which it is responsible, and for professional and other services, under contracting rules adopted by the commission;

(k) To enter into intergovernmental agreements for the transfer of convention, trade, or spectator buildings and facilities to Metro, or for the transfer of operating and administrative responsibilities for such buildings and facilities to the commission, provided that the Council has approved such acquisition or transfer;

(l) To accept gifts and donations and to contract for and receive federal and other aid and assistance;

(m) To determine the type, quality, and scope of services required by the commission in order to conduct its business in a cost effective, entrepreneurial, and independent manner, as required by this chapter. Services of Metro including accounting, personnel, risk management, public affairs, and other services shall be provided by Metro subject to compensation being provided by the commission to Metro. The commission may acquire such services by other means, provided that the Council determines by duly adopted resolution that the provision of such services by other means is cost effective and results in a net benefit to the residents of Metro and the regional facilities managed by the commission. The commission's legal services shall be provided to the commission by the Metro Attorney. The commission may purchase legal services outside of Metro only with the permission of the Metro Attorney;

(n) To recommend to the Council and to the other public owners of buildings and facilities managed by the commission such long-term revenue and general obligation measures and other revenue-raising measures for the benefit of the commission's purposes as the commission may deem appropriate for consideration

**Exhibit A to Ordinance No. 09-1221A**

by the Council, by the other public owners of buildings or facilities managed by the commission, or the electors of Metro, but the commission may not adopt such measures itself;

(o) To recommend to the Council the adoption of ordinances carrying criminal and civil penalties for their violation, but the commission may not adopt such ordinances itself;

(p) To do all other acts and things necessary, appropriate, or convenient to the exercise of the powers of the commission.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec 1; Ordinance No. 02-975, Sec. 1.)

6.01.050 Budget and Accounts

(a) General Requirements. The commission accounts shall be kept in conformity with generally accepted accounting practices and in accordance with the local budget law, provided that the local budget law shall control in the event of a conflict with generally accepted accounting practices, and the accounts shall be audited yearly at the same time and by the same auditor as are Metro's accounts.

(b) Procedure for Commission Approval of Proposed Budget. The commission annually shall prepare a proposed budget and shall approve the proposed budget by duly adopted resolution. The commission's deliberations and actions on its budget, including any work sessions or subcommittee sessions, shall be conducted as public meetings as required by the Oregon statutes governing public meetings. Prior to approving any proposed budget, the commission shall provide a reasonable opportunity for interested persons to testify and make their views known with respect to the proposed budget. The commission shall include in its budget necessary cost allocations for services provided by Metro as recommended by the Chief Operating Officer.

(c) Procedure for Submission of Commission Budget to Metro. The commission shall transmit its proposed budget to the Metro Chief Operating Officer at the same time that Metro departments do so. The Chief Operating Officer shall review the submitted budget and submit the commission's proposed budget to the Council with the Chief Operating Officer's general budget submission to the Council, together with any recommendations the Chief Operating Officer may have for changes in the commission's proposed budget. The Chief Operating Officer shall include in the submitted budget the necessary cost allocation for providing services to the commission. The commission's budget shall be subject to review and approval by the Council. The Council shall

**Exhibit A to Ordinance No. 09-1221A**

make the final determination of cost allocations for services provided by Metro.

(d) Content of Commission's Budget. To the maximum extent permitted by law, the commission's budget shall consist of one commission-wide series of appropriations in those categories which are required by local budget law, applicable to all buildings, facilities, and programs managed by the commission. Once the commission's budget has been adopted by the Council, any changes in the adopted appropriations not previously approved by the Council must be ratified in advance by the Council.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; Ordinance No. 02-975, Sec. 1; Ordinance No. 07-1164A, Sec. 5.)

6.01.060 Commission Meetings

All meetings of the commission shall be conducted as public meetings as required by Oregon law, except where executive sessions are permitted by law. The commission shall provide adequate notice of its meetings as required by law. All Metro elected officials shall receive notice of all meetings in the same form, manner and substance given to all commission members.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1.)

6.01.070 Delegation

The commission may delegate to its employees any of the power and authority of the commission subject to those limitations the commission deems appropriate. Any delegation shall be by resolution of the commission.

(Ordinance No. 87-225, Sec. 1.)

6.01.080 Filing and Effective Date of Commission Resolutions

(a) Within five (5) days after the passage of any resolution, the commission shall file a copy of the resolution with the Council Clerk, or such other officer as the Council may designate, who shall maintain a special record of the commission's resolutions which shall be accessible to the public under like terms as the ordinances of Metro. The Council Clerk or such other officer as the Council may designate shall immediately notify the Council of the receipt of the resolution.

(b) Resolutions of the commission shall be effective upon adoption or at such other time as specified by the commission.



**Exhibit A to Ordinance No. 09-1221A**

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 02-975, Sec. 1.)

6.01.100 Commission Business Plans

(a) The commission shall prepare business plans for each of its facilities and shall update those plans as needed. The commission shall provide all Metro elected officials with copies of its business plans.

(b) The commission regularly shall report to the Council. Such reports shall occur as directed by the Council, but in no event less than quarterly.

(c) The commission shall, on an annual basis, set goals and benchmarks for the performance of the buildings, facilities and services managed by the commission. Such goals and benchmarks shall be discussed in public meetings with reasonable opportunity for public input and shall be adopted by duly adopted resolutions of the commission. Copies of proposed goals and benchmarks shall be provided to all Metro elected officials no later than ten (10) working days prior to formal adoption by the commission. The commission shall include in its quarterly reports to the Council progress reports on the commission's progress towards meeting its adopted goals and benchmarks.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; Ordinance No. 02-975, Sec. 1.)

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING  
METRO CODE CHAPTER 6.01

) Ordinance No. 09-1221  
)  
) Introduced by Councilor Park and  
Councilor Burkholder

WHEREAS, in 2000, the voters of the Portland region approved changes to Metro’s charter that improved the efficiency and accountability of regional government by providing direct elected-official oversight of senior staff members; and

WHEREAS, the change in governance at Metro created efficiencies, and improved accountability and transparency; and

WHEREAS, the facilities operated by the Metropolitan Exposition and Recreation Commission – the Oregon Convention Center, the Portland Center for the Performing Arts and the Portland Metropolitan Exposition Center require an annual budget of approximately \$40 million; and

WHEREAS, the value of the assets under MERC management total half of \$1 billion; and

WHEREAS, the elected members of the Metro Council ultimately are responsible for the fiscal management and health of the regional facilities managed by the Metropolitan Exposition and Recreation Commission; and

WHEREAS, the expertise of private citizens, working as a volunteer commission, provides valuable advice and direction on the management of enterprise-based facilities; and

WHEREAS, the members of the Metro Council continually seek improvements in the efficiency and effectiveness in the management of the facilities and programs under its control; now therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Chapter 6.01 of the Metro Code is hereby amended as set forth below:

1. Metro Code Chapter 6.01.020 “Definitions” is amended to add the following subsection (f):

(f) “MERC General Manager” means the chief administrative office of the Commission or any other position employed by the Commission that directly reports to the Commission.

2. Metro Code Chapter 6.01.040 Powers is hereby amended as follows [new provisions underlined]:

The commission shall have the following power and authority: . . .

(h) To employ, manage, and terminate such personnel as the commission may find necessary, appropriate, or convenient for its purposes under personnel rules adopted by the commission, notwithstanding the foregoing, however, the Metro Council must vote to approve of the General Manager’s initial hiring; continuation of employment beyond the end of the current or any future fiscal year; termination; and compensation including, but not limited to, the salary and any salary changes or performance incentive payments.

And the Metro Council Also Ordains that:

3. Emergency Clause. This Ordinance being necessary for the health, safety, or welfare of the Metro area, for the reason that a new fiscal year begins July 1, 2009, and there is a need for the Metro Council to have a role in the employment of the MERC General Manager immediately, an emergency is declared to exist and this Ordinance shall take effect immediately, pursuant to Metro Charter Section 39(1).

ADOPTED by the Metro Council this \_\_\_ day of June, 2009.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to form:

\_\_\_\_\_  
Tony Anderson, Recording Secty.

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

TITLE VI

COMMISSIONS

CHAPTERS	TITLE
6.01	Metropolitan Exposition-Recreation Commission

CHAPTER 6.01

METROPOLITAN EXPOSITION-RECREATION COMMISSION

SECTIONS	TITLE
6.01.010	Purpose
6.01.020	Definitions
6.01.030	Commission Created
6.01.040	Powers
6.01.050	Budget and Accounts
6.01.060	Commission Meetings
6.01.070	Delegation
6.01.080	Filing and Effective Date of Commission Resolutions
6.01.090	Initial Charge to Commission (repealed Ord. 97-677B §3)
6.01.100	Commission Business Plans

6.01.010 Purpose

The purpose of this chapter is to establish a metropolitan commission to renovate, maintain, operate, and manage metropolitan convention, trade and spectator facilities pursuant to the Metro Charter. The commission established by this chapter is intended by the Metro Council to operate in a cost effective, independent, entrepreneurial and accountable manner, so as to provide the greatest benefit to the residents of the Metro region. The provisions of this chapter shall therefore be liberally construed so as to achieve these ends. The commission is subject to the authority of the Metro Auditor to perform the duties of that office.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 02-975, Sec. 1.)

6.01.020 Definitions

As used herein:

- (a) "Commission" means the Metropolitan Exposition-Recreation Commission established hereunder;
- (b) "Council" means the Metro Council;
- (c) "Councilor" means a member of the Council;
- (d) "Council President" means the Council President of Metro;

(e) "Metro Auditor" means the Office of Metro Auditor created pursuant to the Metro Charter;

(f) "MERC General Manager" means the chief administrative officer of the Commission or any other position employed by the Commission that directly reports to the Commission.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 09-XXXX; Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; Ordinance No. 02-975, Sec. 1.)

#### 6.01.030 Commission Created

There is hereby created a Metropolitan Exposition-Recreation Commission consisting of seven (7) members. All members shall be residents of Metro.

(a) The Council President will make all appointments.

(b) The Council President may reject a nomination. Appointments of all members are subject to confirmation by the Metro Council.

(c) All members shall serve four (4) year-terms. Members may be re-appointed. Prior to December 31, 2001, a member may serve until the successor is confirmed; thereafter, upon the expiration of a term, the position shall be considered vacant until a member is appointed or re-appointed and confirmed.

(d) Nomination Process. The Council President will accept nominations to the commission as follows:

- (1) The County Commissions of Clackamas, Multnomah and Washington counties each shall nominate one (1) candidate. The candidates must be residents of the district and nominating county.
- (2) The City Council of the City of Portland shall nominate one (1) candidate for each of two (2) positions. The candidates must be residents of Metro and the City of Portland.
- (3) Two (2) nominees shall be at the sole discretion of the Council President. The candidates must be residents of Metro.

(e) Appointment Process.

- (1) For those positions on the commission which are subject to nomination by a local governmental

body, the Council President will receive the nominations from the relevant governing body and review the nomination prior to submitting the nomination to the Metro Council for confirmation. If the Council President fails to concur with any candidate so nominated by a local government, the Council President shall so notify the jurisdiction, which shall then nominate another candidate. This process shall continue until such time as the Council President agrees to transmit the name of the individual nominated by the local government. If an appointment submitted to the Council for confirmation as a result of this process is rejected by the Council, the Council President shall so notify the local government which shall nominate another candidate and the process shall continue until such time as a candidate nominated by a local government has been forwarded by the Council President to the Council for confirmation and has been confirmed.

- (2) If the Council fails to confirm an appointment made at the sole discretion of the Council President, the Council President may submit the name of another person for confirmation by the Council.

(f) A vacancy shall occur from the death, resignation, failure to continue residency within Metro and in the case of members nominated by a local government residency within the boundaries of the nominating government, or inability to serve of any member or from the removal of a member by the Council President, subject to approval of the removal by a majority of the members of the Council.

(g) Vacancies shall be filled pursuant to the procedure governing the initial appointment of members. A vacancy occurring prior to the expiration of a term shall be filled only until the end of the term.

(h) No person who is elected to a public office, or appointed to fill a vacancy in a public office, shall be eligible to serve.

(i) The commission may adopt its own rules of organization and procedure and may elect its own officers for such terms and with such duties and powers necessary for the performance of the functions of such offices as the commission determines appropriate.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 89-325, Sec. 1; Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; Ordinance No. 02-975, Sec. 1.)

6.01.040 Powers

The commission shall have the following power and authority:

(a) To renovate, equip, maintain and repair any convention, trade, and spectator buildings and facilities for which the commission is responsible, and to advise the public owners of these facilities on financial measures which may be necessary or desirable with respect to initial construction or major capital projects;

(b) To manage, operate and market the use of the convention, trade, and spectator buildings and facilities for which the commission is responsible;

(c) To acquire in the name of Metro by purchase, devise, gift, or grant real and personal property or any interest therein as the commission may find necessary for its purposes. The commission may recommend to the Council the condemnation of property for use by the commission but may not itself exercise the condemnation power;

(d) To lease and dispose of property in accordance with ORS 271.300 to 271.360;

(e) To maintain and repair any real and personal property acquired for the purposes of the commission;

(f) To lease, rent, and otherwise authorize the use of its buildings, structures and facilities; to fix fees and charges relating to the use of said buildings, structures and facilities; to establish any other terms and conditions governing use of its buildings and facilities; and to adopt any regulations deemed necessary or appropriate for the protection of users and for the protection and public use and enjoyment of its buildings and facilities;

(g) To perform planning and feasibility studies for convention, trade, and spectator facilities within Metro;

(h) To employ, manage, and terminate such personnel as the commission may find necessary, appropriate, or convenient for its purposes under personnel rules adopted by the commission, notwithstanding the foregoing, however, the Metro Council must vote to approve of the General Manager's initial hiring; continuation of employment beyond the end of the current or any



future fiscal year; termination; and compensation including, but not limited to, the salary and any salary changes or performance incentive payments;

(i) To employ professional, technical, and other assistance as the commission may find necessary, appropriate, or convenient for its purposes;

(j) To enter into contracts of such types and in such amounts, including intergovernmental agreements, as the commission may deem necessary, appropriate, or convenient for the renovation, equipment, maintenance, repair, operation, and marketing of the use of buildings and facilities for which it is responsible, and for professional and other services, under contracting rules adopted by the commission;

(k) To enter into intergovernmental agreements for the transfer of convention, trade, or spectator buildings and facilities to Metro, or for the transfer of operating and administrative responsibilities for such buildings and facilities to the commission, provided that the Council has approved such acquisition or transfer;

(l) To accept gifts and donations and to contract for and receive federal and other aid and assistance;

(m) To determine the type, quality, and scope of services required by the commission in order to conduct its business in a cost effective, entrepreneurial, and independent manner, as required by this chapter. Services of Metro including accounting, personnel, risk management, public affairs, and other services shall be provided by Metro subject to compensation being provided by the commission to Metro. The commission may acquire such services by other means, provided that the Council determines by duly adopted resolution that the provision of such services by other means is cost effective and results in a net benefit to the residents of Metro and the regional facilities managed by the commission. The commission's legal services shall be provided to the commission by the Metro Attorney. The commission may purchase legal services outside of Metro only with the permission of the Metro Attorney;

(n) To recommend to the Council and to the other public owners of buildings and facilities managed by the commission such long-term revenue and general obligation measures and other revenue-raising measures for the benefit of the commission's purposes as the commission may deem appropriate for consideration by the Council, by the other public owners of buildings or facilities managed by the commission, or the electors of Metro, but the commission may not adopt such measures itself;

(o) To recommend to the Council the adoption of ordinances carrying criminal and civil penalties for their violation, but the commission may not adopt such ordinances itself;

(p) To do all other acts and things necessary, appropriate, or convenient to the exercise of the powers of the commission.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec 1; Ordinance No. 02-975, Sec. 1.)

#### 6.01.050 Budget and Accounts

(a) General Requirements. The commission accounts shall be kept in conformity with generally accepted accounting practices and in accordance with the local budget law, provided that the local budget law shall control in the event of a conflict with generally accepted accounting practices, and the accounts shall be audited yearly at the same time and by the same auditor as are Metro's accounts.

(b) Procedure for Commission Approval of Proposed Budget. The commission annually shall prepare a proposed budget and shall approve the proposed budget by duly adopted resolution. The commission's deliberations and actions on its budget, including any work sessions or subcommittee sessions, shall be conducted as public meetings as required by the Oregon statutes governing public meetings. Prior to approving any proposed budget, the commission shall provide a reasonable opportunity for interested persons to testify and make their views known with respect to the proposed budget. The commission shall include in its budget necessary cost allocations for services provided by Metro as recommended by the Chief Operating Officer.

(c) Procedure for Submission of Commission Budget to Metro. The commission shall transmit its proposed budget to the Metro Chief Operating Officer at the same time that Metro departments do so. The Chief Operating Officer shall review the submitted budget and submit the commission's proposed budget to the Council with the Chief Operating Officer's general budget submission to the Council, together with any recommendations the Chief Operating Officer may have for changes in the commission's proposed budget. The Chief Operating Officer shall include in the submitted budget the necessary cost allocation for providing services to the commission. The commission's budget shall be subject to review and approval by the Council. The Council shall make the final determination of cost allocations for services provided by Metro.

(d) Content of Commission's Budget. To the maximum extent permitted by law, the commission's budget shall consist of one commission-wide series of appropriations in those categories which are required by local budget law, applicable to all buildings, facilities, and programs managed by the commission. Once the commission's budget has been adopted by the Council, any changes in the adopted appropriations not previously approved by the Council must be ratified in advance by the Council.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; Ordinance No. 02-975, Sec. 1; Ordinance No. 07-1164A, Sec. 5.)

#### 6.01.060 Commission Meetings

All meetings of the commission shall be conducted as public meetings as required by Oregon law, except where executive sessions are permitted by law. The commission shall provide adequate notice of its meetings as required by law. All Metro elected officials shall receive notice of all meetings in the same form, manner and substance given to all commission members.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1.)

#### 6.01.070 Delegation

The commission may delegate to its employees any of the power and authority of the commission subject to those limitations the commission deems appropriate. Any delegation shall be by resolution of the commission.

(Ordinance No. 87-225, Sec. 1.)

#### 6.01.080 Filing and Effective Date of Commission Resolutions

(a) Within five (5) days after the passage of any resolution, the commission shall file a copy of the resolution with the Council Clerk, or such other officer as the Council may designate, who shall maintain a special record of the commission's resolutions which shall be accessible to the public under like terms as the ordinances of Metro. The Council Clerk or such other officer as the Council may designate shall immediately notify the Council of the receipt of the resolution.

(b) Resolutions of the commission shall be effective upon adoption or at such other time as specified by the commission.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 02-975, Sec. 1.)

6.01.100 Commission Business Plans

(a) The commission shall prepare business plans for each of its facilities and shall update those plans as needed. The commission shall provide all Metro elected officials with copies of its business plans.

(b) The commission regularly shall report to the Council. Such reports shall occur as directed by the Council, but in no event less than quarterly.

(c) The commission shall, on an annual basis, set goals and benchmarks for the performance of the buildings, facilities and services managed by the commission. Such goals and benchmarks shall be discussed in public meetings with reasonable opportunity for public input and shall be adopted by duly adopted resolutions of the commission. Copies of proposed goals and benchmarks shall be provided to all Metro elected officials no later than ten (10) working days prior to formal adoption by the commission. The commission shall include in its quarterly reports to the Council progress reports on the commission's progress towards meeting its adopted goals and benchmarks.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; Ordinance No. 02-975, Sec. 1.)

## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 09-1221 FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 6.01

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Date: June 11, 2009

Prepared by: Kathryn Sofich  
503-797-1941

## BACKGROUND

In 2000, the voters of the Portland region approved changes to Metro's charter that improved the efficiency and accountability of regional government by providing direct elected-official oversight of senior staff members. This change in governance at Metro created efficiencies, and improved accountability and transparency.

The elected members of the Metro Council ultimately are responsible for the fiscal management and health of the regional facilities managed by the Metropolitan Exposition and Recreation Commission. The facilities operated by the Metropolitan Exposition and Recreation Commission – the Oregon Convention Center, the Portland Center for the Performing Arts and the Portland Metropolitan Exposition Center - require an annual budget of approximately \$40 million. In addition, the value of the assets under MERC management total more than half a billion dollars.

The Metro Council recognizes the expertise of private citizens, working as a volunteer commission, providing valuable advice and direction on the management of enterprise-based facilities. At the same time, the members of the Metro Council continually seek improvements in the efficiency and effectiveness in the management of the facilities and programs under its control.

In order to continually improve the efficiency and effectiveness, Ordinance 09-1221 is being proposed to amend Chapter 6.01 of the Metro Code to the following:

1. Define "MERC General Manager" to mean the chief administrative office of the Commission or any other position employed by the Commission that directly reports to the Commission.
2. Metro Council must to approve, by vote, the General Manager's initial hiring; continuation of employment beyond the end of the current or any future fiscal year; termination; and compensation including, but not limited to, the salary and any salary changes or performance incentive payments.

## ANALYSIS/INFORMATION

1. **Known Opposition:** Unknown
2. **Legal Antecedents:** Metro Code Chapter 6.01
3. **Anticipated Effects:** The adoption of this ordinance will improve the decision making process in the hiring and evaluation of the MERC General Manager.
4. **Budget Impacts:** No impacts.

## RECOMMENDED ACTION

Councilor Rod Park and Councilor Rex Burkholder recommend the Metro Council consider approving Ordinance No. 09-1221.