



Metro | *Agenda*

MEETING: METRO COUNCIL WORK SESSION
DATE: January 5, 2010
DAY: Tuesday
TIME: 1:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

- | | | |
|----------------|-----------|--|
| 1:00 PM | 1. | DISCUSSION OF AGENDA FOR COUNCIL REGULAR MEETING, [JANUARY 7, 2010]/ADMINISTRATIVE/CHIEF OPERATING OFFICER COMMUNICATIONS |
| 1:15 PM | 2. | TITLE VI LEGISLATION: DISCUSSION |
| 2:15 PM | 3. | ACTIVE TRANSPORTATION INITIATIVE UPDATE |
| 2:45 PM | 4. | BREAK |
| 2:50 PM | 5. | VETERINARY HOSPITAL BOND PROJECT: DISCUSSION |
| 3:20 PM | 6. | COUNCIL BRIEFINGS/COMMUNICATION |

ADJOURN

Agenda Item Number 2.0

**TITLE VI LEGISLATION:
DISCUSSION**

Metro Council Work Session
Tuesday, January 5, 2009
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO CODE TITLE VI, CHAPTER 6.01; METRO CODE CHAPTER 2.02 PERSONNEL CODE, SECTION 2.02.010; AND METRO CODE CHAPTER 2.04, SECTION 2.04.024 METRO CONTRACT POLICIES, RELATING TO THE METROPOLITAN EXPOSITION-RECREATION COMMISSION) ORDINANCE NO. 09-1229
)
) Introduced by Chief Operating
) Officer Michael J. Jordan, with
) the concurrence of Council
) President David Bragdon

WHEREAS, the Metro Council has requested that the Metro Chief Operating Officer (COO) consult with the Metropolitan Exposition-Recreation Commission (MERC) and make recommendations to the Metro Council regarding possible revisions to Metro Code Title VI, Chapter 6.01 and related sections in order to provide a more effective relationship between the Metro Council and MERC in order to enhance the operations and competitiveness of the MERC venues; and

WHEREAS, the COO has conducted a series of meetings with MERC and the COO and MERC have revealed consensus on revisions to the Metro Code Chapter 6.01 to achieve this purpose; and

WHEREAS, amendments to Metro Code Chapter 2.02 Personnel Code, Section 2.02.010 and Metro Code Chapter 2.04 Metro Contract Policies will additionally achieve this purpose; now therefore,

THE METRO COUNCIL ORDAINS that the following amendments to the Metro Code legislation relating to MERC will enhance the operations and competitiveness of the MERC venues:

1. Metro Code Title VI, Chapter 6.01 Metropolitan Exposition-Recreation Commission is amended as set forth in Exhibit A;
2. Metro Code Chapter 2.02, Section 2.02.010 Personnel Code is amended as set forth in Exhibit B; and
3. Metro Code Chapter 2.04 Metro Contract Policies, Section 2.04.024 is amended as set forth in Exhibit C.

ADOPTED by the Metro Council this _____ day of _____ 2010.

David Bragdon, Council President

Attest:

Approved as to Form:

Tony Andersen, Recording Secretary

Daniel B. Cooper, Metro Attorney

Exhibit A to Ordinance No. 09-1229
Metro Code Title VI, Chapter 6.01
Metropolitan Exposition-Recreation Commission

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
6.01.110	<u>Commission Relationship to Metro Council</u>

6.01.010 Purpose

(a) This chapter establishes a metropolitan commission pursuant to Section 25(4) of the Metro Charter. The purpose of the Commission is to provide oversight and direction to the Chief Operating Officer for the management and operation of convention, trade and spectator facilities owned by Metro and such other facilities as the Metro Council may determine. Facilities assigned to the Commission may include other facilities owned by Metro or facilities that Metro has agreed to manage.

(b) The Metro Council intends and directs that such facilities be operated in a cost effective, independent, entrepreneurial and accountable manner so as to provide the greatest benefit to the residents of the Metro Area.

(c) This chapter sets forth the powers and duties of the Commission. This chapter delegates to the Commission certain authority held by the Metro Council under the Metro Charter.

(d) The Metro Council retains all authority not delegated including the authority to amend or repeal this chapter.

~~The purpose of this chapter is to establish a metropolitan commission to renovate, maintain, operate, and manage metropolitan convention, trade and spectator facilities pursuant~~

Exhibit A to Ordinance No. 09-1229
Metro Code Title VI, Chapter 6.01
Metropolitan Exposition-Recreation Commission

~~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) Chief Operating Officer means the Metro Chief Operating Officer;

(b) "Commission" means the Metropolitan Exposition-Recreation Commission established hereunder;

~~(c)~~ "Council" means the Metro Council;

~~(d)~~ "Councilor" means a member of the Council;

~~(e)~~ "Council President" means the Council President of Metro;

(f) "Metro Area" means the territory within the Metro jurisdictional boundary.

(g) "Metro Auditor" means the Office of Metro Auditor created pursuant to the Metro Charter; and-

(h) "MERC General Manager or General Manager" means the person designated by the Chief Operating Officer to hold such position. The Chief Operating Officer may delegate additional responsibilities to the General Manager. 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; Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; Ordinance No. 02-975, Sec. 1.; and Ordinance No. 09-1221C)

6.01.030 Commission Created

There is hereby created a Metropolitan Exposition-Recreation Commission consisting of seven (7) voting members and one Metro Councilor who shall serve ex-officio in a non-voting capacity. All members shall be residents of the Metro Area.

(a) The Council President will make all appointments.

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

(c) All voting members shall serve four (4) year-terms. Members may be re-appointed. Prior to December 31, 2001, a voting 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 for Voting Members. The Council President will accept nominations to the Ceommission 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 Metro Area 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 the Metro Area 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 the Metro Area.

(e) Appointment Process for Voting Members.

- (1) For those positions on the Ceommission 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 the Metro Area and in the case of voting members nominated by a local government residency within the boundaries of the nominating government, or inability to serve of any voting member or from the removal of a voting 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 voting 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 as a voting member.

(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. However, the Commission may not delegate powers and duties as set out in this chapter to an individual Commissioner or a committee.

Exhibit A to Ordinance No. 09-1229
Metro Code Title VI, Chapter 6.01
Metropolitan Exposition-Recreation Commission

(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

(a) The Commission is responsible for oversight of all facilities for which it is responsible. In exercising this oversight it has power to direct and control the authority of the Chief Operating Officer to enter into contracts; and to establish policies, including business plans, marketing plans, and strategic plans, for the Chief Operating Officer to follow regarding the operation and marketing of the facilities. The Commission establishes and approves all charges for the rent or use of the facilities and may delegate authority to the Chief Operating Officer to establish rents and charges and negotiate and enter into agreements for the rent or use of the facilities subject to policies established by the Commission.

(b) The Commission shall advise the Chief Operating Officer regarding the designation and all performance reviews of the General Manager. The General Manager shall provide support to the Commission and shall be responsible for acting on behalf of the Chief Operating Officer on all matters entrusted to the General Manager. The Commission advises the Chief Operating Officer and the General Manager regarding the preparation of the annual budget for the Commission prior to the adoption of a proposed budget by the Commission as set forth in Section 6.01.050 as well as on proposals to acquire or dispose of real property.

(c) The Commission advises the Metro Council on the adoption of the annual budget and on the Metro Council's adoption of policies, goals or objectives for the facilities or the Commission.

~~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;~~

Exhibit A to Ordinance No. 09-1229
Metro Code Title VI, Chapter 6.01
Metropolitan Exposition-Recreation Commission

~~(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; and Ordinance No. 09-1221C)

6.01.050 Budget and Accounts

(a) General Requirements. The Ceommission 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 Ceommission annually shall prepare a proposed budget and shall approve the proposed budget by duly adopted resolution. The Ceommission'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 Ceommission shall provide a reasonable opportunity for interested persons to testify and make their views known with respect to the proposed budget. The Ceommission 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 Ceommission 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 Ceommission'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 Ceommission's proposed budget. The Chief Operating Officer shall include in the submitted budget the necessary cost allocation for providing services to the Ceommission. The Ceommission'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 Ceommission's budget shall consist of one Ceommission-wide series of appropriations in those categories which are required by local budget law, applicable to all buildings, facilities, and programs managed by the Ceommission. Once the Ceommission'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 Ceommission shall be conducted as public meetings as required by Oregon law, except where executive sessions are permitted by law. The Ceommission 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 Ceommission 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 Ceommission may delegate to the Chief Operating Officer ~~its employees~~ any of the power and authority of the Ceommission subject to those limitations the Ceommission deems appropriate. Any delegation shall be by resolution of the Ceommission.

(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 Ceommission 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 Ceommission'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 Ceommission shall be effective upon adoption or at such other time as specified by the Ceommission.

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

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

(c) The Ceommission shall, on an annual basis, set goals and benchmarks for the performance of the buildings, facilities and services managed by the Ceommission. 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 Ceommission. 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 Ceommission. The Ceommission shall include in its quarterly reports to the Council progress reports on the Ceommission'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.)

6.01.110 Commission Relationship to Metro Council

(a) The Commission shall meet at least once annually in a joint meeting with the Council to recommend policies and to consult on the operations of the facilities. The Commission shall adopt policies consistent with the policies adopted by the Council.

(b) The Metro Councilor member who serves as the ex-officio member, with the General Manager and the Chief Operating Officer shall regularly report to the Council the activities of the Commission.

Exhibit A to Ordinance No. 09-1229
Metro Code Title VI, Chapter 6.01
Metropolitan Exposition-Recreation Commission

(c) The Metro Council President and Metro Council shall consult with the Commission regarding the employment of the Chief Operating Officer, including but not limited to, any review of the Chief Operating Officer's performance.

2.02.010 Personnel Code

Sections 2.02.001 to 2.02.120 of this Metro Code shall be known as and may be cited as the "Metro Personnel Code."

The provisions in this chapter do not constitute a contract of employment. Moreover, in order to meet future challenges, the Council retains the flexibility to change, substitute, and discontinue the policies and benefits described herein, at any time, with or without notice to employees. No person shall be deemed to have a vested interest in, or legitimate expectation of, continued employment with Metro, or any policy or benefit described herein or otherwise generally followed by Metro. No contract of employment can be created, nor can an employee's status be modified, by any oral or written agreement, or course of conduct, except by a written agreement signed by the Council President or Chief Operating Officer and the employee, and subject to the approval of the Council.

(a) Duties of Chief Operating Officer

Administration and enforcement of the personnel code shall be the responsibility of the Chief Operating Officer. The Chief Operating Officer, or his or her delegate, shall:

(1) Establish and maintain:

- (A) a record of all employees in Metro service;
- (B) the Metro employee classification plan;
- (C) the salary plan and salary administration policies, including employee benefits, including employee benefits.

(2) Prepare such rules, policies, and procedures as are necessary to carry out the duties, functions and powers of this personnel code, and to effectively administer Metro personnel.

(3) Establish a system of personnel administration based on merit, governing recruitment, appointment, tenure, transfer, layoff, separation, discipline of employees.

Exhibit B to Ordinance No. 09-1229
Metro Code Chapter 2.02, Section 2.02.010 Personnel Code
Relating to Metropolitan Exposition-Recreation Commission

(4) Devise and employee training programs, for the purpose of improving the quality of service rendered by Metro personnel.

(5) Conduct labor negotiations with the authorized collective bargaining representatives of Metro employees

(6) Serve as the final grievance adjustment officer in personnel matters.

(7) Make quarterly reports to the Council regarding the personnel administration of Metro.

(b) The Metropolitan Exposition-Recreation Commission shall adopt personnel rules consistent with and subject to Sections 6.01.040 ~~(h) and (m)~~ of the Metro Code notwithstanding any provision of this chapter to the contrary. ~~For this purpose, the authority and duties of the~~The Chief Operating Officer shall through the General Manager administer the policies adopted by the Commission. ~~to employ, manage and terminate employees referred to in this chapter shall reside with the commission for employees of the commission.~~

(Ordinance 05-1082, Sec. 1.)

Exhibit C to Ordinance No. 09-1229
Metro Code Chapter 2.04 Metro Contract Policies
Contracts in General, Section 2.04.024
Relating to Metropolitan Exposition-Recreation Commission

2.04.024 Metropolitan Exposition-Recreation Commission

The Metro Council delegates to the Commission the authority to approve contracts, independent of the authority it has granted to the Chief Operating Officer pursuant to Section 2.04.020. The Commission may adopt rules or regulations which delegate to the Chief Operating Officer authority to enter into contracts on behalf of the Commission and may require Commission approval of contracts. The Metro Council is the local Contract Review Board for the Commission.

~~The Metropolitan Exposition-Recreation Commission has authority to enter into contracts pursuant to Metro Code Section 6.01.040(j). Notwithstanding any provision of this chapter to the contrary, the Commission may without the prior approval of the Chief Operating Officer enter into contracts in any amount in accordance with contracting rules adopted by the Commission pursuant to the authority contained in Section 6.01.040(j). However, pursuant to ORS 279A.060, the Metro Council shall be the local Contract Review Board for the Commission.~~

(Ordinance No. 96-635B, Sec. 3. Amended by Ordinance No. 02-966A, Sec. 1; Ordinance No. 04-1065A, Sec. 2.)

STAFF REPORT

In consideration of Ordinance No. 09-1229 for the purpose of amending Metro Code Title VI, Chapter 6.01; Metro Code Chapter 2.02 Personnel Code, Section 2.02.010; and Metro Code Chapter 2.04, Section 2.04.024 Metro Contract Policies, relating to the Metropolitan Exposition-Recreation Commission

Date: 12/10/2009

Prepared by: Michael Jordan,
503-797-1541

BACKGROUND

On August 6, 2009, the Metro Council approved a recommendation from the Chief Operating Officer to improve the Metro/MERC structure. On August 13, 2009 the Council passed Ordinance No. 09-1221C giving the Chief Operating Officer the authority to employ, manage, and terminate the General Manager. In acting further pursuant to the direction given by Council, the Chief Operating Officer has prepared a revision to Metro Code Chapter 6.01 in order to revise and clarify the roles and responsibilities of MERC and establish increased communication with the Council. The amendments proposed for Title VI are the product of a series of meetings between the Commission and Metro's Chief Operating Officer. This revised code reflects issues and concerns discussed in these joint meetings. The intention of these amendments are to clarify accountability, define the roles and responsibilities of MERC, and strengthen the relationship between the Metro Council and MERC, while preserving the Commission's ability to interact dynamically with the private sector. In addition these amendments direct the COO to be responsible for the management of the day to day affairs. The COO may delegate authority but not ultimate responsibility to General Manager who may be assigned other duties as well.

ANALYSIS/INFORMATION

1. **Known Opposition:** No opposition known
2. **Legal Antecedents:** Metro Charter section 26 authorizes the Council to adopt ordinances creating commissions with duties and responsibilities as specified by the Council. Chapter 6.01 of the code establishes the Metropolitan Exposition Recreation Commission. This ordinance would be one in a series of amendments to that code chapter that the Council has adopted from time to time as it has exercised its authority under the Charter. Pursuant to an agreement with the City of Portland which provides for Metro to operate the Portland Center for the Performing Arts Metro has agreed to give the City 30 days notice prior to amending Chapter 6.01. Notice of this proposed ordinance was given to the City on Dec. 10th 2009. A copy of the notice is attached. The most recent action to Title VI was Ordinance No. 09-1221C giving the Chief Operating Officer the authority to employ, manage, and terminate the General Manager.
3. **Anticipated Effects:** The intention of these amendments are to clarify accountability, define the roles and responsibilities of MERC, and strengthen the relationship between the Metro Council and MERC, while preserving the Commission's ability to interact dynamically with the private sector.
4. **Budget Impacts** There are no budget impacts associated with this ordinance.

RECOMMENDED ACTION

It is recommended that the Council approve amendments to Metro Code Title VI, Chapter 6.01; Metro Code Chapter 2.02 Personnel Code, Section 2.02.010; and Metro Code Chapter 2.04, Section 2.04.024 Metro Contract Policies, relating to the Metropolitan Exposition-Recreation Commission.



Metro | *People places. Open spaces.*

December 10, 2009

City of Portland
Attn: Mayor Sam Adams
Commissioner in Charge
1221 SW 4th Avenue, Bldg. 131, Room 340
Portland, Oregon 97204

City of Portland
Attn: City Auditor
LaVonne Griffin-Valade
1221 SW 4th Avenue, Bldg. 131, Room 140
Portland, Oregon 97204

Re: Metro Council Ordinance No. 09-1229
FOR THE PURPOSE OF AMENDING METRO CODE TITLE VI, CHAPTER
6.01; METRO CODE CHAPTER 2.02 PERSONNEL CODE, SECTION
2.02.010; AND METRO CODE CHAPTER 2.04, SECTION 2.04.024 METRO
CONTRACT POLICIES, RELATING TO THE METROPOLITAN
EXPOSITION-RECREATION COMMISSION

Dear Mayor Adams:

Metro Council Ordinance No. 09-1229 is enclosed and has been filed for first reading by the Metro Council on December 17, 2009. Second reading and possible adoption is currently scheduled for January 14, 2010. Metro is required by Section 2F of the Agreement between Metro and the City of Portland providing for the ongoing operation of the City's PCPA facility by Metro and Metro's Metropolitan Exposition-Recreation Commission (MERC) is to give the City 30 days' prior notice of any proposed amendments to Metro Code Chapter 6.01.

If you have any questions on the foregoing, please do not hesitate to contact me.

Sincerely,

Michael J. Jordan
Chief Operating Officer

MJJ/sm
Enclosure

cc: Dan Cooper, Metro Attorney

Agenda Item Number 3.0

**ACTIVE TRANSPORTATION INITIATIVE
UPDATE**

Metro Council Work Session
Tuesday, January 5, 2009
Metro Council Chamber

Agenda Item Number 5.0

VETERINARY HOSPITAL BOND PROJECT: DISCUSSION

Metro Council Work Session
Tuesday, January 5, 2009
Metro Council Chamber

METRO COUNCIL

Work Session Worksheet

Presentation Date: January 5, 2010 Time: _____ Length: _____

Presentation Title:

Oregon Zoo Bond – Veterinary Medical Center and Quarantine Project Update

Service, Office, or Center:

Oregon Zoo Bond Program

Presenters (include phone number/extension and alternative contact information):

Scott Robinson, Deputy Chief Operating Officer, 503 797-1605

Mike Keele, Interim Zoo Director, 503 220-2450

Craig Stroud, Zoo Bond Program Manager, 503 220-2451

Jim Mitchell, Zoo Bond Project Manager, 503 914- 6025

ISSUE & BACKGROUND

The Oregon Zoo's Veterinary Medical Center and Quarantine facilities need replacement due to sub-standard conditions. The Association of Zoos and Aquariums (AZA) noted the conditions and identified the facilities as sub-standard during the last accreditation review. Current clinical spaces are small and cramped, have poor lighting and drainage, and lack controls for minimizing disease transmission. Some surfaces are difficult to sanitize because of degradation and may provide foreign objects subject to ingestion by animals. Moving large animals in and out is difficult. The facilities have been retrofitted several times to accommodate more modern equipment, but have reached a point where more retrofitting is not feasible.

To assess replacing the existing veterinary medical and quarantine facilities, the zoo performed a feasibility assessment. The feasibility assessment team consisted of a zoo construction project manager, veterinary and living collections managers, the zoo facilities manager, and an external consultant team led by Peck, Smiley, Ettlin architects. Other zoo staff supported the assessment, as needed. The work built on the 2007 Oregon Zoo Strategic Plan recommendations made by consultants Schultz & Williams.

The team evaluated the existing zoo veterinary medical program needs and operating requirements, including animal research and quarantine spaces. The zoo deputy director for living collections, facilities manager, and veterinarian travelled to other zoo's that recently completed veterinary medical hospital construction, including zoos in Cincinnati, Detroit, Honolulu, and Milwaukee. Other staff visited the Tacoma and Bronx zoos. The findings from these visits were shared with the project team.

In addition, the team reviewed where to site the new medical center on the zoo campus. Primary locations evaluated included to the west and east of the existing veterinary medical offices at Gate J. The assessment concluded that the best siting location is the west side of

existing medical offices. The east side available footprint was much smaller and would have required a two-story building. In addition, an east side location would have dislocated the zoo Center for Species Survival animal holding buildings.

The Zoo Infrastructure and Animal Welfare bond passed on November 4, 2008. The bond included funding for a new veterinary medical and quarantine facility. The zoo bond materials identified the veterinary medical center target budget as \$9.2 million. This figure included project planning and construction costs, but not bond staff or allocated overhead costs.

On April 15, 2009, Metro contracted with Peck, Smiley, Ettlin architects to lead a consultant team to perform design development, create construction bid documents, support the request for bid process, and to assist in construction administration as part of the veterinary medical center and quarantine facility project. The team met regularly to develop the building design and to balance medical program needs with funds available. The team was directed to target LEED Silver as the minimum sustainable building design.

At the conclusion of the design development phase, Metro submitted a Conditional Use Master Plan amendment to the City of Portland for the veterinary medical center and quarantine facility based on the design development documents. On September 18, 2009, the city approved the amendment. There was no outside opposition to the amendment submittal.

The project's contract with the architect consultant team required a direct construction estimate at the end of design development. On July 2, 2009, the consultant's cost estimator provided a direct site and building construction cost of \$7.9 million based on the design development documents. Including the project's estimated soft costs and contingency of \$2 million, bringing the total project cost estimate to \$9.9 million; which is 8 percent greater than the target budget. See exhibit A.

Based on these new estimates, the project team and consultants began value engineering the project toward the target budget. The team was optimistic that options could be identified to reduce project cost to near the target amount, therefore, the team continued refining the project and creating the project's construction documents.

Around this date, the project's geotechnical engineer verified that the proposed site location required site stabilization and structural requirements due to underlying site soil conditions and excavation requirements. The consultant team identified an extensive soil nail retaining wall integrated into the back wall of the veterinary medical center and quarantine building as the best, least risky type of retaining wall for the building site; although it is a relatively expensive type of retaining wall.

The team met regularly to develop and refine the construction documents and to balance medical program needs with funds available. Additional opportunities to reduce project costs were identified and incorporated into project plans.

When the construction documents reached 85 percent completion, the documents were submitted to the City of Portland for permitting. The project's contract with the architect consultant team required another direct construction estimate. On November 10, 2009, the

consultant's cost estimator provided another direct construction cost estimate based on the 85 percent construction documents. Adding the project's estimated soft costs and deducting costs that are outside the Veterinary Medical Center project scope, the revised estimate was \$11.9 million. This estimate was \$2.7 million, 29 percent, above the project's target budget. See exhibit A.

The significant increases in the estimate were primarily due to site preparation, excavation, shoring, and structural work to construct the retaining wall and building. The site requires excavation and installation of a 20 foot tall retaining wall, as well as significant structural elements to reinforce the retaining wall and anchor the building. In the design, the medical center's back wall was structurally incorporated into the site's retaining wall.

In addition, the building location required relocation of an existing back-up power generator serving the existing veterinary medical center and other parts of the zoo. Site constraints limited placement of the generator and the project team chose to integrate the generator into the east wall of the building to minimize noise and inherent disturbance to quarantined animals. This integration increased the building square footage.

In response to the estimate, the external consultant team stopped all construction document refinement work and focused the consultant team on identifying options to further value engineer the project. The team reviewed the project's design development documents to identify significant value engineering opportunities. Between November 10, 2009, and December 17, 2009, the team identified the following significant cost cutting or value engineering opportunities:

1. Relocate the building approximately 100 feet west. This eliminates any modifications to the existing back-up power generator, as well as reduces the amount of required excavation, site, and structural work. The back wall of the building is now separated from the retaining wall, which dramatically reduces the structural requirements of the building. This also allows for tilt-up concrete wall construction, as opposed to a much more expensive poured-in-place method. See current site plan, exhibit B and prior site plan, exhibit C.
2. Reduce the building square footage from 19,040 to 15,443, representing 3,597 square feet (including elimination of square footage associated with back-up generator). See current floor plan, exhibit D and prior floor plan, exhibit E.
3. Eliminate the rooftop garden and other roof programmatic uses.
4. Review all major systems, including: shoring, structure, casework, floor material, fixtures, and mechanical.
5. Move the rainwater storage tank above ground.
6. Eliminate expensive LEED credits not required to meet LEED silver. The identified credits for removal are expensive with minimal sustainability return.
7. Maintain the current slope of the Gate J access road, resulting in reduced shoring and retaining needs.
8. The consultant obtained a second estimate for mechanical elements directly from a mechanical contractor.

As of December 17, 2009, the external consultant team believes they have identified the majority of available value engineering opportunities and that future efforts will not produce significant project costs savings.

Concurrently, the project manager solicited several Metro/MERC staff with significant construction and project management backgrounds to review the 85 percent construction documents for contingency risks and value engineering ideas. In addition, members of the Oregon Zoo Bond Advisory Committee toured the construction site and brainstormed ideas to value engineer the project, including resiting the building to a different location on the zoo campus.

The project team assessed the viability of relocating the veterinary medical center from Gate J to Gate A, the only other location identified that merited review. Gate A is the first gate from the freeway exit and contains facilities maintenance and horticulture office/shop areas, as well as a small amount of parking, and the zoo's compost bins (ZooDoo) and trash compactor. The complete qualitative and quantitative aspects of relocating the facilities to Gate A are documented in exhibit F and are summarized below:

1. Increases estimated direct soft and construction project costs by \$35,000.
2. Introduces significant qualitative risk to the project, including:
 - a. Requires a new amendment application to the zoo's Conditional Use Master Plan. This process takes at least five months and the outcome is uncertain. It is possible the City could deny the application and require the veterinary medical center project be incorporated into the forthcoming overall land-use and zoo master planning discussions.
 - b. The opportunity cost of using the Gate A location for future use.
 - c. Requires relocation of the significant composting (ZooDoo) and recycling activities to other suitable locations on zoo grounds.
3. Requires significant schedule delays. The current construction bid climate is extremely favorable to owners due to limited overall construction activity and intense bidding competition.

Upon reviewing the value engineering opportunities, the zoo's lead veterinarian and other stakeholders believe the identified value engineering options reduce overall project cost but do not reduce the building's functional use.

The value engineering savings have been estimated to reduce the total project costs to \$9.6 million, which remains above the target budget of \$9.2 million. The \$9.6 million amount includes contingency of approximately \$860,000, 9 percent, see exhibit B.

The external consultant team believes the favorable bid climate could result in direct construction bids five percent below the estimate, or \$9.2 million. The zoo bond team, desiring to be more conservative, believes it prudent to add up to five percent additional contingency to the estimate, or a total project estimated cost of \$10.1 million. Until the project's construction is formally bid to general contractors, this range of estimates will exist and reflects different professional opinions and budget risk tolerance for the project.

OPTIONS AVAILABLE

The project team identified two options to move the project forward:

1. The first is to incorporate the value engineered savings into the project construction documents, resubmit for City of Portland land-use and construction permits, and upon permit approval formally bid the project in the competitive construction market. The resulting bids will provide the best estimate of direct construction costs from outside third parties. Prudent construction practices then dictate the team applies reasonable contingency amounts to the bid direct construction amounts based on overall and specific project construction risk.
2. The second option is to stop the project and redirect the project team to restart at design development. This option likely results in significant sunk costs for the initial effort, as well as significant project delays and potential new costs. The option introduces many of the project qualitative risks identified in the resiting analysis, such as:
 - a. Significant schedule delay.
 - b. A potential negative change to the favorable construction bid climate.
 - c. Uncertainty that a new effort will significantly reduce overall costs

IMPLICATIONS AND SUGGESTIONS

The project team recommends the first option of incorporating the value engineering savings into the construction documents and preparing the project for formal bid. Should the project bids result in estimated construction costs that are near the target budget, incorporate reasonable contingency amounts into the budget.

If the total cost, including appropriate contingency, is at or less than \$10 million, review the facts with the Oregon Zoo Bond Advisory Committee and present the committee's recommendation to the Deputy Chief Operating Officer for a decision on whether to move forward or stop the project. This option sets the project budget at \$10 million. The impact of this increase needs to be spread across the future bond program and underlying project costs. While increasing the target budget for this project is not optimal, the program has a large degree of project scope and cost control for the remaining projects. We believe we can absorb this increase across the program and still satisfy the overall promises made to the public.

Should the decision be to move forward, the estimated future timeline is:

1. Direct the consultant team to incorporate value engineering options (estimated January 6, 2010).
2. Incorporate changes into the construction documents (estimated January 25, 2010).
3. Process a Type II Environmental Review for resiting the veterinary medical center with the city to obtain land-use approval (estimated March 9, 2010).
4. Obtain construction permit approval from city (estimated March 9, 2010).
5. Begin process to solicit Request for Bids for project construction (estimated March 10, 2010).
6. Award construction contract (estimated May 17, 2010).
7. Construction begins (estimated July 15, 2010).

QUESTION(S) PRESENTED FOR CONSIDERATION

Should the Veterinary Medical Center and Quarantine facility project team proceed with Option 1 or Option 2?

LEGISLATION WOULD BE REQUIRED FOR COUNCIL ACTION: No
DRAFT IS ATTACHED: Not applicable

OREGON ZOO

EXHIBIT A

VETERINARY MEDICAL CENTER AND QUARANTINE FACILITIES PROJECT

Project Budget Estimates from External Consultants

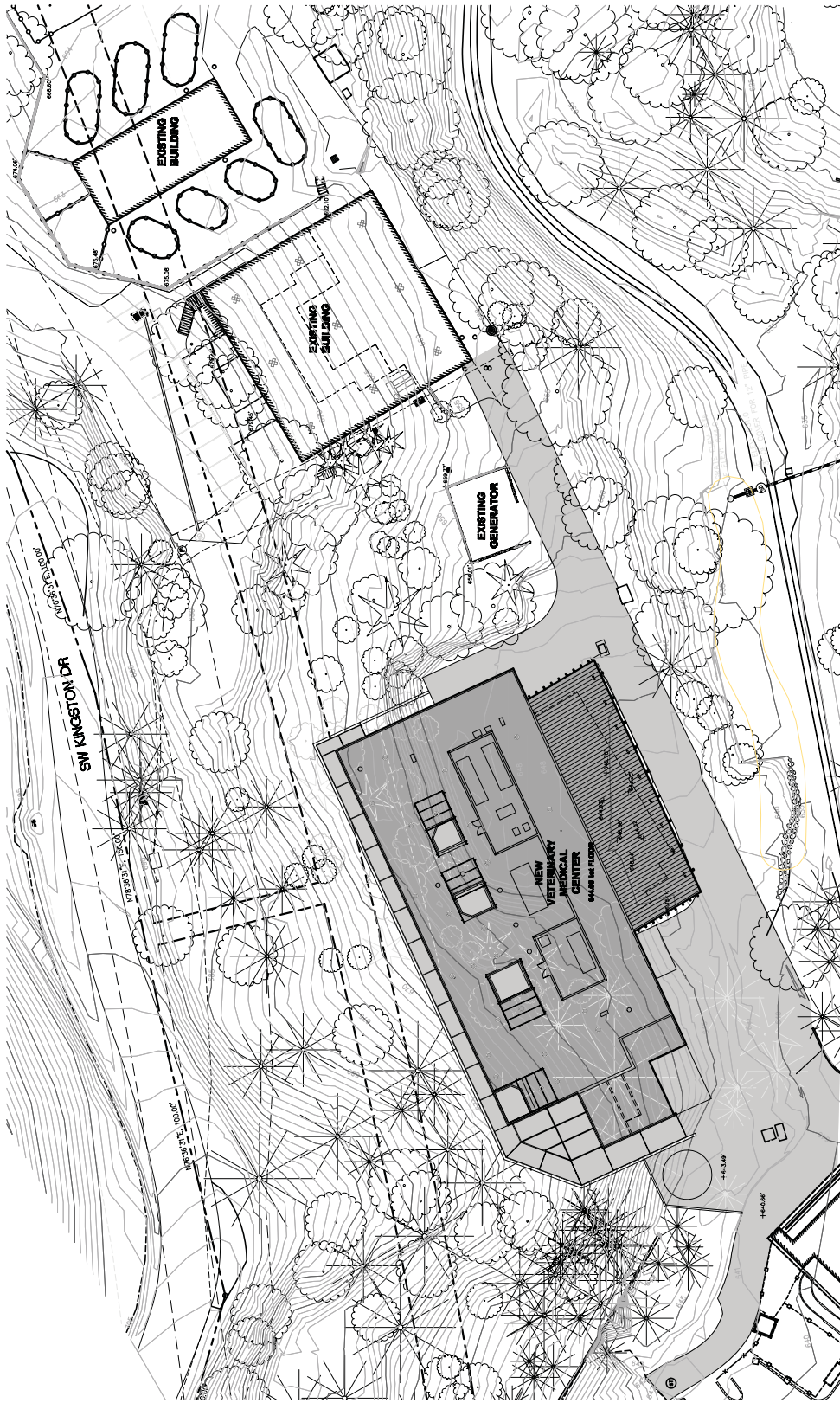
December 28, 2009

Location	Orig. Site	Orig. Site	100' Move West
Building Square Footage	18,213 Sq. Ft.	19,040 Sq. Ft.	15,443 Sq. Ft.
Estimate Date	July 2, 2009	Nov. 10, 2009	Dec. 11, 2009
Project Soft Costs			
Professional Fees	\$ 942,153	\$ 942,153	\$ 942,153
Site and Building Contingency (Add'l 5%)	396,473	491,593	385,673
Equipment and Furniture	285,115	285,115	285,115
Permits	160,000	160,000	160,000
Special Inspections	60,000	60,000	60,000
1 Percent for Art	60,000	60,000	60,000
Other Paid Expenses	26,772	26,772	26,772
Subtotal	\$ 1,930,513	\$ 2,025,633	\$ 1,919,713
Site and Building Construction			
Consultant Estimate Site (Approx. 4% Contingency Included)	\$ 733,148	\$ 2,427,788	\$ 1,273,051
Consultant Estimate Building (Approx. 4% Contingency Included)	7,508,246	8,712,375	6,244,103
Project Team Identified Estimate Additions			
Caging			300,000
Plumbing			200,000
HVAC			100,000
Other			218,000
Project Team Identified Costs Deductions for Costs Outside Scope			
Generator to Infrastructure		(996,365)	
Storm Water to Infrastructure	(311,941)	(311,941)	(103,000)
Subtotal	\$ 7,929,453	\$ 9,831,857	\$ 8,232,154
Value Engineering Opportunities			
Tilt up walls			\$ (250,000)
Delete Pile Retaining Wall at Road			(243,700)
Above Ground Water Storage Tank			(25,000)
Subtotal	\$ -	\$ -	\$ (518,700)
Total Soft Costs, Site and Building	\$ 9,859,966	\$ 11,857,490	\$ 9,633,167

Note: Figures do no include bond staff or overhead costs.

CURRENT SITE PLAN

EXHIBIT B



SITE PLAN



OREGON ZOO
VETERINARY HOSPITAL
PORTLAND, OR

PSE architects



PRIOR SITE PLAN

EXHIBIT C



OREGON ZOO
VETERINARY HOSPITAL
PORTLAND, OR



PSE architects

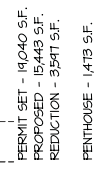


SITE PLAN



EXHIBIT D

PSE architects



FIRST FLOOR PLAN

REVISÉ PLAN - 18 DECEMBER 2009

LEGEND

- | | |
|----------------|------------------------|
| CIRCULATION | ANIMAL HOLDING INDOOR |
| NECKROPHY | ANIMAL HOLDING OUTDOOR |
| CRATE STORAGE | HOSPITAL |
| ELECT/MECH | PUBLIC |
| GARAGE/LOADING | OFFICE |

PRIOR FLOOR PLAN

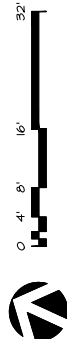
EXHIBIT E



LEGEND

	CIRCULATION		ANIMAL HOLDING INDOOR
	NECROPSY		ANIMAL HOLDING OUTDOOR
	CRATE STORAGE		HOSPITAL
	ELECT/TECH		PUBLIC
	GARAGE/LOADING		OFFICE

FIRST FLOOR PLAN



OREGON ZOO
VETERINARY HOSPITAL
PORTLAND, OR



OREGON ZOO
VETERINARY MEDICAL CENTER AND QUARANTINE FACILITIES PROJECT
Assessment of Relocating the Project from Gate J to Gate A
December 28, 2009

Source: Veterinary Medical Center and Quarantine Facility Project Team.

Purpose: To document the assessment of Gates J and A for project siting.

Conclusion: The Gate J site is favorable for both estimated cost and qualitative considerations.

During the intense period of veterinary medical center and quarantine project value engineering that occurred in November and December 2009, relocating the veterinary medical center to a site with less expensive excavation and land preparation was identified as an option to review by members of the project team and the Oregon Zoo Bond Advisory Committee.

The project team assessed the viability of relocating the veterinary medical center from Gate J to Gate A, the only other location identified on the zoo campus that merited review. Gate A is the first gate from the freeway exit and contains maintenance and horticulture office and shop areas, as well as a small amount of parking, and the zoo's compost bins (ZooDoo), trash compactor, and recycling.

The team's quantitative and qualitative assessment concluded that relocating the veterinary medical center from Gate J to Gate A would not materially reduce the estimated veterinary medical center and quarantine project costs. The qualitative issues and considerations for relocating were generally negative, as well.

To complete the analysis, the project team discussed the relocation with the project consultants, including architect and engineer, as well as the veterinary program staff. Some of the cost estimates were provided by the consultants based using known site information. One significant site consideration is a known slide area at Gate A that would require extensive engineering and cost to stabilize.

The following table summarizes the assessment, see next page.

OREGON ZOO

VETERINARY MEDICAL CENTER AND QUARANTINE FACILITIES PROJECT

Assessment of Relocating the Project from Gate J to Gate A

December 28, 2009

	Gate J	Gate A – Possible Relocation Site
1. Animal health and veterinary program considerations	The site meets animal health and veterinary program needs.	The site meets animal health and veterinary program needs.
2. Estimated Project Cost, based on available information.	~\$9.6 million	~\$9.6 million
3. Favorable construction bid climate	Maintaining the current project schedule likely results in taking advantage of the favorable bid climate.	Delays inherent in moving to a new location could negatively impact the favorable bid climate.
4. Schedule	No impact	Significant delay to complete site engineering, redesign building for site, identify locations for existing operations performed at location.
5. Impact to zoo Conditional Use Master Plan amendment	No impact. The move 100' west will require a Type II Environmental Review by the City.	Requires a new amendment application to the zoo's Conditional Use Master Plan. This process takes at least five months and the outcome is uncertain. It is possible the City could deny the application and require the project be incorporated into the forthcoming overall land-use and zoo master planning discussions.
6. Location opportunity cost	Low opportunity cost of using location for other purposes.	High opportunity cost of using location. Future program or operating uses unknown until campus master planning complete, but location has many positive attributes. Also requires relocating composting, garbage, and recycling operations.
7. Political considerations	No new considerations.	Inherent delays in relocating may increase the perception that the bond program is moving slowly or stalled.

OREGON ZOO
VETERINARY MEDICAL CENTER AND QUARANTINE FACILITIES PROJECT
 Assessment of Relocating the Project from Gate J to Gate A
 December 28, 2009

Location		100' Move West	Gate A
Building Square Footage		15,443 Sq. Ft.	15,443 Sq. Ft.
Estimate Date		Dec. 11, 2009	Dec. 15, 2009
Project Soft Costs			
Professional Fees		\$ 942,153	\$ 942,153
Professional Redesign Fees			442,000
Site and Building Contingency (Addt'l 5%)		385,673	364,378
Equipment and Furniture		285,115	285,115
Permits		160,000	160,000
Permit Fees Paid - sunk cost			40,000
Special Inspections		60,000	60,000
1 Percent for Art		60,000	60,000
Other Paid Expenses		26,772	26,772
Subtotal		\$ 1,919,713	\$ 2,380,418
Site and Building Construction			
Consultant Estimate Site (Approx. 4% Contingency Included)		\$ 1,273,051	\$ 650,000
Consultant Estimate Building (Approx. 4% Contingency Included)		6,244,103	6,244,103
Project Team Identified Estimate Additions			
Caging		300,000	300,000
Plumbing		200,000	200,000
Heating and Ventilation		100,000	100,000
Other		218,000	218,000
Project Team Identified Cost Deductions for Costs Outside Scope			
Storm Water to Infrastructure		(103,000)	(103,000)
Subtotal		\$ 8,232,154	\$ 7,609,103
Value Engineering Opportunities			
Tilt up walls		\$ (250,000)	\$ (250,000)
Delete Pile Retaining Wall at Road		(243,700)	(243,700)
Above Ground Water Storage Tank		(25,000)	(25,000)
Subtotal		\$ (518,700)	\$ (518,700)
Relocating to Gate A Costs			
Delete Soil Nail Wall at Building			\$ (362,682)
Additional Soil Nail Wall along HWY 26			525,000
Relocate Recycling Facility			100,000
Relocate Composting			120,000
Delete Concrete Walls			(678,002)
Add Concrete Walls			449,288
Reduce Oversize Footings			(30,000)
Exterior Finish Exposed Elevation			73,544
Subtotal		\$ -	\$ 197,148
Total Soft Costs, Site and Building		\$ 9,633,167	\$ 9,667,969