

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING)
PROVISIONS OF METRO CODE CHAPTER) ORDINANCE NO. 03-994A
2.04, CHAPTER 7.01, AND CHAPTER 2.16)
RELATING TO SPONSORSHIP AND) Introduced by Council President Bragdon
NAMING RIGHTS CONTRACTS)

WHEREAS, Chapter 2.04 of the Metro Code establishes policies for Metro regarding public contracts, and includes exemptions from competitive bidding requirements for specified classes of public contracts; and

WHEREAS, occasional business and economic changes require revisions to the competitive bidding exemptions in order to allow Metro and the Metropolitan-Exposition Recreation Commission to minimize the costs they incur for necessary goods and services; and

WHEREAS, Metro and the Metropolitan Exposition-Recreation Commission wish to implement a program to raise revenue from the naming, sponsorship, and advertising opportunities at their facilities (hereinafter the "Sponsorship And Naming Program"); and

WHEREAS, Metro and the Metropolitan Exposition-Recreation Commission contemplate three types of transactions under the Sponsorship And Naming Program: sponsorship, naming, and advertising; and

WHEREAS, Metro and the Metropolitan Exposition-Recreation Commission should have the flexibility to negotiate with parties who may be willing to pay for naming rights, pay for advertising, and/or supply goods or services at a reduced cost as part of a sponsorship arrangement; and

WHEREAS, in Ordinance No. 90-355, the Metro Council exempted from the excise tax sponsorship payments made to the Oregon Zoo; and

WHEREAS, it is desirable to expand the excise tax exemption for sponsorship revenue to include payments under the Sponsorship And Naming Program made to the Metropolitan Exposition-Recreation Commission and Metro; and

WHEREAS, Metro Code 2.16.020 states the Metro policy for the naming of facilities, and permits facilities owned by Metro, including individual parts of those facilities, to be named for living or deceased persons; and

WHEREAS, in order to maximize opportunities for Metro and the Metropolitan Exposition-Recreation Commission to obtain revenue from naming rights agreements, it is necessary to revise the Metro policy for naming of facilities to allow facilities owned by Metro, and individual parts of those facilities, to be named for corporations, partnerships, and other business entities in order to reflect funds contributed to the facilities' construction, acquisition, or operation.

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The Metro Council adopts the findings in Attachment A.
2. That Metro Code Chapter 2.04, Section 2.04.054 is hereby amended as follows:

2.04.054 Competitive Bidding Exemptions

Subject to the policies and provisions of ORS 279.005 and 279.007, and the Metro Code, all Metro and Metropolitan Exposition-Recreation Commission public contracts shall be based upon competitive bids except:

- (a) State Law. Classes of public contracts specifically exempted from competitive bidding requirements by state law.
- (b) Board Rule. The following classes of public contracts are exempt from the competitive bidding process based on the legislative finding by the Board that the exemption will not encourage favoritism or substantially diminish competition for public contracts and that such exemptions will result in substantial cost savings:
 - (1) All contracts estimated to be not more than \$50,000 provided that the procedures required by Section 2.04.056 are followed.
 - (2) Purchase and sale of zoo animals, zoo gift shop retail inventory and resale items, and any sales of food or concession items at Metro facilities.
 - (3) Contracts for management and operation of food, parking or similar concession services at Metro facilities provided that procedures substantially similar to the procedures required for formal Request for Proposals used by Metro for personal services contracts are followed.

- (4) Emergency contracts provided that written findings are made that document the factual circumstances creating the emergency and establishing why the emergency contract will remedy the emergency. An emergency contract must be awarded within 60 days of the declaration of the emergency unless the Board grants an extension.
- (5) Purchase of food items for resale at the Oregon Zoo provided the provisions of Section 2.04.060 are followed.
- (6) Contracts for warranties in which the supplier of the goods or services covered by the warranty has designated a sole provider for the warranty service.
- (7) Contracts for computer hardware and software provided that procedures substantially similar to the procedures required for formal Request for Proposals used by Metro for personal services contracts are followed.
- (8) Contracts under which Metro is to receive revenue by providing a service.
- (9) Contracts for the lease or use of the convention, trade, and spectator buildings and facilities operated by the Metro Exposition-Recreation Commission.
- (10) Public contracts by the Metro Exposition-Recreation Commission in an amount less than \$75,000, which amount shall be adjusted each year to reflect any changes in the Portland SMSA CPI, provided that any rules adopted by the commission which provide for substitute selection procedures are followed.
- (11) Contracts for equipment repair or overhaul, but only when the service and/or parts required are unknown before the work begins and the cost cannot be determined without extensive preliminary dismantling or testing.
- (12) Contracts in the nature of grants to further a Metro purpose provided a competitive Request for Proposal process is followed.
- (13) The procurement of utilities, including telephone service, electric, natural gas, and sanitary services, provided that if competition is available, a Request for Proposal process is followed.
- (14) The procurement of art and art related production and fabrication provided that a Request for Proposal process is followed.
- (15) Sponsorships which are identified and approved in the proposed budget and are not designated by Council as having a significant impact as outlined in Section 2.04.026 need not follow a competitive bidding or proposal process. In order to be eligible for this exemption the sponsorship shall provide Metro with event advertising and/or media releases.

(16) Sponsorship contracts, provided that quotes are obtained from at least three potential sponsors or that good faith efforts to obtain such quotes are documented. A sponsorship contract is any contract under which the sponsor's name or logo is used in connection with a facility's goods, buildings, parts of buildings, services, systems, or functions in exchange for the sponsor's agreement to pay consideration, including money, goods, services, labor, credits, property or other consideration.

(c) Board Resolution. Specific contracts, not within the classes exempted in subsections (a) and (b) above, may be exempted by the Board by resolution subject to the requirements of ORS 279.015(2) and ORS 279.015(5). The Board shall, where appropriate, direct the use of alternate contracting and purchasing practices that take account of market realities and modern innovative contracting and purchasing methods, which are consistent with the public policy of encouraging competition.

23. That Metro Code Chapter 7.01, Section 7.01.050 is hereby amended as follows:

7.01.050 Exemptions

(a) The following persons, users and operators are exempt from the requirements of this chapter:

- (1) Persons, users and operators whom Metro is prohibited from imposing an excise tax upon under the Constitution or Laws of the United States or the Constitution or Laws of the State of Oregon.
- (2) Persons who are users and operators of ~~the Portland Civic Stadium or the~~ Portland Center for the Performing Arts.
- (3) Persons whose payments to Metro or to an operator constitute a donation, gift or bequest for the receipt of which neither Metro nor any operator is under any contractual obligation related thereto.
- (4) Any persons making payment to Metro for a business license pursuant to ORS 701.015.
- (5) Any person which is a state, a state agency or a municipal corporation to the extent of any payment made directly to Metro for any purpose other than solid waste disposal, use of a Metro ERC facility, or use of the Oregon Zoo.
- (6) Users of the following facilities:
 - (A) Facilities that are certified, licensed, franchised or exempt from regulation under Metro Code Chapter 5.01 other than Disposal Sites or Transfer Stations that are not subject to the requirements of Metro Code Section 5.01.125(a) as amended by Metro Ord. 00-866;

- (B) Facilities that treat to applicable DEQ standards Cleanup Material Contaminated by Hazardous Substances;
 - (C) Licensed yard debris processing facilities or yard debris reload facilities;
 - (D) Tire processing facilities that sort, classify or process used tires into fuel or other products and thereafter produce a Processing Residual that is regulated under Metro Code Chapter 5.01 and that conforms to standards established pursuant to ORS 459.710(2) by the Oregon Environmental Quality Commission.
- (7) Persons making payments to Metro ~~on behalf of the Oregon Zoo~~ for the following purposes:
- (A) Individual or corporate sponsorship or naming rights contracts.
A naming rights contract is any contract under which a Metro or Metro ERC facility or part of a facility (as authorized by Metro Code Chapter 2.16) will be named for the sponsor in exchange for payment from the sponsor. A sponsorship contract is a contract under which the sponsor's name or logo will be used in connection with a district facility's goods, buildings, parts of buildings, services, systems, or functions in exchange for payment from the sponsor. This exemption applies to any payments pursuant to sponsorship or naming rights contracts, including payments of money, goods, services, labor, credits, property, or other consideration.
 - (B) Payments for advertising at Metro facilities and Metro ERC facilities.
 - (AC) Contributions, bequests, and grants received from charitable trusts, estates, nonprofit corporations, or individuals regardless of whether Metro agrees to utilize the payment for a specific purpose including all payments to the Oregon Zoo Parents program;
 - (BD) Corporate sponsorships or co-promotional efforts for events that are open to the general public, or for specific capital improvements, educational programs, publications, or research projects ~~conducted at the Oregon Zoo;~~
 - (CE) Payments that entitle a person to admission to a fund-raising event benefiting the Oregon Zoo that is not held on the grounds of the Oregon Zoo;
 - (DE) Payments that entitle a person to admission to a special fund-raising event held at the Oregon Zoo where the event is sponsored and conducted by a nonprofit organization approved by the Council and the primary purpose of which is to support

the Oregon Zoo and the proceeds of the event are contributed to the Oregon Zoo;

~~(EG)~~ Notwithstanding the provisions of subsection ~~(AC)~~ through ~~(DF)~~ above, all payments received by Metro for admission to the Oregon Zoo, or which entitle individuals to receipt of food, beverages, goods, or rides on the Oregon Zoo train shall be subject to tax regardless of whether payment is received from an individual or otherwise on behalf of special groups including but not limited to employee and family member picnics, corporate or family parties, or similar events.

(8) Users and operators paying compensation to any person who is operating and lease property at the Glendoveer Golf Course pursuant to a long-term agreement entered into with Multnomah County prior to January 1, 1994.

(9) A tire processor which is regulated pursuant to Metro Code Chapter 5.01 and which sorts, classifies or processes used tires into fuel or other products, shall be exempt from payment of excise tax on disposal of residual material produced directly as a result of such process, provided said residual conforms to Environmental Quality Commission standards established pursuant to ORS 459.710(2). This exemption is only granted to the extent, and under the terms, specified in the Metro certificate, license or franchise.

(10) Persons who deliver useful material to disposal sites, provided that such sites are listed as a Metro Designated Facility under Metro Code Chapter 5.05 or are named in a Metro Non-System License and provided further that the Useful Material: (A) is intended to be used, and is in fact used, productively in the operation of such site for purposes including roadbeds and alternative daily cover; and (B) is accepted at such site at no charge.

(b) Any person, user or operator that is exempt for the payment of an excise tax pursuant to this section shall nonetheless be liable for compliance with this chapter and the payment of all taxes due pursuant to any activity engaged in by such person which is subject to this chapter and not specifically exempted from the requirements hereof. Any operator whose entire compensation from others for use of a Metro facility is exempt from the provisions of this chapter shall be deemed to be a user and not an operator.

34. That Metro Code Chapter 2.16, Section 2.16.020 is hereby amended as follows:

2.16.020 Policy for Naming of Facilities

(a) Facilities owned by Metro shall be named through adoption of an ordinance by the Metro Council. Such an ordinance shall state the name and address of the facility, which shall be included in this chapter. For purposes of this section, a "facility" shall be a building, which may contain one or more rooms, theaters, halls, offices, exhibits, etc., a group of buildings under common management with a shared mission, or a zoo, park, open space, trail, cemetery, golf course, boat ramp, or other outdoor area owned by Metro.

(b) The principal purpose of the name of a facility shall be to identify the facility's function and purpose. When the Council deems it to be practicable and advisable, the name may also reflect the facility's ownership, location, source or sources of funding for its construction, or the contribution of effort made or funds contributed by a person, ~~or persons,~~ corporation, firm, partnership, joint venture, association, governmental body, joint stock company, limited liability company, estate, trust or syndicate toward its construction, acquisition, or operation.

(c) A Metro facility may be named after any living person who has not held elective office in Oregon. In the event Metro acquires ownership of a facility that was named after a living person by the facility's former owner, the facility shall continue to bear that name.

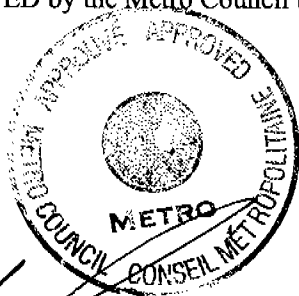
(d) A Metro facility may be named for a deceased person in recognition of the person's significant contribution of effort or money in support of the facility or its construction or mission, in conformance with an adopted policy of the Metro Council.

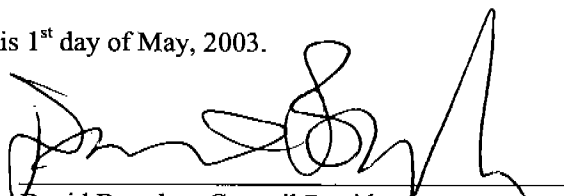
(e) A Metro facility other than the Oregon Zoo and the Oregon Convention Center may be named for a corporation, firm, partnership, joint venture, association, governmental body, joint stock company, limited liability company, estate, trust, or syndicate in recognition of that entity's significant contribution of effort or money in support of the facility or its construction, operation or mission, in conformance with an adopted policy of the Metro Council.

(ef) Individual parts of a facility, including but not limited to theaters, exhibits, ballrooms, meeting rooms, halls, lobbies, and equipment, may be named after a person or persons, living or deceased, or after a corporation, firm, partnership, joint venture, association, governmental body, joint stock company, limited liability company, estate, trust, or syndicate, by adoption of a resolution by the Metro Council.

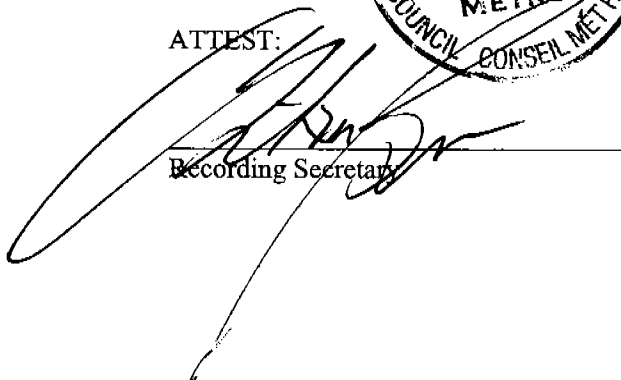
(fg) Facilities which Metro operates but does not own may not be named or re-named by Metro or a Metro commission. The owner(s) of such facilities shall retain authority for their naming or re-naming.

ADOPTED by the Metro Council this 1st day of May, 2003.




David Bragdon, Council President

ATTEST:


Recording Secretary

Approved as to Form:


Daniel B. Cooper, Metro Attorney

BEFORE THE METRO COUNCIL

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WHEREAS, occasional business and economic changes require revisions to the competitive bidding exemptions in order to allow Metro and the Metropolitan-Exposition Recreation Commission to minimize the costs they incur for necessary goods and services; and

WHEREAS, Metro and the Metropolitan Exposition-Recreation Commission wish to implement a program to raise revenue from the naming, sponsorship, and advertising opportunities at their facilities (hereinafter the "Sponsorship And Naming Program"); and

WHEREAS, Metro and the Metropolitan Exposition-Recreation Commission contemplate three types of transactions under the Sponsorship And Naming Program: sponsorship, naming, and advertising; and

WHEREAS, Metro and the Metropolitan Exposition-Recreation Commission should have the flexibility to negotiate with parties who may be willing to pay for naming rights, pay for advertising, and/or supply goods or services at a reduced cost as part of a sponsorship arrangement; and

WHEREAS, in Ordinance No. 90-355, the Metro Council exempted from the excise tax sponsorship payments made to the Oregon Zoo; and

WHEREAS, it is desirable to expand the excise tax exemption for sponsorship revenue to include payments under the Sponsorship And Naming Program made to the Metropolitan Exposition-Recreation Commission and Metro; and

WHEREAS, Metro Code 2.16.020 states the Metro policy for the naming of facilities, and permits facilities owned by Metro, including individual parts of those facilities, to be named for living or deceased persons; and

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THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The Metro Council adopts the findings in Attachment A.
2. That Metro Code Chapter 2.04, Section 2.04.054 is hereby amended as follows:

2.04.054 Competitive Bidding Exemptions

Subject to the policies and provisions of ORS 279.005 and 279.007, and the Metro Code, all Metro and Metropolitan Exposition-Recreation Commission public contracts shall be based upon competitive bids except:

(a) State Law. Classes of public contracts specifically exempted from competitive bidding requirements by state law.

(b) Board Rule. The following classes of public contracts are exempt from the competitive bidding process based on the legislative finding by the Board that the exemption will not encourage favoritism or substantially diminish competition for public contracts and that such exemptions will result in substantial cost savings:

- (1) All contracts estimated to be not more than \$50,000 provided that the procedures required by Section 2.04.056 are followed.
- (2) Purchase and sale of zoo animals, zoo gift shop retail inventory and resale items, and any sales of food or concession items at Metro facilities.
- (3) Contracts for management and operation of food, parking or similar concession services at Metro facilities provided that procedures substantially similar to the procedures required for formal Request for Proposals used by Metro for personal services contracts are followed.

- (4) Emergency contracts provided that written findings are made that document the factual circumstances creating the emergency and establishing why the emergency contract will remedy the emergency. An emergency contract must be awarded within 60 days of the declaration of the emergency unless the Board grants an extension.
- (5) Purchase of food items for resale at the Oregon Zoo provided the provisions of Section 2.04.060 are followed.
- (6) Contracts for warranties in which the supplier of the goods or services covered by the warranty has designated a sole provider for the warranty service.
- (7) Contracts for computer hardware and software provided that procedures substantially similar to the procedures required for formal Request for Proposals used by Metro for personal services contracts are followed.
- (8) Contracts under which Metro is to receive revenue by providing a service.
- (9) Contracts for the lease or use of the convention, trade, and spectator buildings and facilities operated by the Metro Exposition-Recreation Commission.
- (10) Public contracts by the Metro Exposition-Recreation Commission in an amount less than \$75,000, which amount shall be adjusted each year to reflect any changes in the Portland SMSA CPI, provided that any rules adopted by the commission which provide for substitute selection procedures are followed.
- (11) Contracts for equipment repair or overhaul, but only when the service and/or parts required are unknown before the work begins and the cost cannot be determined without extensive preliminary dismantling or testing.
- (12) Contracts in the nature of grants to further a Metro purpose provided a competitive Request for Proposal process is followed.
- (13) The procurement of utilities, including telephone service, electric, natural gas, and sanitary services, provided that if competition is available, a Request for Proposal process is followed.
- (14) The procurement of art and art related production and fabrication provided that a Request for Proposal process is followed.
- (15) Sponsorships which are identified and approved in the proposed budget and are not designated by Council as having a significant impact as outlined in Section 2.04.026 need not follow a competitive bidding or proposal process. In order to be eligible for this exemption the sponsorship shall provide Metro with event advertising and/or media releases.

(16) Sponsorship contracts, provided that quotes are obtained from at least three potential sponsors or that good faith efforts to obtain such quotes are documented. A sponsorship contract is any contract under which the sponsor's name or logo is used in connection with a facility's goods, buildings, parts of buildings, services, systems, or functions in exchange for the sponsor's agreement to pay consideration, including money, goods, services, labor, credits, property or other consideration.

(c) Board Resolution. Specific contracts, not within the classes exempted in subsections (a) and (b) above, may be exempted by the Board by resolution subject to the requirements of ORS 279.015(2) and ORS 279.015(5). The Board shall, where appropriate, direct the use of alternate contracting and purchasing practices that take account of market realities and modern innovative contracting and purchasing methods, which are consistent with the public policy of encouraging competition.

23. That Metro Code Chapter 7.01, Section 7.01.050 is hereby amended as follows:

7.01.050 Exemptions

(a) The following persons, users and operators are exempt from the requirements of this chapter:

- (1) Persons, users and operators whom Metro is prohibited from imposing an excise tax upon under the Constitution or Laws of the United States or the Constitution or Laws of the State of Oregon.
- (2) Persons who are users and operators of ~~the Portland Civic Stadium or the~~ Portland Center for the Performing Arts.
- (3) Persons whose payments to Metro or to an operator constitute a donation, gift or bequest for the receipt of which neither Metro nor any operator is under any contractual obligation related thereto.
- (4) Any persons making payment to Metro for a business license pursuant to ORS 701.015.
- (5) Any person which is a state, a state agency or a municipal corporation to the extent of any payment made directly to Metro for any purpose other than solid waste disposal, use of a Metro ERC facility, or use of the Oregon Zoo.
- (6) Users of the following facilities:
 - (A) Facilities that are certified, licensed, franchised or exempt from regulation under Metro Code Chapter 5.01 other than Disposal Sites or Transfer Stations that are not subject to the requirements of Metro Code Section 5.01.125(a) as amended by Metro Ord. 00-866;

- (B) Facilities that treat to applicable DEQ standards Cleanup Material Contaminated by Hazardous Substances;
 - (C) Licensed yard debris processing facilities or yard debris reload facilities;
 - (D) Tire processing facilities that sort, classify or process used tires into fuel or other products and thereafter produce a Processing Residual that is regulated under Metro Code Chapter 5.01 and that conforms to standards established pursuant to ORS 459.710(2) by the Oregon Environmental Quality Commission.
- (7) Persons making payments to Metro ~~on behalf of the Oregon Zoo~~ for the following purposes:
- (A) Individual or corporate sponsorship or naming rights contracts. A naming rights contract is any contract under which a Metro or Metro ERC facility or part of a facility (as authorized by Metro Code Chapter 2.16) will be named for the sponsor in exchange for payment from the sponsor. A sponsorship contract is a contract under which the sponsor's name or logo will be used in connection with a district facility's goods, buildings, parts of buildings, services, systems, or functions in exchange for payment from the sponsor. This exemption applies to any payments pursuant to sponsorship or naming rights contracts, including payments of money, goods, services, labor, credits, property, or other consideration.
 - (B) Payments for advertising at Metro facilities and Metro ERC facilities.
 - (~~A~~C) Contributions, bequests, and grants received from charitable trusts, estates, nonprofit corporations, or individuals regardless of whether Metro agrees to utilize the payment for a specific purpose including all payments to the Oregon Zoo Parents program;
 - (~~B~~D) Corporate sponsorships or co-promotional efforts for events that are open to the general public, or for specific capital improvements, educational programs, publications, or research projects ~~conducted at the Oregon Zoo~~;
 - (~~C~~E) Payments that entitle a person to admission to a fund-raising event benefiting the Oregon Zoo that is not held on the grounds of the Oregon Zoo;
 - (~~D~~F) Payments that entitle a person to admission to a special fund-raising event held at the Oregon Zoo where the event is sponsored and conducted by a nonprofit organization approved by the Council and the primary purpose of which is to support

the Oregon Zoo and the proceeds of the event are contributed to the Oregon Zoo;

- (~~E~~G) Notwithstanding the provisions of subsection (~~A~~C) through (~~D~~F) above, all payments received by Metro for admission to the Oregon Zoo, or which entitle individuals to receipt of food, beverages, goods, or rides on the Oregon Zoo train shall be subject to tax regardless of whether payment is received from an individual or otherwise on behalf of special groups including but not limited to employee and family member picnics, corporate or family parties, or similar events.
- (8) Users and operators paying compensation to any person who is operating and lease property at the Glendoveer Golf Course pursuant to a long-term agreement entered into with Multnomah County prior to January 1, 1994.
- (9) A tire processor which is regulated pursuant to Metro Code Chapter 5.01 and which sorts, classifies or processes used tires into fuel or other products, shall be exempt from payment of excise tax on disposal of residual material produced directly as a result of such process, provided said residual conforms to Environmental Quality Commission standards established pursuant to ORS 459.710(2). This exemption is only granted to the extent, and under the terms, specified in the Metro certificate, license or franchise.
- (10) Persons who deliver useful material to disposal sites, provided that such sites are listed as a Metro Designated Facility under Metro Code Chapter 5.05 or are named in a Metro Non-System License and provided further that the Useful Material: (A) is intended to be used, and is in fact used, productively in the operation of such site for purposes including roadbeds and alternative daily cover; and (B) is accepted at such site at no charge.

(b) Any person, user or operator that is exempt for the payment of an excise tax pursuant to this section shall nonetheless be liable for compliance with this chapter and the payment of all taxes due pursuant to any activity engaged in by such person which is subject to this chapter and not specifically exempted from the requirements hereof. Any operator whose entire compensation from others for use of a Metro facility is exempt from the provisions of this chapter shall be deemed to be a user and not an operator.

34. That Metro Code Chapter 2.16, Section 2.16.020 is hereby amended as follows:

2.16.020 Policy for Naming of Facilities

(a) Facilities owned by Metro shall be named through adoption of an ordinance by the Metro Council. Such an ordinance shall state the name and address of the facility, which shall be included in this chapter. For purposes of this section, a "facility" shall be a building, which may contain one or more rooms, theaters, halls, offices, exhibits, etc., a group of buildings under common management with a shared mission, or a zoo, park, open space, trail, cemetery, golf course, boat ramp, or other outdoor area owned by Metro.

(b) The principal purpose of the name of a facility shall be to identify the facility's function and purpose. When the Council deems it to be practicable and advisable, the name may also reflect the facility's ownership, location, source or sources of funding for its construction, or the contribution of effort made or funds contributed by a person, ~~or persons~~, corporation, firm, partnership, joint venture, association, governmental body, joint stock company, limited liability company, estate, trust or syndicate toward its construction, acquisition, or operation.

(c) A Metro facility may be named after any living person who has not held elective office in Oregon. In the event Metro acquires ownership of a facility that was named after a living person by the facility's former owner, the facility shall continue to bear that name.

(d) A Metro facility may be named for a deceased person in recognition of the person's significant contribution of effort or money in support of the facility or its construction or mission, in conformance with an adopted policy of the Metro Council.

(e) A Metro facility may be named for a corporation, firm, partnership, joint venture, association, governmental body, joint stock company, limited liability company, estate, trust, or syndicate in recognition of that entity's significant contribution of effort or money in support of the facility or its construction, operation or mission, in conformance with an adopted policy of the Metro Council.

(ef) Individual parts of a facility, including but not limited to theaters, exhibits, ballrooms, meeting rooms, halls, lobbies, and equipment, may be named after a person or persons, living or deceased, or after a corporation, firm, partnership, joint venture, association, governmental body, joint stock company, limited liability company, estate, trust, or syndicate, by adoption of a resolution by the Metro Council.

(fg) Facilities which Metro operates but does not own may not be named or re-named by Metro or a Metro commission. The owner(s) of such facilities shall retain authority for their naming or re-naming.

ADOPTED by the Metro Council this ____ day of _____ 2003.

David Bragdon, Council President

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 03-994, FOR THE PURPOSE
OF AMENDING PROVISIONS OF METRO CODE CHAPTER 2.04,
CHAPTER 7.01, AND CHAPTER 2.16 RELATING TO SPONSORSHIP AND
NAMING RIGHTS CONTRACTS

Date: April 4, 2003

Prepared by: Mark B. Williams
Interim Chief Operating Officer

Sheryl Manning
MERC Acting General Manager

BACKGROUND

Current provisions of the Metro Code allow for naming, sponsorship, and advertising opportunities at the Oregon Zoo. In addition, such a program already exists at the Portland Center for the Performing Arts as the Metro Code specifies that the Portland City Council has the authority to approve such opportunities at City-owned facilities. These programs have proven successful, and have been a source of outside support for both the Zoo and PCPA. In particular, PCPA has raised over \$3 million in private funds in recent years to assist in that facility's capital needs.

This resolution would extend the opportunities already available under the Metro Code to the Oregon Zoo to other arms of Metro. In particular, it would allow the Metropolitan Exposition-Recreation Commission (MERC) to implement a program to explore the possibility of raising revenue from naming, sponsorship, and advertising opportunities at the Oregon Convention Center and the Portland Metropolitan Exposition Center ("the Program"). Three types of revenues are expected to be raised under the Program:

- Sponsorship - the receipt of goods and services in exchange for recognition in and around facilities,
- Naming - the naming of facilities or portions of facilities, and
- Advertising - advertising in and around facilities.

It should be emphasized that existing provisions of the Metro Code (Metro Code Section 2.16.020) clearly provide that only the Metro Council has the authority to approve, by duly adopted ordinance, the naming of a facility. There is nothing in this ordinance that changes that. Any future proposal to name a MERC or Metro facility would have to receive formal Metro Council approval as specified by the Code.

A consultant, Front Row Marketing, was hired by MERC to assess the potential naming/sponsorship/advertising opportunities at Metro/MERC facilities. That assessment has been completed and has yielded an initial indication of potential revenue of \$600,000 to \$900,000 annually.

In order for the Program to be implemented and to be successful, amendments need to be made to the Metro Code extending current provisions applicable to the Oregon Zoo to other Metro facilities in order to allow for (a) an exemption from the competitive bidding requirements of Oregon law for sponsorship opportunities, with the stipulation that quotes be obtained from at least three potential sponsors or that good faith efforts to obtain such quotes are documented. (b) an excise tax exemption for payments made under the Program, (already in existence at the Zoo) and (c) a revision allowing facilities

and portions of facilities to be named for corporations, partnerships and other business entities in order to reflect funds contributed.

ANALYSIS/INFORMATION

1. **Known Opposition:** None.
2. **Legal Antecedents:** Metro Code provisions governing the Oregon Zoo already allow similar programs.
3. **Anticipated Effects:** With respect to the MERC facilities, a consultant, Front Row Marketing, was hired by MERC to assess the potential naming/sponsorship/advertising opportunities at Metro/MERC facilities. That assessment has been completed and has yielded an initial indication of potential revenue of \$600,000 to \$900,000 annually. No assessment has yet been done on the potential revenues available to other Metro facilities.
4. **Budget Impacts:** The impact on the budget is undeterminable at this time. While MERC's consultant has provided certain information about the potential ranges of revenue from the Program, each year's results could vary based on the economy and available opportunities.

RECOMMENDED ACTION

Staff recommends that the Metro Council amend the provisions of Metro Code Chapter 2.04, Chapter 7.01, and chapter 2.16 relating to sponsorship and naming rights contracts in order to allow for the exploration of possible sponsorship and naming opportunities program to commence at Metro owned facilities similar to the programs currently in existence at the Oregon Zoo and the Portland Center for the Performing Arts.

Attachment A
Ordinance No. 03-994

ORS 279.015(2) provides that a local contract review board may exempt certain public contracts or classes of public contracts from the competitive bidding requirements of Oregon law upon approval of the following findings submitted by the public contracting agency seeking the exemption:

- (1) It is unlikely that such exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts; and
- (2) The awarding of public contracts pursuant to the exemption will result in substantial cost savings to the public contracting agency. In making such finding, the board may consider the type, cost, amount of the contract, number of persons available to bid and such other factors as may be deemed appropriate.

In support of these findings, the Metro Council adopts the following factual findings:

1. This exemption will not encourage favoritism or diminish competition in the awarding of public contracts because the exemption requires Metro/MERC to obtain three quotes, or document a good faith attempt to obtain three quotes, before awarding a sponsorship contract;
2. The exemption will not substantially diminish competition for public contracts because the pool of potential vendors who have the marketing needs and resources necessary to enter into sponsorship agreements is relatively small;
3. The exemption will result in substantial cost savings—either by reducing the costs of goods and services or by creating opportunities for new revenue—for the following reasons:
 - a. The exemption will allow Metro/MERC to pursue sponsorship opportunities that have the potential of generating significant revenue for Metro/MERC.
 - b. The exemption provides Metro/MERC with the flexibility to negotiate terms of sponsorship contracts that are specifically tailored to the vendors’ individual marketing needs, which increases the chance that Metro/MERC will be able to secure sponsorship agreements and, therefore, obtain more revenue and/or greater cost savings for goods or services.
 - c. The exemption allows Metro/MERC to maximize potential revenue and reduce costs by entering into contracts that combine sponsorship and naming opportunities with the purchase of goods or services (for example, through the purchase of “sponsored” uniforms or equipment, at a cost less than the goods would cost if unaccompanied by a sponsorship).
 - d. The exemption allows Metro/MERC to market sponsorship and naming opportunities directly to the pool of potential sponsors through innovative marketing and sales efforts, increasing the possibility that potential sponsors might approach Metro/MERC and offer revenue-generating sponsorship and/or naming opportunities.