

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF RATIFYING)
A MEMORANDUM OF UNDERSTANDING) RESOLUTION NO. 89-1115
REGARDING CONSOLIDATION OF REGIONAL)
CONVENTION, TRADE, SPECTATOR AND) INTRODUCED BY RENA CUSMA,
PERFORMING ARTS FACILITIES) EXECUTIVE OFFICER, AND
PRESENTLY OWNED AND OPERATED BY) MIKE RAGSDALE, PRESIDING
THE CITY OF PORTLAND AND THE) OFFICER
METROPOLITAN SERVICE DISTRICT)

WHEREAS, the City of Portland and Metropolitan Service District were participants in the Committee on Regional Convention, Trade, and Spectator Facilities (CTS); and

WHEREAS, in May of 1986, the Metro Council adopted via Resolution No. 86-648 the Regional Convention, Trade, and Spectator Facilities Master Plan, which called for establishment of a regional commission at Metro, and regional management of the region's inventory of convention, trade, and spectator facilities by that Commission; and

WHEREAS, in May of 1986 the Portland City Council adopted Resolution No. 34110 which stated an intent to develop a plan to transfer the City's Exposition-Recreation Commission to Metro and accept other recommendations of the CTS; and

WHEREAS, the Metro Council has established the Metropolitan Exposition-Recreation Commission under authority of ORS 268.395 to fulfil the role of the regional commission for the operation of convention, trade, and spectator facilities called for in the CTS Master Plan; and

WHEREAS, appointments to the Metropolitan Exposition Recreation Commission were confirmed in December 1987, with nominees solicited from the City of Portland, Clackamas, Multnomah and Washington Counties; and

WHEREAS, in November of 1988, the Council adopted Resolution No. 88-1017 establishing a Metro Consolidation Task Force, which has served as a forum for developing the Memorandum of Understanding attached as Exhibit A; now therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District hereby ratifies the Memorandum of Understanding Regarding Consolidation of Regional Convention, Trade, and Performing Arts Facilities presently owned and operated by the City of Portland and the Metropolitan Service District, attached as Exhibit A to this resolution.

ADOPTED by the Council of the Metropolitan Service District this 8th day of August, 1989.


Mike Ragsdale, Presiding Officer

Exhibit A

Memorandum of Understanding Regarding Consolidation of Regional Convention, Trade, Spectator and Performing Arts Facilities Presently Owned and Operated by The City of Portland and the Metropolitan Service District.

The purpose of this Memorandum of Understanding is to provide for phase one of consolidation of operation and management of the facilities presently owned and operated by the City of Portland through its Exposition-Recreation Commission (the Portland Memorial Coliseum Complex, the Civic Stadium and the Portland Center for the Performing Arts), and the facilities operated by the Metropolitan Service District by and through the Metropolitan Exposition-Recreation Commission (the Oregon Convention Center). This phase one of consolidation is expected to be of limited duration pending full scale consolidation of all regional convention trade and spectator facilities as outlined in the Convention Trade and Spectator Facilities Committee Report and Recommendation dated May 1986.

This Memorandum of Understanding sets forth the principles on which a phase one consolidation agreement will be forwarded to the governing bodies of the City of Portland and the Metropolitan Service District. The intent of this Agreement is to express the understanding of the terms and conditions that will be formalized as soon as possible and presented to the Metro Council and City Council for ratification. By ratifying this Memorandum of Understanding the Metro Council and Executive Officer and the Portland City Council express their intent to approve a consolidation agreement.

TERMS AND CONDITIONS OF PROPOSED AGREEMENT.

1. OPERATIONS AND MANAGEMENT

Operations and management of the facilities will be consolidated under the supervision of the Metropolitan-Exposition Recreation Commission.

- A. Metro agrees to amend the Metro Code regarding the appointment process for Metropolitan E-R Commission commissioners to provide that five positions shall be subject to nomination by local government bodies. The County Commissions of Multnomah, Clackamas and Washington counties each will be entitled to nominate one candidate for a position and the City Council of the City of Portland will nominate one candidate for each of two positions. The present commissioners will retain their office, but the nomination procedures provided for herein will be utilized for filling vacancies for five of the positions. Two of the present seven members will continue to be appointed at the sole discretion of the Metro Executive Officer. For those positions on the Commission which are subject to nomination by a local governmental body the Executive Officer 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 Executive Officer disagrees with the qualifications of any candidate so nominated by a local government, the Executive Officer shall so notify the Jurisdiction which shall then nominate another candidate. This process shall continue until such time as the Executive Officer 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 Executive Officer 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 Executive Officer to the Council for confirmation and has been confirmed. All other terms and provisions relating to appointments and term of the Metropolitan Exposition-Recreation Commission as set forth in the Metro Code shall continue in effect.

- B. The City agrees to transfer to the Metropolitan E-R Commission responsibility for the operation and management of the City Memorial Coliseum, the City Civic Stadium and the City Portland Center for the Performing Arts.
- C. A Portland Center for the Performing Arts Advisory Committee shall be appointed by the City by and through its Commissioner-in-Charge. Metro agrees the MERC will recognize the PCPA Advisory Committee so appointed as the official Advisory Committee to MERC for PCPA.
- D. Ownership. No change in facility ownership shall occur during phase one of this Consolidation. The ownership of any new facility constructed or acquired during the term of phase one shall be determined by the specific financing arrangements for that facility.

2. EMPLOYEES AND PERSONNEL MATTERS

- A. All City employees presently employed by the City Exposition-Recreation Commission will be transferred to the Metropolitan E-R Commission and will become employees of the Metropolitan E-R Commission.
- B. All collective bargaining agreements with labor unions to which the City Exposition-Recreation Commission is a signatory thereto will be assigned to the Metropolitan E-R Commission and the Metropolitan E-R Commission shall give full recognition to such bargaining units and shall be bound by all terms and conditions contained in such collective bargaining agreements to which the City E-R Commission is a party thereto. Further, all City employees shall be entitled to the full protection provided by relevant provisions of Oregon law affecting transfer of employees from one governmental entity to another.

3. CONTRACTS AND PURCHASING

Decision-Making. The Metropolitan E-R Commission shall have full authority to contract and purchase in accordance with its own rules.

4. BUDGETS AND ACCOUNTS

- A. MERC shall utilize a unified accounting system which shall keep track of all expenses and revenues on a per facility basis. Central services provided by MERC for management oversight for all facilities shall be allocated among all facilities by formula. Previously, a study by Laventhol & Horwath used a formula to make such an allocation. Neither the City nor Metro have accepted the Laventhol & Horwath formula. The City ERC Reserve Account shall be

transferred to MERC. Neither any revenue surplus derived from City facilities nor the ERC Reserves may be used to subsidize or support the Oregon Convention Center. Presently, revenues from the Multnomah County Hotel/Motel Tax paid to Metro by Multnomah County are only available to subsidize or support deficits generated at the Oregon Convention Center.

- B. The Metropolitan E-R Commission annual budget shall be subject to City and Metro approval and shall be included in the overall Metro budget for submission to the Tax Supervision and Conservation Commission.

5. OVERHEAD

Metro may charge overhead for oversight and review as provided for herein for the first two years that this agreement is in effect. (Fiscal Year 1989-90 and 1990-91.) Thereafter, Metro will no longer charge overhead to any facilities operated by the Metro E-R Commission including the Oregon Convention Center. The amount charged by Metro for overhead shall not exceed the current level of general overhead charges set in the Metro Fiscal Year 1989-90 budget for payment of overhead charges by the Metro E-R Commission to Metro for operations of the Oregon Convention Center. Metro will not charge an overhead charge to the Metro E-R Commission based on City facilities in an amount in excess of the actual general fund overhead charge (adjusted to exclude portions of the actual general fund overhead charge that represent central services other than oversight and review services) imposed on the E-R Commission by the City of Portland as set forth in the City's proposed budget for Fiscal Year 1989-90. In any event, overhead charges shall not be made in any fiscal year subsequent to Fiscal Year 1990-91. During phase one of the consolidation process, Metro agrees not to impose an excise tax on MERC Facilities for the purpose of funding Metro overhead.

6. REVIEW OF METRO E-R COMMISSION ACTIONS

The Metro E-R Commission will have full autonomy based on the City ERC Model and consistent with Oregon Law. Metro E-R Commission actions shall be subject to review by the Metro Council as presently provided for in the Metro Code. All Requests for Review from aggrieved parties shall be heard by the Metro Council as provided by Oregon Law.

7. LIABILITY BY METRO

Metro accepts full liability for the actions of MERC. Metro agrees to hold harmless and indemnify the City against any claim whatsoever in nature arising out of the Metropolitan E-R Commission's operation of the facilities.

8. GOOD FAITH EFFORT TO RESOLVE ANY OTHER OUTSTANDING ISSUES

To the extent that other issues not previously identified during the negotiation process leading up to this Memorandum of Understanding are identified during the development of a final agreement for phase one of consolidation the parties hereto agree to in good faith resolve all such outstanding issues in as rapid a manner as possible and agree to use the good offices of Robert Ridgley to facilitate the resolution of such issues.

9. FINAL CONSOLIDATION

As soon as a phase one consolidation agreement is approved Metro and MERC will commence moving toward consolidation of other regional facilities and resolving other long term issues in order to bring about a complete consolidation. Final consolidation will require the resolution of issues related to the transfer and control of real property and actual physical structures through an asset transfer, long-term lease or other equivalent arrangement. It is also the intention of the Parties that Metro will assume long-term fiscal responsibility for all regional facilities and will obtain necessary public supported financial resources therefor.

This MEMORANDUM OF UNDERSTANDING is Executed this _____ day of _____, 1989 and is effective upon ratification by the Portland City Council and the Metro Council.

J.E. "Bud" Clark,
Mayor

Rena Cusma,
Executive Officer, Metro

Mike Lindberg,
Commissioner of Public Affairs

Mike Ragsdale,
Presiding Officer, Metro Council



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

Date: July 25, 1989

To: Convention, Zoo & Visitors Facilities Committee

From: Donald E. Carlson, Council Administrator
Jessica B. Marlitt, Council Analyst

Regarding: RESOLUTION NO. 89-1115, RATIFYING A MEMORANDUM OF UNDERSTANDING REGARDING CONSOLIDATION OF REGIONAL CONVENTION, TRADE, SPECTATOR, AND PERFORMING ARTS FACILITIES PRESENTLY OWNED AND OPERATED BY THE CITY OF PORTLAND AND THE METROPOLITAN SERVICE DISTRICT

Resolution No. 89-1115, scheduled for formal action at the Committee meeting August 3, 1989, ratifies the attached Memorandum of Understanding (MOU) regarding facilities consolidation. Metro has been represented in the MOU development and negotiation by its Consolidation Task Force, appointed November 22, 1988, Resolution No. 88-1017. The Metro Consolidation Task Force had Presiding Officer Mike Ragsdale as Chair and included Metro Executive Officer Rena Cusma, Councilor David Knowles, Metro Exposition-Recreation Commission Chair Ted Runstein, and Tom Walsh, Chair of the Convention Center Advisory Committee on Design and Construction (ACDC). The purpose of the task force was to assist in preparing a consolidation plan and to guide consolidation negotiations with other jurisdictions. The MOU represents the first step towards developing a consolidation plan; it is a conceptual document to provide a framework for the actual detailed, legal implementing agreement.

The MOU will not go into effect until ratified by the respective City of Portland and Metro Councils. "Ratifying" the MOU, per General Counsel Dan Cooper, is a non-binding statement of policy intent which does not commit Metro legally to any action or obligation. In this memo, the term "implementing agreement" refers to the actual consolidation agreement which is intended to result from the ratified MOU and negotiations thereafter.

RECOMMENDATION

The attached Memorandum of Understanding is recommended for adoption by Resolution No. 89-1115.

* * *

This memo serves two purposes:

- 1) to outline potential policy changes for Metro which would result from a consolidation agreement based on the MOU; and
- 2) to identify policy issues raised by the MOU which may have to be negotiated in developing the "Phase One" implementing agreement.

Each section of the MOU is addressed below with staff's summary of "Potential Changes for Metro" and "Issues".

ANALYSIS OF THE MEMORANDUM OF UNDERSTANDING

1. INTRODUCTORY SECTION

The purpose of the Memorandum of Understanding, as stated in the document's opening section, is to provide for "phase one of consolidation of operation and management of the facilities", ... which is "expected to be of limited duration pending full scale consolidation of all regional convention, trade and spectator facilities as outlined in the Convention Trade and Spectator Facilities Committee Report and Recommendation dated May 1986." The introduction summarizes the MOU purpose and intent which is to lay out the principles, terms and conditions to be formalized in a 'Phase One' consolidation agreement.

POTENTIAL CHANGES FOR METRO

None. The introductory section presents policy directions consistent with the Convention Trade and Spectator Facilities Committee Report (CTS Master Plan) adopted by the Metro Council in 1986. The CTS Master Plan does not address performing arts facilities specifically, but they are major spectator facilities.

ISSUES

- o What is the estimated duration of Phase 1? What will trigger completion of Phase 1 -- a specific date or target action?

2. OPERATIONS AND MANAGEMENT

The opening statement regarding Metro E-R Commission supervision of consolidated facilities operations and management is consistent with the CTS Master Plan.

SECTION A: Describes amending the Metro Code to include/"codify" the current Metro E-R Commission appointment process followed by the Metro Executive Officer and formalized in Metro Executive Order No. 36 (October 26, 1987).

POTENTIAL CHANGES FOR METRO

The appointment process would be the same as current practice per Executive Order No. 36; the change would be to elevate the practice from an administrative policy to a District policy, via the Metro Code. Currently, the Metro Code provides for the Executive Officer to appoint Metro E-R Commission members after "consulting with the governing bodies of the City of Portland, Clackamas County, Multnomah County, Washington County and any other city within the District."

ISSUES

- o Would this governance process be for Phase I consolidation only or in perpetuity?

SECTION B: Specifies the City's transfer of operation and management responsibility over the City Memorial Coliseum, Civic Stadium and Portland Center for the Performing Arts to the Metro E-R Commission.

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July 25, 1989

Page 2

(OPERATIONS AND MANAGEMENT, Cont.)

POTENTIAL CHANGES FOR METRO

None. Policy direction is consistent with the CTS Master Plan.

ISSUES

- o None identified for Phase 1 consolidation.

SECTION C: Provides for Portland's designated Commissioner-in-Charge to appoint a Portland Center for the Performing Arts (PCPA) Advisory Committee which Metro and the Metro E-R Commission will recognize as the official advisory committee for PCPA.

POTENTIAL CHANGES FOR METRO

None. Because the committee would be advisory only, the Metro Council can agree to the City's appointment process through an Intergovernmental Agreement without abrogating any legal legislative responsibility.

ISSUES

- o Is the PCPA Advisory Committee appointment process proposed for Phase I consolidation or in perpetuity?
- o Should advisory committee appointments for regional facilities be delegated to local jurisdictions in which the facility is located?
- o Does a local appointment process conflict with facility's role as a regional attraction?

SECTION D: Establishes that during Phase 1 consolidation, no facilities will change ownership and newly acquired or constructed facilities' ownership will be determined by the facility's financing.

POTENTIAL CHANGES FOR METRO

None.

ISSUES

- o Are any additional regional facilities anticipated during the time of the Phase 1 implementing agreement or does this section address another issue?

3. EMPLOYEES AND PERSONNEL MATTERS

SECTION A: Provides for all current City E-R Commission employees to be transferred to and become employees of the Metro E-R Commission.

POTENTIAL CHANGES FOR METRO

None. No retirement system amendments are anticipated. During this year's session, the Oregon Legislature passed Senate Bill 211 which allows Metro to phase in membership in PERS, the Public Employee Retirement System, while maintaining its current retirement plan. Metro will be able to offer PERS to transferred employees without adversely affecting Metro employees already vested in the current system.

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(OPERATIONS AND MANAGEMENT, Cont.)

ISSUES

- o Metro and the Metro E-R Commission's responsibilities for receiving the transferred employees need to be clarified in the implementing agreement.

SECTION B: Notes all City E-R Commission collective bargaining agreements will be assigned to Metro E-R Commission with all terms and conditions intact; highlights that transferred City employees entitled to full protection under State transfer provisions.

POTENTIAL CHANGES FOR METRO

None.

ISSUES

None.

4. CONTRACTS AND PURCHASING

States that the Metro E-R Commission will have full authority to contract and purchase in accordance with its own rules.

POTENTIAL CHANGES FOR METRO

None.

ISSUES

None.

5. BUDGETS AND ACCOUNTS

SECTION A: Provides for the Metro E-R Commission to track each facility's financial accounts separately and allocate management oversight costs by formula among the facilities; notes neither the City nor Metro have accepted the Laventhol & Horwath formula for an allocation; transfers the City E-R Commission Reserve Account to the Metro E-R Commission solely for use towards City facilities; notes Multnomah County Hotel/Motel Tax revenue is only applicable to the Oregon Convention Center.

POTENTIAL CHANGES FOR METRO

None. The Metro E-R Commission has the accounting capability to track each facility's expenses and revenues. The designation of the City E-R Commission reserve fund for City facilities only is consistent with Metro accounting practices for reserving certain funds for certain services or facilities.

ISSUES

- o The oversight management formula will have to be sensitive to Federal overhead grant formulas as transportation and related site improvements funds are received for facility improvements (e.g. the Oregon Convention Center site development).

SECTION B: Subjects the Metro E-R Commission annual budget to City and Metro approval; notes the budget will be included in Metro's budget submitted to the Tax Supervision and Conservation Commission (TSCC).

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July 25, 1989

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(BUDGETS & ACCOUNTS, Cont.)

POTENTIAL CHANGES FOR METRO

Adds outside approval process for a portion of the Metro budget; would not require amending Metro Code -- per Metro General Counsel Intergovernmental Agreement could establish review process.

ISSUES

- o What happens if the City and Metro reach an impasse on the Commission budget? The implementing agreement needs to address the issue of how impasses in gaining budget approval would be resolved.
- o Will Metro E-R Commission budget amendments during the year be subject to City approval?

5. OVERHEAD

Limits Metro charging the Metro E-R Commission "overhead for oversight and review" to FY89-90 and FY90-91, with no charges beyond those two years, and the charge amount not to exceed the total FY89-90 budgeted level; limits Metro overhead charges based on City facilities to no more than the City's "actual" General Fund overhead charge amount (excluding the General Fund costs related to the City's provision of central support services); provides for Metro not to impose an excise tax on any Metro E-R Commission facilities during Phase 1.

POTENTIAL CHANGES FOR METRO

None.

ISSUES

- o How is "overhead" defined? Metro currently charges back to the various operating funds the full cost of the General Fund, which includes Executive Management, Council, central administrative services (Finance & Administration, Personnel, Accounting, General Counsel, Public Affairs). Based on Council policy and authority to impose an excise tax, it is projected that the General Fund will be separated into a General Government Fund and a Central Support Services Fund. The General Government Fund would consist of Executive Management and the Council costs; the Central Support Services Fund would include those service departments noted above. The excise tax would be used to pay direct costs of the General Government Fund and that fund's proportional share of the Central Support Services costs. Other Metro operating funds will pay their proportional share of the support services costs.
- o How does the M.O.U. overhead language relate to Metro's projected financial scenario for the General Government and Central Support Services Funds? Are limits envisioned on the amount of allocation of Central Support Service costs to the Metro E-R Commission?

6. REVIEW OF METRO E-R COMMISSION ACTIONS
Calls for Metro E-R Commission "full autonomy based on the City ERC Model and consistent with Oregon Law." Notes Metro review of Commission actions and aggrieved party requests-for-review will be unchanged from current Metro Code policy and Oregon law.
POTENTIAL CHANGES FOR METRO
None.
ISSUES
None.
7. LIABILITY BY METRO
Calls for Metro to accept full liability for Metro E-R Commission actions and holds the City harmless against any claim arising from the Commission's operation of the facilities.
POTENTIAL CHANGES FOR METRO
No legal or policy changes; potential risk increased because of additional facilities.
ISSUES
o Will the implementing agreement provide for a full risk assessment of the City facilities?
8. GOOD FAITH EFFORT TO RESOLVE ANY OTHER OUTSTANDING ISSUES
Provides for Metro and the City to negotiate in good faith and as quickly as possible any outstanding issues not covered in the MOU but raised in the course of developing the Phase 1 implementing agreement; notes Robert Ridgely will be the designated facilitator in resolving new issues.
POTENTIAL CHANGES FOR METRO
None.
ISSUES
None.
9. FINAL CONSOLIDATION
Notes that upon approval of the Phase 1 implementing agreement, Metro and the Metro E-R Commission will move toward consolidation of all other regional facilities; outlines final consolidation issues of real property transfer and control, asset transfers, lease or other arrangements; provides for Metro to assume long-term "fiscal responsibility" and obtain public financial support as necessary.
POTENTIAL CHANGES FOR METRO
None. Policy direction is consistent with the CTS Master Plan.
ISSUES
o What are the potential revenue sources supporting the regional system and what authorities will Metro need to implement those sources?

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Agenda Item No. _____

Meeting Date _____

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 89-1115 FOR THE PURPOSE OF RATIFYING A MEMORANDUM OF UNDERSTANDING REGARDING CONSOLIDATION OF REGIONAL CONVENTION, TRADE, SPECTATOR AND PERFORMING ARTS FACILITIES PRESENTLY OWNED AND OPERATED BY THE CITY OF PORTLAND AND THE METROPOLITAN SERVICE DISTRICT

DATE: July 12, 1989

PRESENTED BY: Dan Cooper

Background

In May of 1986, the Council adopted via Resolution No. 86-648 the Regional, Convention, Trade, and Spectator Facilities (CTS) Master Plan. This policy document called for the establishment of one regional commission at Metro to manage the region's inventory of convention, trade, and spectator facilities. Among the facilities included in this plan were the Oregon Convention Center, and the facilities managed by the City of Portland's Exposition-Recreation Commission (Memorial Coliseum and Civic Stadium). In May of 1986, the Portland City Council also adopted a resolution supporting this concept.

Steps to implement regional management have continued. The Metro Council established the Metropolitan Exposition-Recreation Commission in the fall of 1987. Appointments were made and confirmed, setting the stage for consolidation of facilities. Since adoption of the CTS Master Plan, the Portland City Council assigned the Portland Center for Performing Arts to the Exposition-Recreation Commission, adding to the mix the Civic Auditorium, Arlene Schnitzer Concert Hall, and the Intermediate Theater Building.

On November 22, 1988, the Council established the Metro Consolidation Task Force to guide discussions with the City of Portland regarding consolidation. The Task Force addressed the full range of issues concerning consolidation. The result of that process is the Memorandum of Understanding attached as Exhibit A to Resolution No. 89-1115.

Proposed Action

Resolution No. 89-1115 ratifies the Memorandum of Understanding (Exhibit A). The Memorandum of Understanding represents a general policy level agreement. Upon ratification, General

Counsel would negotiate a detailed intergovernmental agreement with the City of Portland for future consideration by each Council.

Executive Officer's Recommendation

The Executive Officer recommends that the Council approve Resolution No. 89-1115 ratifying the Memorandum of Understanding with the City of Portland regarding consolidation of regional convention, trade, spectator, and performing arts facilities.

CONVENTION, ZOO & VISITORS
FACILITIES COMMITTEE REPORT

Agenda Item No. 8.3

Meeting Date August 8, 1989

RESOLUTION NO. 89-1115, RATIFYING A MEMORANDUM OF UNDERSTANDING REGARDING CONSOLIDATION OF REGIONAL CONVENTION, TRADE, SPECTATOR AND PERFORMING ARTS FACILITIES PRESENTLY OWNED AND OPERATED BY THE CITY OF PORTLAND AND THE METROPOLITAN SERVICE DISTRICT

Date: August 4, 1989

Presented by: Councilor Knowles

COMMITTEE RECOMMENDATION: At the August 3, 1989 meeting, Convention, Zoo & Visitors Facilities Committee members -- Councilors Buchanan, DeJardin, Van Bergen and myself -- voted 3 to 1 (Councilor Van Bergen dissenting) to recommend Council adoption of Resolution No. 89-1115.

COMMITTEE DISCUSSION/ISSUES: The Committee heard testimony from Lee Fehrenkamp, General Manager, City of Portland Exposition-Recreation Commission (City ERC) and posed questions to Dan Cooper, Metro General Counsel, regarding specifics of the Memorandum of Understanding (MOU). Mr. Fehrenkamp, who is also the acting General Manager of the Metropolitan Exposition-Recreation Commission (Metro ERC), spoke on behalf of both Commissions in support of the MOU and efforts to bring about consolidation. He said staff has been operating under a consolidation concept and noted the joint request for proposals for concessions and catering management for the Oregon Convention Center under the Metro ERC and the Memorial Coliseum complex and Civic Stadium under the City ERC. The Commissions expect to award a joint contract within 10 days to select one provider for all facilities.

Committee members asked Dan Cooper about potential consolidation financing, the MOU proposed budget review process, and any legal impacts if Metro did not support the MOU. Regarding financing, Public Financial Management, Inc. (formerly Government Finance Associates) will complete a consolidation financing analysis for review in September. The Committee discussed different funding possibilities and General Counsel noted a separate serial levy was an option if needed. Regarding the MOU budget approval process, Mr. Cooper said the primary financial concerns during MOU negotiations were overhead allocation and dedicated facility revenue "cross subsidization" (i.e. ensuring the City ERC reserve funds are used only for City facilities and the hotel/motel tax is used only for the Convention Center, as designated). He said joint budget review and approval between governments was not uncommon but acknowledged details of the process (review criteria, timing, deadlines) would have to be worked out in an implementing agreement. Finally, Mr. Cooper said if Metro did not support consolidation, the Council ordinance creating the Metro ERC would not be violated. However, the current joint marketing/non-competition agreement between the City ERC and the Metro ERC would probably have to end, under Oregon Anti-Trust law, if consolidation is not pursued.

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RESOLUTION NO. 34605

- WHEREAS, in January 1985, the City of Portland (City), the Metropolitan Service District (Metro), and Clackamas, Multnomah, and Washington counties established the Committee on Regional Convention, Trade, and Spectator Facilities (CTS Committee) consisting of public and private representatives including the Mayor of the City; and
- WHEREAS, in May 1986, the CTS Committee adopted recommendations regarding regional convention, trade, and spectator facilities; and
- WHEREAS, CTS recommendations called for Metro to establish a regional commission under ORS Chapter 268 for the planning, development, promotion, operation, and management of the region's convention, trade, and spectator facilities and for the City and Multnomah County to transfer responsibility for operating their regional convention, trade, and spectator facilities to the regional commission; and
- WHEREAS, in May 1986, the City, by Resolution No. 34110, found that Metro should be responsible for the planning, development, promotion, operation, and management of the region's public convention, trade show, and spectator facilities and resolved that the City work with Metro to develop a plan for the transfer of the City Exposition-Recreation Commission's (ERC) functions and responsibilities to a regional commission to be established by Metro, with the transfer to be completed by the date of opening of the Oregon Convention Center; and
- WHEREAS, the Oregon Convention Center is scheduled to open in the Fall of 1990; and
- WHEREAS, the City and Metro have been involved in extensive negotiations regarding consolidation of City and Metro convention, trade, spectator, and performing arts facilities; and
- WHEREAS, the negotiating process has produced a proposed Memorandum of Understanding, attached as Exhibit A to this resolution, which states proposed principles to govern an initial phase of consolidation; which expresses the intention of the City and Metro, if the Memorandum is approved by the City Council and the Metro Council, to approve a formal consolidation agreement consistent with those principles; and which anticipates, if the Memorandum is approved, that the

RESOLUTION No.

formal consolidation agreement will be prepared and approved as soon as possible; and

WHEREAS, the Metro Council on August 8, 1989 approved the Memorandum of Understanding; and

WHEREAS, the Mayor and the Commissioner in Charge of the ERC recommend approval of the Memorandum of Understanding;

NOW, THEREFORE, BE IT RESOLVED, that the Memorandum of Understanding Regarding Consolidation of Regional Convention, Trade, Spectator and Performing Arts Facilities Presently Owned and Operated by the City of Portland and the Metropolitan Service District, attached as Exhibit A to this resolution, hereby is approved.

Adopted by the Council,
Mayor J.E. Bud Clark
Commissioner Mike Lindberg
David Judd
August 11, 1989

AUG 16 1989

BARBARA CLARK

Auditor of the City of Portland

By

Mary E. Newell Deputy

Exhibit A

Memorandum of Understanding Regarding Consolidation of Regional Convention, Trade, Spectator and Performing Arts Facilities Presently Owned and Operated by The City of Portland and the Metropolitan Service District.

The purpose of this Memorandum of Understanding is to provide for phase one of consolidation of operation and management of the facilities presently owned and operated by the City of Portland through its Exposition-Recreation Commission (the Portland Memorial Coliseum Complex, the Civic Stadium and the Portland Center for the Performing Arts), and the facilities operated by the Metropolitan Service District by and through the Metropolitan Exposition-Recreation Commission (the Oregon Convention Center). This phase one of consolidation is expected to be of limited duration pending full scale consolidation of all regional convention trade and spectator facilities as outlined in the Convention Trade and Spectator Facilities Committee Report and Recommendation dated May 1986.

This Memorandum of Understanding sets forth the principles on which a phase one consolidation agreement will be forwarded to the governing bodies of the City of Portland and the Metropolitan Service District. The intent of this Agreement is to express the understanding of the terms and conditions that will be formalized as soon as possible and presented to the Metro Council and City Council for ratification. By ratifying this Memorandum of Understanding the Metro Council and Executive Officer and the Portland City Council express their intent to approve a consolidation agreement.

TERMS AND CONDITIONS OF PROPOSED AGREEMENT.

1. OPERATIONS AND MANAGEMENT

Operations and management of the facilities will be consolidated under the supervision of the Metropolitan-Exposition Recreation Commission.

- A. Metro agrees to amend the Metro Code regarding the appointment process for Metropolitan E-R Commission commissioners to provide that five positions shall be subject to nomination by local government bodies. The County Commissions of Multnomah, Clackamas and Washington counties each will be entitled to nominate one candidate for a position and the City Council of the City of Portland will nominate one candidate for each of two positions. The present commissioners will retain their office, but the nomination procedures provided for herein will be utilized for filling vacancies for five of the positions. Two of the present seven members will continue to be appointed at the sole discretion of the Metro Executive Officer. For those positions on the Commission which are subject to nomination by a local governmental body the Executive Officer 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 Executive Officer disagrees with the qualifications of any candidate so nominated by a local government, the Executive Officer shall so notify the Jurisdiction which shall then nominate another candidate. This process shall continue until such time as the Executive Officer 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 Executive Officer 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 Executive Officer to the Council for confirmation and has been confirmed. All other terms and provisions relating to appointments and term of the Metropolitan Exposition-Recreation Commission as set forth in the Metro Code shall continue in effect.

- B. The City agrees to transfer to the Metropolitan E-R Commission responsibility for the operation and management of the City Memorial Coliseum, the City Civic Stadium and the City Portland Center for the Performing Arts.
- C. A Portland Center for the Performing Arts Advisory Committee shall be appointed by the City by and through its Commissioner-in-Charge. Metro agrees the MERC will recognize the PCPA Advisory Committee so appointed as the official Advisory Committee to MERC for PCPA.
- D. Ownership. No change in facility ownership shall occur during phase one of this Consolidation. The ownership of any new facility constructed or acquired during the term of phase one shall be determined by the specific financing arrangements for that facility.

2. EMPLOYEES AND PERSONNEL MATTERS

- A. All City employees presently employed by the City Exposition-Recreation Commission will be transferred to the Metropolitan E-R Commission and will become employees of the Metropolitan E-R Commission.
- B. All collective bargaining agreements with labor unions to which the City Exposition-Recreation Commission is a signatory thereto will be assigned to the Metropolitan E-R Commission and the Metropolitan E-R Commission shall give full recognition to such bargaining units and shall be bound by all terms and conditions contained in such collective bargaining agreements to which the City E-R Commission is a party thereto. Further, all City employees shall be entitled to the full protection provided by relevant provisions of Oregon law affecting transfer of employees from one governmental entity to another.

3. CONTRACTS AND PURCHASING

Decision-Making. The Metropolitan E-R Commission shall have full authority to contract and purchase in accordance with its own rules.

4. BUDGETS AND ACCOUNTS

- A. MERC shall utilize a unified accounting system which shall keep track of all expenses and revenues on a per facility basis. Central services provided by MERC for management oversight for all facilities shall be allocated among all facilities by formula. Previously, a study by Laventhol & Horwath used a formula to make such an allocation. Neither the City nor Metro have accepted the Laventhol & Horwath formula. The City ERC Reserve Account shall be

transferred to MERC. Neither any revenue surplus derived from City facilities nor the ERC Reserves may be used to subsidize or support the Oregon Convention Center. Presently, revenues from the Multnomah County Hotel/Motel Tax paid to Metro by Multnomah County are only available to subsidize or support deficits generated at the Oregon Convention Center.

- B. The Metropolitan E-R Commission annual budget shall be subject to City and Metro approval and shall be included in the overall Metro budget for submission to the Tax Supervision and Conservation Commission.

5. OVERHEAD

Metro may charge overhead for oversight and review as provided for herein for the first two years that this agreement is in effect. (Fiscal Year 1989-90 and 1990-91.) Thereafter, Metro will no longer charge overhead to any facilities operated by the Metro E-R Commission including the Oregon Convention Center. The amount charged by Metro for overhead shall not exceed the current level of general overhead charges set in the Metro Fiscal Year 1989-90 budget for payment of overhead charges by the Metro E-R Commission to Metro for operations of the Oregon Convention Center. Metro will not charge an overhead charge to the Metro E-R Commission based on City facilities in an amount in excess of the actual general fund overhead charge (adjusted to exclude portions of the actual general fund overhead charge that represent central services other than oversight and review services) imposed on the E-R Commission by the City of Portland as set forth in the City's proposed budget for Fiscal Year 1989-90. In any event, overhead charges shall not be made in any fiscal year subsequent to Fiscal Year 1990-91. During phase one of the consolidation process, Metro agrees not to impose an excise tax on MERC Facilities for the purpose of funding Metro overhead.

6. REVIEW OF METRO E-R COMMISSION ACTIONS

The Metro E-R Commission will have full autonomy based on the City ERC Model and consistent with Oregon Law. Metro E-R Commission actions shall be subject to review by the Metro Council as presently provided for in the Metro Code. All Requests for Review from aggrieved parties shall be heard by the Metro Council as provided by Oregon Law.

7. LIABILITY BY METRO

Metro accepts full liability for the actions of MERC. Metro agrees to hold harmless and indemnify the City against any claim whatsoever in nature arising out of the Metropolitan E-R Commission's operation of the facilities.

8. GOOD FAITH EFFORT TO RESOLVE ANY OTHER OUTSTANDING ISSUES

To the extent that other issues not previously identified during the negotiation process leading up to this Memorandum of Understanding are identified during the development of a final agreement for phase one of consolidation the parties hereto agree to in good faith resolve all such outstanding issues in as rapid a manner as possible and agree to use the good offices of Robert Ridgley to facilitate the resolution of such issues.

9. FINAL CONSOLIDATION

As soon as a phase one consolidation agreement is approved Metro and MERC will commence moving toward consolidation of other regional facilities and resolving other long term issues in order to bring about a complete consolidation. Final consolidation will require the resolution of issues related to the transfer and control of real property and actual physical structures through an asset transfer, long-term lease or other equivalent arrangement. It is also the intention of the Parties that Metro will assume long-term fiscal responsibility for all regional facilities and will obtain necessary public supported financial resources therefor.

This MEMORANDUM OF UNDERSTANDING is Executed this _____ day of _____, 1989 and is effective upon ratification by the Portland City Council and the Metro Council.

J.E. "Bud" Clark,
Mayor

Rena Cusma,
Executive Officer, Metro

Mike Lindberg,
Commissioner of Public Affairs

Mike Ragsdale,
Presiding Officer, Metro Council

RESOLUTION NO. 34605

- WHEREAS, in January 1985, the City of Portland (City), the Metropolitan Service District (Metro), and Clackamas, Multnomah, and Washington counties established the Committee on Regional Convention, Trade, and Spectator Facilities (CTS Committee) consisting of public and private representatives including the Mayor of the City; and
- WHEREAS, in May 1986, the CTS Committee adopted recommendations regarding regional convention, trade, and spectator facilities; and
- WHEREAS, CTS recommendations called for Metro to establish a regional commission under ORS Chapter 268 for the planning, development, promotion, operation, and management of the region's convention, trade, and spectator facilities and for the City and Multnomah County to transfer responsibility for operating their regional convention, trade, and spectator facilities to the regional commission; and
- WHEREAS, in May 1986, the City, by Resolution No. 34110, found that Metro should be responsible for the planning, development, promotion, operation, and management of the region's public convention, trade show, and spectator facilities and resolved that the City work with Metro to develop a plan for the transfer of the City Exposition-Recreation Commission's (ERC) functions and responsibilities to a regional commission to be established by Metro, with the transfer to be completed by the date of opening of the Oregon Convention Center; and
- WHEREAS, the Oregon Convention Center is scheduled to open in the Fall of 1990; and
- WHEREAS, the City and Metro have been involved in extensive negotiations regarding consolidation of City and Metro convention, trade, spectator, and performing arts facilities; and
- WHEREAS, the negotiating process has produced a proposed Memorandum of Understanding, attached as Exhibit A to this resolution, which states proposed principles to govern an initial phase of consolidation; which expresses the intention of the City and Metro, if the Memorandum is approved by the City Council and the Metro Council, to approve a formal consolidation agreement consistent with those principles; and which anticipates, if the Memorandum is approved, that the

RESOLUTION No.

formal consolidation agreement will be prepared and approved as soon as possible; and

WHEREAS, the Metro Council on August 8, 1989 approved the Memorandum of Understanding; and

WHEREAS, the Mayor and the Commissioner in Charge of the ERC recommend approval of the Memorandum of Understanding;

NOW, THEREFORE, BE IT RESOLVED, that the Memorandum of Understanding Regarding Consolidation of Regional Convention, Trade, Spectator and Performing Arts Facilities Presently Owned and Operated by the City of Portland and the Metropolitan Service District, attached as Exhibit A to this resolution, hereby is approved.

Adopted by the Council,
Mayor J. E. Bud Clark
Commissioner Mike Lindberg
David Judd
August 11, 1989

AUG 16 1989

BARBARA CLARK

Auditor of the City of Portland

By

Mary E. Newell Deputy

Exhibit A

Memorandum of Understanding Regarding Consolidation of Regional Convention, Trade, Spectator and Performing Arts Facilities Presently Owned and Operated by The City of Portland and the Metropolitan Service District.

The purpose of this Memorandum of Understanding is to provide for phase one of consolidation of operation and management of the facilities presently owned and operated by the City of Portland through its Exposition-Recreation Commission (the Portland Memorial Coliseum Complex, the Civic Stadium and the Portland Center for the Performing Arts), and the facilities operated by the Metropolitan Service District by and through the Metropolitan Exposition-Recreation Commission (the Oregon Convention Center). This phase one of consolidation is expected to be of limited duration pending full scale consolidation of all regional convention trade and spectator facilities as outlined in the Convention Trade and Spectator Facilities Committee Report and Recommendation dated May 1986.

This Memorandum of Understanding sets forth the principles on which a phase one consolidation agreement will be forwarded to the governing bodies of the City of Portland and the Metropolitan Service District. The intent of this Agreement is to express the understanding of the terms and conditions that will be formalized as soon as possible and presented to the Metro Council and City Council for ratification. By ratifying this Memorandum of Understanding the Metro Council and Executive Officer and the Portland City Council express their intent to approve a consolidation agreement.

TERMS AND CONDITIONS OF PROPOSED AGREEMENT.

1. OPERATIONS AND MANAGEMENT

Operations and management of the facilities will be consolidated under the supervision of the Metropolitan-Exposition Recreation Commission.

- A. Metro agrees to amend the Metro Code regarding the appointment process for Metropolitan E-R Commission commissioners to provide that five positions shall be subject to nomination by local government bodies. The County Commissions of Multnomah, Clackamas and Washington counties each will be entitled to nominate one candidate for a position and the City Council of the City of Portland will nominate one candidate for each of two positions. The present commissioners will retain their office, but the nomination procedures provided for herein will be utilized for filling vacancies for five of the positions. Two of the present seven members will continue to be appointed at the sole discretion of the Metro Executive Officer. For those positions on the Commission which are subject to nomination by a local governmental body the Executive Officer 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 Executive Officer disagrees with the qualifications of any candidate so nominated by a local government, the Executive Officer shall so notify the Jurisdiction which shall then nominate another candidate. This process shall continue until such time as the Executive Officer 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 Executive Officer 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 Executive Officer to the Council for confirmation and has been confirmed. All other terms and provisions relating to appointments and term of the Metropolitan Exposition-Recreation Commission as set forth in the Metro Code shall continue in effect.

- B. The City agrees to transfer to the Metropolitan E-R Commission responsibility for the operation and management of the City Memorial Coliseum, the City Civic Stadium and the City Portland Center for the Performing Arts.
- C. A Portland Center for the Performing Arts Advisory Committee shall be appointed by the City by and through its Commissioner-in-Charge. Metro agrees the MERC will recognize the PCPA Advisory Committee so appointed as the official Advisory Committee to MERC for PCPA.
- D. Ownership. No change in facility ownership shall occur during phase one of this Consolidation. The ownership of any new facility constructed or acquired during the term of phase one shall be determined by the specific financing arrangements for that facility.

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