

METROPOLITAN EXPOSITION-RECREATION COMMISSION

RESOLUTION NO. 123

Authorize Agreement with the Association for Portland Progress to manage and provide certain Downtown Economic Improvement District improvements.

THE COMMISSION FINDS:

1. That in 1985, the Oregon State Legislature approved House Bill 2443 (now ORS 223.015) allowing cities to create Economic Improvement Districts EID's).

2. That in April 1987, the Association for Portland Progress established a Downtown Economic Improvement Committee to investigate the feasibility of a downtown EID and to assist the City of Portland in establishing such a district.

3. That in September 28, 1988 the City of Portland passed City Ordinance No. 161278 which authorized an agreement with the Association for Portland Progress to manage and provide certain Downtown Economic Improvement District improvements.

4. That this downtown Economic Improvement District includes the Civic Auditorium, the southeastern quarter block of the Arlene Schnitzer Concert Hall and the northeast and southeast quarter blocks of the New Theatre Building.

5. That based on the assessed value on the tax roles with Multnomah County, the Commission paid \$18,887.23 starting on July 1, 1989 and the same amount on July 1, 1990 and will also pay this amount on July 1, 1991. That the Commission's FY 1991-92 Budget includes the July 1, 1991 payment.

6. That the Association for Portland Progress is requesting that the Commission renew their agreement for another three years and to pay \$1.33 per thousand of assessed value, as of September 1988, plus 10% of that assessed value.

7. That the annual payments remain the same as the previous three years and that starting in July 1, 1992 the payment would be \$18,887.23 and the same on July 1, 1993 and July 1, 1994.

8. That APP's Economic Improvement District has been successful with a direct benefit to downtown business, the Commission's theatre business and its patrons.

NOW, THEREFORE, THE Commission directs:

That the General Manager is authorized to execute an Letter of Understanding with the Association for Portland Progress to manage and provide certain Downtown Economic Improvement District improvements, in accordance with the terms and conditions set forth in the Letter of Understanding.

Passed by the Commission April 10, 1991.

  
Chairman

  
Secretary/Treasurer

APPROVED AS TO FORM:

  
\_\_\_\_\_

# Metropolitan Exposition-Recreation Commission

P.O. Box 2746 • Portland, Oregon 97208 • 503/731-7800 • Fax #731-7870 • 777 NE Martin Luther King Jr. Blvd.

May 1, 1991

TO: Metropolitan Exposition-Recreation Commission  
FROM: Lee Fehrenkamp *Lee Fehrenkamp*  
SUBJECT: Downtown Economic Improvement District

-----

## Background

-----

In 1985, the Oregon State Legislature approved House Bill 2443 (now ORS 223.015) allowing cities to create Economic Improvement Districts (EID's). This legislation allows commercial and industrial districts to organize and, through the city, establish an EID to assess all properties within the district, excepting residential properties, to pay for economic improvements programs. Economic improvements are described in the legislation to include any of the following:

- Planning or management of development or improvement activities
- Landscaping or other maintenance of public areas
- Promotion of commercial activities or public events
- Activities in support of business recruitment and development
- Improvements in parking systems or parking enforcement
- Any other economic improvement activity for which an assessment may be made on specially benefited properties

An EID can be established for a period up to three years. The enabling legislation expired on June 30, 1990 and was renewed by the 1988-89 session of the Oregon Legislature.

In April 1987 the Association for Portland Progress (APP) established a Downtown Economic Improvement Committee to investigate the feasibility of a downtown EID and to assist the City of Portland in establishing such a district. In September 28, 1988 the City of Portland passed City Ordinance No. 161278 which authorized an agreement with the Association for Portland Progress to manage and provide certain Downtown Economic Improvement District improvements. This downtown Economic Improvement District includes the Civic Auditorium, the southeastern quarter block of the Arlene Schnitzer Concert Hall and the northeast and southeast quarter blocks of the New Theatre Building. Based on the assessed value on the tax roles with Multnomah County, the Commission paid \$18,887.23 starting in July 1, 1989 and the same amount on July 1, 1990 and also on July 1, 1991. The July 1, 1991, amount has been included in PCPA's FY 1991-92 budget.

Generally speaking Staff felt that the EID would add another obligation to PCPA's annual budget. However, the return both in terms of concentrated services and improved perceptions of downtown as a safe and exciting place to be will benefit us directly and indirectly. Other benefits anticipated, at the time, was the concentrated service in the evening hours with guides and patrol officers working the area providing information and directions to visitors and theatre patrons. Better surveillance around the parking garages, Ira's Fountain across from the Civic Auditorium and on SW Broadway.

EID was to initiate a public relations campaign to improve the public's perception of downtown. There would be immediate efforts to counteract the crime problem and eventually additional focus promoting tourism and shopping downtown. The increased foot traffic and improved perception would positively impact the consumer's decision to use our theatre spaces during evening hours.

#### Update

-----  
In April 1991 a letter was received, from the Downtown Economic Improvement District Committee requesting we renew the EID for another three years at \$1.33 per thousand of assessed value, as of September 1988, plus 10% of that assessed value. This week I received the requested packet from the Association of Portland Progress describing the three services provided by these EID contributions (Guides, Patrol Officers and Cleaning Crews) in addition to the marketing efforts. Letter of Agreement and terms are being reviewed by our Attorney.

#### Recommendation

-----  
Staff feels that EID has proven to be a benefit to downtown, to our business and our patrons and recommend that the Commission approve Resolution No. \_\_\_ authorizing the General Manager to execute a Letter Of Understanding with the Association for Portland Progress continuing our relationship for another three years and that the annual payment remain the same as the prior three years, \$18,887.23. The 10% increase is not recommended.

LETTER OF AGREEMENT

This Letter of Agreement for Economic Improvement District Management Services (Agreement) is between the Metropolitan Exposition-Recreation Commission (Commission) and the Association for Portland Progress (APP).

The Commission understands that they will be joining with other district property owners in agreeing to pay a proportionate share of the cost of the services provided by the district. This Letter of Agreement will obligate the Commission to pay \$18,887.23 per year for three years starting in July 1, 1992 and the same on July 1, 1993 and July 1, 1994. A detailed listing of the terms of the Agreement is contained in the Terms and Conditions document and incorporated by this reference as part of this Agreement.

Following is a list of the properties which are located within the district and which will receive services are as follows:

Site Address	Legal Description 1 (Legal :Block :Lot)	Legal Description 2 (Legal :Block :Lot)
WI/710 SW Main St	:207:1&2	Nontax
222 SW Clay St.	Inc pt vac st:132:	Nontax
726-738 SW Salmon St	N 20'of W 15'of:208:1	Nontax
WI/1037 SW Broadway St	TL 4 of:208:1-3	Nontax
1037 SW Broadway St	TL#1 of:208:1-8	Nontax

Signed:   
General Manager  
Metro Exposition-Recreation Commission

Date: 5/10/91

## TERMS AND CONDITIONS FOR PROVISION OF ECONOMIC IMPROVEMENT DISTRICT

### RECITALS:

- A. Signatory property owner (Owner) acknowledges that he or she owns certain real property identified in the attached EID letter of Agreement within an Economic Improvement District (District).
- B. Owner finds that the value of his or her property will be significantly enhanced by the provision of security, marketing and cleaning services provided by Portland Downtown Services, Inc. (PDSI) an affiliate of the Association for Portland Progress (APP).
- C. APP has demonstrated its ability to provide such services in a quality and economic manner.
- D. This agreement is contingent upon participation in the Economic Improvement District Program by owners representing 60 percent of the assessed real property value in the District.

### AGREEMENT:

#### 1. SCOPE OF PDSI SERVICES

- a. PDSI shall provide to the benefit of Owner's property Economic Improvement District Services designed to increase commercial activity, the perception of public safety and a cleaner environment in the District. Such services may include security along the sidewalks, street cleaning in and along public areas and marketing of the District generally.
- b. PDSI shall endeavor to hire for any street cleaning services individuals who have been identified by social service agencies as homeless and who are deemed capable by PDSI of fulfilling the requirements of any such cleaning services.

#### 2. PARTICIPATION CONTINGENCY

The terms of this agreement shall not be effective until similar agreements have been signed by owners representing 60 percent of the assessed real property value in the District.

#### 3. EFFECTIVE AND TERMINATION DATES

- a. Once the requirements in paragraph 2 above have been met, this agreement shall be effective as of September 1, 1991, and shall terminate as of August 31, 1994.

- b. During the term of this agreement, Owner shall have no right to withdraw from or terminate this agreement.

4. **AGREEMENT RECORDABLE; JUDGMENT SUBJECT TO LIEN**

- a. PDSI may record this agreement with the Multnomah County Tax Assessor or any other appropriate public official.
- b. Any delinquent assessment may be reduced to a judgment for the payment of money which shall be recorded in the County Clerk Lien Record as a lien against the real property of Owner.
- c. In the event the Oregon State Legislature so provides, PDSI, in accordance with the appropriate state law, shall have a lien against the real property of Owner in the amount payable under this agreement. Pursuant to the provisions of Oregon law, PDSI may perfect the lien and file it with the recording officer in Multnomah County against the real property of Owner.

5. **STATUTORY ECONOMIC IMPROVEMENT DISTRICT**

Upon lawful creation of an Economic Improvement District (EID) or its functional equivalent within the District pursuant to State law, PDSI and Owner may by written mutual consent agree to the amendment or termination of this agreement in order to provide similar services under such a statutory mechanism.

6. **PAYMENT FORMULA; BILLING PROCEDURE; LATE PAYMENT INTEREST**

- a. The payment formula for services provided is included in the Letter of Agreement signed by the property owner. Bills will be sent by PDSI to Owner by September 1 and March 1. Payments will be due 30 days after the date of the bill.
- b. Late payments will be charged interest at 1 1/4% per month.

7. **OREGON LAW AND FORUM**

- a. This agreement shall be construed according to the laws of the State of Oregon.
- b. Any litigation between PDSI and Owner arising under this agreement shall occur, if in the state courts, in the Multnomah County Court having jurisdiction thereof, and if in the federal courts, in the United States District Court of the District of Oregon.

**8. ARBITRATION**

- a. **Scope and Procedure.** Any dispute under this agreement which is not settled by mutual agreement of PDSI and Owner within sixty (60) days of notification in writing by either party shall be submitted to an arbitration panel. The panel shall be composed of three (3) persons, one of whom shall be appointed by Owner, one of whom shall be appointed by PDSI, and one of whom shall be appointed by PDSI and Owner. In the event the two cannot agree on a third arbitrator, then the third shall be appointed by the Presiding Judge (Civil) of the Circuit Court of the State of Oregon for the County of Multnomah. The arbitrators shall be selected within thirty (30) days of the expiration of the sixty (60) day period. The arbitration shall be conducted in Portland, Oregon, and shall be as speedy as is reasonably possible. PDSI and Owner shall agree on the rules governing arbitration (including allocation of costs), or, if PDSI and Owner cannot agree on rules, the arbitrators shall adopt rules consistent with this section. The arbitrators shall render their decision within forty-five (45) days of their first meeting with PDSI and Owner. PDSI and Owner shall be bound by the decision of the panel.
- b. **Services and Payments Pending Arbitration.** Notwithstanding any dispute under this agreement, whether before or during arbitration, PDSI shall continue to provide services and Owner shall make payments as required by this agreement, pending resolution of the dispute.

**9. NOTICE**

Any notice provided for under this agreement shall be sufficient if in writing and delivered personally to the addressee or deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the addressee.

**10. SEVERABILITY**

If any provision of the agreement is found to be illegal or unenforceable, this agreement nevertheless shall remain in full force and effect and the provision shall be stricken.

**11. INTEGRATION**

This agreement contains the entire agreement between PDSI and Owner and supersedes all prior written or oral discussions or agreements.



12. **NON-WAIVER**

PDSI and Owner shall not be deemed to have waived any breach of this agreement by the other party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach may be of the same nature as that waived.

13. **BREACH**

- a. PDSI or Owner shall breach this agreement if it fails to perform any substantial obligation under the agreement, except as provided in subsection b.
- b. Neither PDSI nor Owner shall have breached this agreement by reason of any failure to perform a substantial obligation under the agreement if the failure arises out of causes beyond its control and without its fault or negligence. Such causes may include, without limitation, acts of God or the public enemy, acts of the federal, state, or local governments, fires, floods, epidemics, volcanic eruptions, quarantine restrictions, strikes, freight embargoes, and unusually severe weather. Should either PDSI or Owner fail to perform because of a cause described in this subsection, PDSI and Owner shall make a mutually acceptable revision in the Scope of Services or Billing Procedure.