

METROPOLITAN EXPOSITION-RECREATION COMMISSION

RESOLUTION NO. 09-04

For the purpose of ratifying a collective bargaining agreement with the International Union of Operating Engineers (IUOE), Local 701-1,

Whereas, the Commission's designated representatives for labor relations have negotiated in good faith with IUOE; and

Whereas, the Commission's designated representatives for labor relations and the Union's designated bargaining representatives have reached an agreement for a three-year collective bargaining agreement; and

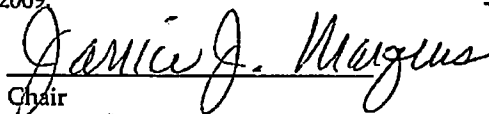
Whereas, the agreement has been ratified by IUOE and requires a vote of the Commission for ratification; and

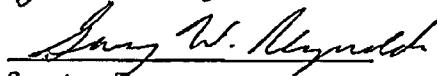
Whereas, MERC believes that the agreement is fair, reasonable, and in the public interest,

THEREFORE BE IT RESOLVED:

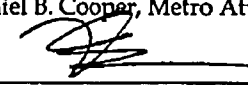
1. The Commission hereby ratifies the agreement attached to this Resolution as Exhibit A.
2. The Commission hereby authorizes and directs the General Manager, or his delegate, to execute the collective bargaining agreement reflecting the terms of the agreement on the Commission's behalf, and forward that signed agreement to the Union for formal signing.

Passed by the Commission on April 22, 2009


Chair


Secretary-Treasurer

Approved As To Form:
Daniel B. Cooper, Metro Attorney

By: 
Nathan. A. Schwartz Sykes, Senior Attorney

MERC STAFF REPORT

Agenda Item/Issue: For the purpose of ratifying a collective bargaining agreement with the International Union of Operating Engineers (IUOE) Local 701-1, Tentative Agreement

Resolution no: 09-04

Date: April 22, 2009

Presented By: Joni Johnson, MERC Human Resources Manager

Background:

IUOE 701-1 represents full and part-time custodial workers at the Portland Center for the Performing Arts. Currently there are two (2) full-time employees and thirty-one (31) part-time employees represented by IUOE. Their agreement expired on December 30, 2008. Negotiations began on November 14, 2008 for a successor agreement, those negotiations concluded in late February, and the union ratified the agreement on March 25, 2009.

Bargaining Team: Nathan Sykes (Metro Attorney's Office), Don Scorby, Tom Bugas (Portland Center for the Performing Arts), Joni Johnson (MERC Administration) Cherry Harris, Mike Tobey (IUOE Local 701), Darlene Davis (Portland Center for the Performing Arts Event Custodian IUOE 701-1 member)

Term of Agreement: January 1, 2009 to December 31, 2011 (three-year agreement)

Wages: Please refer to the wages listed as Attachment A on page 22 of the contract for specific wage rates. Effective July 1, 2009 the wage rates will be increased by 5% in order to move them to parity with other peer positions at OCC. In subsequent years, wages will be increased on July 1, 2010 and July 1, 2011 the and pay rates listed in Exhibit A will be increased in accordance with the National Consumer Price Index for all Urban Consumers (CPI-U 1982-84 =100) computed from March to March with a minimum of 2% and a maximum of 4%.

Insurance: For full-time employees the contract continues to provide the existing level of insurance benefits. As of July 1, 2009, MERC will contribute \$923.00 per month for medical, dental and vision coverage; July 1, 2010 employer contribution is \$1,016.00; July 1, 2011 employer contribution is \$1,110.00. These rates are a result of a Metro-wide bargaining agreement.

Shift Differential: The second or swing shift employees will receive a ten-cent (10¢) per hour increase to their shift premium rate so that they will receive a one dollar (\$1.00) addition to their regular hourly rate when working swing shift. The third or graveyard shift employees will receive a twenty-cent (20¢) per hour increase to their shift premium so that they will receive a one dollar and twenty cent (\$1.20) addition to their regularly hourly rate when working graveyard shift.

Language Changes: Significant language changes are listed below.

- Probationary employees may not invoke the grievance procedure in this agreement *for matters of discipline up to and including termination*. This reinforces management's at-will employment rights under the contract.
- *Any employee who is a "no-call, no-show" on three occasions will be subject to progressive discipline*. This is a change from the previous contract's provision that discipline could only occur if the three occasions were within the same year.
- The Side Letter of Agreement that requires ten (10) event custodians be designated as 32-hour employees and guaranteed 32 hours a week (depending on business activity, performance, and consideration of seniority when possible) is a continuation from the previous contract. However, for purposes of clarity the names of 32-hour employees are no longer listed in the Side Letter.

Short Range Fiscal Impact:

The costs of the collective bargaining agreement are within budgeted amounts.

Long Range Fiscal Impact:

The costs of the collective bargaining agreement are within budgeted amounts.

Recommendation:

Staff recommends approval of Resolution 09-04 for the purpose of ratifying a collective bargaining agreement with the International Union of Operating Engineers (IUOE) Local 701-1, Tentative Agreement.

Collective Bargaining Agreement

between

Metropolitan Exposition-Recreation Commission

M.E.R.C.

and

The International Union of Operating Engineers, Local 701-1

January 1, 2006 2008 through December 30, 2008 31, 2011

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Preamble

This agreement is entered into by the Metropolitan Exposition-Recreation Commission, hereafter referred to as the "Employer," METRO, and the International Union of Operating Engineers, Local Union No. 701-1, AFL-CIO, hereafter referred to as the "Union," for the purpose of governing the wages and related fringe benefits, hours of work, and conditions of employment for employees covered by this Agreement for the term specified herein.

The provisions of this Agreement shall be applied equally to all employees in the bargaining unit without discrimination as to age, sex, marital status, sexual **orientation** preference, **gender identity**, race, color, creed, religion, national origin, association or political affiliation, mental or physical disability.

Except as otherwise provided by law, regulation, or grant provisions, the parties agree as follows:

Article 1: Recognition

Employees covered by this Agreement shall be part-time event custodians and full-time utility personnel at the Portland Center for the Performing Arts which includes **include** the Keller Auditorium, Arlene Schnitzer Concert Hall, and the **Antoinette Hatfield Hall New Theatre Building**.

Article 2: Definitions

Probation: Newly hired employees shall be considered probationary employees for six (6) months from the first day worked. Probation is considered as an extension of the hiring process. Probationary employees work at the will of the employer and may not invoke the grievance procedure in this agreement **for matters of discipline up to and including termination**.

Temporary: Temporary employees are provided by an outside agency and are excluded from the bargaining unit. A temporary employee's period of employment shall be restricted to no more than 720 hours in any calendar year.

Part-time: All event custodians shall be classified as part-time. Part-time employees are not entitled to vacation pay, health and welfare, sick leave, and personal holidays.

Subcontracting: Nothing in this Agreement will be construed in any way to limit the Employer's right to discontinue any portion of its operations or to make and implement any other decision relating to its operations. The Employer will provide the Union with not less than ninety (90) calendar days' advance notice of such contemplated change and provide the Union with an opportunity to discuss such proposed change and the effect such change will have on unit employees during the ninety (90) calendar day advance notice period.

Full-Time: A position which is designated as full-time in the adopted commission budget and which typically consists of forty hours per week. However, nothing in this Agreement shall be construed as a guarantee of hours worked per week or per day.

Full-time employees approved by the Commission are entitled to pay, insurance, vacation, sick leave, other leaves, holidays and retirement as described in this Agreement.

Article 3: Union Security

Section 1.

Membership or non-membership in the Union shall be a guaranteed individual choice of employees within the bargaining unit provided, however, that any employee who chooses to belong to the Union shall be entitled to subsequently withdraw from membership of the Union by the giving of written notice to the Union and the Employer.

Section 2.

The Employer agrees to fairshare in accordance with and pursuant to the terms of the Oregon Revised Statutes 243.650 (10) and (16) with the understanding that the fair share for non-union employees shall be equivalent to the dues of the Union membership in the International Union of Operating Engineers, Local No. 701, AFL-CIO, subject to any reductions required under applicable state or federal law.

Section 3.

The right of non-association of employees based on bona fide religious tenets or teaching of a church or religious body of which an employee is a member is hereby guaranteed. Such employee shall pay the fairshare amount described herein above to a non-religious charity or to another charitable organization mutually agreed upon by the employee and the Union. The employee shall furnish proof to the Union that this has been done.

Section 4.

The effective date of withholding Union membership dues or fairshare shall be the first of the month following thirty (30) calendar days of employment.

Section 5.

Upon receipt of a signed authorization from the employee, the Employer agrees to deduct from the paycheck of each employee authorized by the Union, the regular monthly dues uniformly required of members of the Union or the amount of fairshare determined by application of Article 3, Section 2 of this Agreement from all non-union members of the bargaining unit for which the Union is the exclusive bargaining agent. The aggregate amount deducted, together with an itemized statement, shall be transmitted monthly to the Union offices on behalf of all employees involved. The performance of this service is at no cost to the Union. The Employer will not be held liable for any errors or delays, but will make any proper corrections as soon as possible.

Section 6.

The Union agrees that it will indemnify, defend and hold the Employer harmless from all suits, actions, proceedings, and claims against the Employer, or person acting on behalf of the Employer, whether for damages, compensation, reinstatement, or a combination hereof arising out of the Employer's implementation of this Article. In the event any decision is rendered by the highest court having jurisdiction that this Article is invalid and/or that reimbursement of the service fee (fairshare) must be made to employees affected, the Union shall be solely responsible for such reimbursement.

Section 7.

The Union agrees to represent all members of the bargaining unit regardless of race, color, religion, national origin, disability, sex, age, sexual orientation, gender identity, marital or familial status, or political affiliation.

Article 4: Union Representatives**Section 1.**

Within thirty (30) calendar days from the signing of this Agreement, the Union shall appoint and notify the Operations Manager in writing of the names of designated Steward. The list will be updated as changes occur.

- a) Upon prior notice to his/her immediate supervisor, a Steward shall be granted reasonable time during the Steward's work shift without loss of pay or benefits to process and investigate grievances and attend investigatory interviews when requested by the employee. If the permitted activity would interfere with either the Steward's or employee's duties, the direct supervisor shall, within 72 hours, arrange a mutually agreeable time for the requested activity.
- b) No Steward will be eligible for overtime pay, other premium pay or travel reimbursement as a result of carrying out Steward duties.
- c) A Steward who comes to the worksite during their off duty hours to carry out Steward duties shall not be paid for such time.
- d) Internal union business shall be conducted by Stewards and employees during their non-duty time.
- e) One (1) Steward on Employer time can process and investigate any one (1) grievance at any given time.
- f) All matters relating to contract negotiations will be performed on the employee's own time.

Section 2.

All officers of the International Union and the Business Representative of the Union shall have access at any time to any part of the facilities in which said event custodians are employed, provided they do not interfere or cause employees to neglect their work.

Section 3.

The Employer shall furnish union bulletin boards in places mutually satisfactory to the Employer and the Union. Such bulletin boards shall be used by the Union to post notices of interest to the employees.

Article 5: Management Rights

The Employer retains all the customary, usual and exclusive rights, decision-making prerogatives, functions and authority connected with or in any way incident to its responsibilities to manage the affairs of the Metro ~~ERC~~ **MERC**. The rights of employees in the bargaining unit and the Union are limited to those specifically set forth in this Agreement.

The exercise of any management prerogative, function, or right which is not specifically modified by a provision of this Agreement is not subject to the grievance procedure, to arbitration, or, as set forth above, to bargaining during the term of this agreement.

Article 6: Hiring

The Employer shall be the sole judge in decisions concerning the employment of personnel. The Employer agrees to continue their policies on non-discrimination and to provide equal employment opportunities without regard to race, color, religion, national origin, disability, sex, age, sexual orientation, marital or familial status, political affiliation, or union activity, except where a bona fide occupational qualification exists.

Any complaint alleging unlawful discrimination/harassment based on the above which is brought to the Union for processing, will be submitted directly to the Metro Affirmative Action Officer. If such a complaint is not satisfactorily resolved within thirty (30) days of its submission, it may be submitted to the Bureau of Labor and Industries for resolution.

Article 7: Hours of Work and Overtime

Because of the nature of the Employer's operation, it is recognized that employee scheduling requirements and assignments must be determined by the Employer based upon the nature of each event and related considerations. Eight (8) hours per day shall constitute the normal work day. The work week shall consist of Thursday 12:01 a.m. through Wednesday midnight with two (2) consecutive days off.

All employees shall be compensated at the rate of time and one-half for all authorized work performed in excess of eight (8) hours in any workday, or forty (40) hours in any workweek. Overtime compensation shall be in the form of overtime pay at the rate of one and one-half hours for each overtime hour worked. **If an employee works six (6)**

consecutive days crossing the regular work week overtime pay will be given for every hour worked over forty (40).

Article 8: Shifts

Shift work shall be permitted in all classifications, without restrictions, on the following basis. The day shift for pay purposes shall be defined as any shift which begins between 4:00 a.m. and ~~8:30 a.m. and ending between 12:30 p.m. and 5:00 p.m.~~ **12:00 p.m., including a paid one-half (1/2) hour lunch period.** exclusive of a one-half (1/2) hour lunch break.

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The second or swing shift for pay purposes shall be defined as any shift which begins between 12:00 noon and ~~3:00 p.m. and ending between 8:00 p.m. and 11:00 p.m.~~ **5:00 p.m.** including a paid one-half (1/2) hour lunch period. Employees scheduled on the second shift shall receive a shift premium of ~~ninety cents (90c)~~ **one dollar (\$1.00)** per hour in addition to the regular hourly rate for all hours worked on that shift.

The third or graveyard shift for pay purposes shall be defined as any shift which begins between 5:00 p.m. and 12:00 ~~a.m. midnight and ending between 1:00 a.m. and 8:00 a.m.~~ including a paid one-half (1/2) hour lunch period. Employees scheduled on the third shift shall receive a shift premium of one dollar ~~and 20 cents (\$1.00)~~ **(\$1.20)** per hour in addition to the regular hourly rate for all hours worked on that shift.

Article 9: Reporting and Call-in Pay

Any Employee who is scheduled to report for work on their regularly scheduled shift and who presents themselves for work as scheduled, but where work is not available or a full shift's work is not available for them, shall be compensated at their regular rate for all scheduled hours in that shift.

Any Employee called to return to work immediately, or before the employee's next work shift, and such call is after the employee has left the Employer's premises at the end of their last shift, shall be paid for a minimum of four (4) hours at the rate of one and one-half (1½) times the regular rate.

Article 10: No Strike or Lockout

- a) During the term of this Agreement, neither the Union nor its agents nor any employee, for any reason, will authorize, institute, aid, condone or engage in a slowdown, work stoppage, picketing, strike, or any other interference with the work and statutory functions or obligations of ~~MetroERC~~ **MERC**. During the term of this Agreement neither ~~MetroERC~~ **MERC** nor its agents for any reason shall authorize, institute, aid, or promote any lockout of employees covered by this Agreement.

- b) If any work stoppage, slowdown, picketing, or strike shall take place, the Union agrees to immediately notify any employees engaging in such activities to cease and desist and to publicly declare that such work stoppage, slowdown, picketing, or strike is in violation of this Agreement and is unauthorized. The Union agrees to immediately notify all Local officers and representatives of their obligation and responsibility for maintaining compliance with this Article including their responsibilities to remain at work during any interruption which may be caused or initiated by others and to encourage other employees violating Section A above to return to work.

Article 11: Grievance Procedure

Section 1.

A grievance is defined as a dispute by the Union or a covered employee concerning the application or interpretation of a specific provision of this Agreement. Grievances may be initiated and pursued in the following manner using the Grievance Form in Exhibit B.

- Step 1 The employee or union representative shall present the grievance, on the official grievance form, to the employee's immediate supervisor for adjustment within seven (7) days of the date on which the events occurred giving rise to the grievance. An employee's supervisor shall respond promptly, but in no event more than seven (7) calendar days after receipt of the written grievance.
- Step 2 If a written grievance, as outlined in Step 1, has not been settled between the affected employee and the immediate supervisor, the grievance shall be submitted in writing to the facility director or designee, by the Union representative within ten (10) calendar days. The facility director or designee shall respond in writing to the Union representative within ten (10) calendar days after receipt thereof.
- Step 3 If the grievance is not resolved, the Union or the affected employee may submit the grievance to the General Manager within (10) calendar days from the receipt of the facility director or designee's written response. The General Manager shall respond in writing within ten (10) calendar days from receipt of the grievance.
- Step 4 Should the parties fail to settle the grievance within seven (7) days from the date of submission to the General Manager, it may be referred in writing within seven (7) calendar days thereafter to a Board of Adjustment upon mutual agreement of the parties.

The Board of Adjustment shall consist of two (2) members designated by the General Manager and two (2) members designated by the Union. Members of the Board of Adjustment shall not be from any of the facilities or local union under the jurisdiction of this Agreement. The Board of Adjustment shall convene within ten (10) calendar days

following referral of the grievance to hear evidence submitted by the parties involved. The Board of Adjustment shall decide the issue by majority vote of its members within five (5) calendar days following the hearing. A majority decision of the Board of Adjustment shall be final and binding on all parties. In the event of a split decision, the grievance shall be considered unsettled.

Step 5 If the grievance is still unsettled, the Union shall, within ten (10) calendar days of the receipt of the decision of the Board of Adjustment, have the right to have the matter submitted to final and binding arbitration by submitting a written notice to the ~~MERCetro~~ Human Resources Manager Office with a copy to the Employer. Within ten (10) calendar days from the request for arbitration, the Employment Relations Board shall be requested to submit a list of seven (7) names. Both the Employer and the Union shall have the right to strike three (3) names from the list alternately; the last name remaining shall be the impartial arbitrator. The Employer and the Union shall flip a coin to determine who strikes first.

The fees and expenses of the arbitrator shall be shared equally by the Employer and the Union. All other expenses shall be borne by the party which incurs them. Each party shall be responsible for compensating its own representative and witnesses. If either party desires a verbatim recording of the proceedings, it may cause such a record to be made. If the other party desires a copy, both parties shall jointly share the cost of the transcript and all copies.

The designated arbitrator shall conduct a hearing, and then issue a decision which shall be final and binding on the parties. The arbitrator shall not have jurisdiction or authority to: add to, subtract from, modify or in any way change the provision of this Agreement; establish new wage rates or change existing wage rates or rates for specific job classifications; or assume any responsibility of Management or of the Union.

The Employer and the Union may, by mutual agreement, submit the grievance to mediation prior to proceeding to binding arbitration.

The provisions of this Article shall not be interpreted to require that the Union process any grievance through the grievance or arbitration procedure, which it believes in good faith, lacks sufficient merit.

The time limits of this grievance and arbitration procedure shall be strictly adhered to. The Employer shall have the right to refuse to process or arbitrate a grievance, which is not raised or processed within the above-described time limits. If at any step of the grievance procedure the Employer does not formally respond as provided herein, it will be assumed that the Employer has rejected the grievance and the next step of the grievance procedure shall be available.

Extension of time limits. The time limits of this grievance and arbitration procedure may be extended or waived by mutual agreement, in writing, between the parties.

Article 12: Seniority

Seniority shall be computed and defined from date of hire into a represented classification at Portland Center for the Performing Arts.

Seniority shall be applied for lay off, lack of work, and scheduling of additional shifts.

Time spent on approved leave or as a result of on the job injury or illness shall not be considered a break in service. Seniority shall not accrue during a break in service, but will continue to accrue upon return from a break in service.

A break in service shall be defined as a voluntary quit, discharge, involuntary lay-off, or non-return to work after a leave of absence.

MERCMetro shall publish and distribute annually and thirty (30) days prior to any lay off a seniority list for all employees.

Article 13: Layoff

Lay off shall be defined as a separation from service for involuntary reasons not reflecting discredit upon employees. The Employer shall determine the number of employees to be laid off. In the event of a lay off, all temporary and probationary employees shall be laid off prior to any lay off of bargaining unit employees.

The least senior employees will be laid off first. Employees shall be given thirty (30) days notice of lay off.

During any period of layoff, the Employer shall not use temporary workers or hire new employees in the affected classification before laid-off employees are returned to work. Employer shall re-employ laid-off employees on a strict seniority basis.

Disputes concerning lay-offs shall be handled through the grievance procedure.

Article 14: Discipline & Discharge

No non-probationary employee may be disciplined or discharged without just cause.

No employee shall be denied representation in any investigation that may result in disciplinary action.

If the Employer has reason to reprimand or discipline an employee, every reasonable effort shall be made to avoid embarrassment to the employee before other employees or the public.

The Employer shall adhere to standard progressive discipline practices.

Because of the nature of the Employer's operation, it is recognized that employee scheduling requirements and assignments must be determined by the Employer based upon the nature of each event and related considerations. The Employer and the Union jointly recognize the critical nature of employee promptness and compliance with scheduling. Failure to report as scheduled ~~or~~ **shall include but not be limited to, repeated tardiness, absenteeism and leaving a shift early without reasonable justification, which** place a great burden on both the Employer and fellow employees and may be cause for progressive discipline up to and including discharge. Any employee who is "no call, no show" on three occasions ~~within a fiscal year~~ is subject to progressive discipline which may include termination.

Article 15: Personnel File

The Employer shall maintain one (1) official personnel file for all employees. This file shall be maintained in the Metro Human Resources Dept. No document, report or correspondence of an adverse nature shall be placed in this file without a signature by the Employee or a statement signed by the Supervisor which indicates the Employee has been shown the document and refused to sign it. An Employee's signature shall not be construed to mean the Employee agrees with the content.

All material in the official personnel file of any Employee may be inspected by the affected Employee. No material of an adverse nature may be used against an Employee unless entered in the personnel file as described in this article. An Employee upon request shall have the right to view all material in the Employee's personnel file.

At an employee's request, all disciplinary material shall be expunged from the personnel file or considered obsolete two (2) years from the date the material was entered, provided that the Employee has received no other disciplinary action. Periodic performance appraisals shall permanently remain part of the official personnel file. Supervisors may elect to remove disciplinary material from an Employee's personnel file prior to the end of the two (2) year period specified above. Any material of an adverse nature shall be removed if not entered in accordance with this article. Employees may include in their official personnel file any material rebutting disciplinary material that they believe to be incorrect. Grievances shall not be maintained in the personnel file.

A written record of an oral reprimand may be included in the personnel file as disciplinary material subject to the restrictions specified in this article.

Article 16: Salary Administration

Section 1.

Upon ratification by the Union, pay for bargaining unit employees shall be in accordance with Exhibit A of this Agreement. On July 1 of 2006 ~~9~~ **bargaining unit employees shall receive a 5 percent increase and, July 1, 2007 10, July 1, 2008 11** the pay rates listed in Exhibit A shall be increased by 100 percent of National CPI-U (1982-84=100), computed

from March to March; provided, that the minimum upward adjustment shall be two (2) percent, and the maximum upward adjustment shall be four (4) percent.

Section 2.

Upon successful completion of 88 hours of work, an employee shall move to the non-probationary pay rate for their classification.

Section 3.

To implement Exhibit A on the effective date of this Agreement, employees on initial probation on the effective date of this Agreement shall be paid the probationary pay step for their classification. Non-probationary employees shall be paid the pay rate stated in Exhibit A for their classification. Employees hired after the effective date of this Agreement shall be paid at the probationary pay rate for their classification.

Section 4.

Standard paydays will be on the 10th and the 25th of each month or the immediately preceding business day in the case where a payday falls on a holiday or weekend.

Section 5.

Part-time event custodians shall receive a written performance evaluation every six months – provided the employee has worked a minimum of 480 hours during this period (average 18.5 hours per week). If upon review the employee earns an overall performance rating of “meets” or “exceeds” standards, the employee will be awarded 4 hours of leave. A member that earns an overall performance rating of “requires improvement” or “not satisfactory” is not eligible for the award.

A member must use this leave within one (1) year of the award. Hours not taken by an employee shall be lost and not compensable. If a member terminates employment prior to use of the leave, the leave is not compensable. The rating of the employee is at the discretion of the employer, and the Union agrees that it cannot grieve a member’s performance rating.

Article 17: Vacation Leave

Section 1.

Except for Event Custodians, vacation leave with pay for full-time employees shall accrue at the rate shown below prorated on the total of compensable hours paid to the employee for hours worked, vacation, personal holidays, and paid sick leave:

Total Years of Service	Accrual Rate at 24 Pay Periods Per Year	Vacation Rate Per Year
0 through 4	3.34 hours	80 hours
5 through 9	5.00 hours	120 hours
10 through 14	5.84 hours	140 hours
15 through 19	6.67 hours	160 hours
20 through 24	7.50 hours	180 hours

25 or more

8.34 hours

200 hours

Employees who have successfully completed the initial probationary period and have received a full-time appointment are eligible to take accrued vacation leave with pay.

Section 2.

Employees shall not accumulate more than two hundred and fifty- (250) hours of vacation leave. Additional hours that would have accrued at the rates in this Agreement shall be forfeited. If an employee is close to reaching the 250-hour cap, the employee will schedule such time off pursuant to Section 4 of this Article.

Section 3.

Any non-probationary full-time employee who resigns, retires, is laid off or dismissed from employment with the Employer shall be entitled to an immediate lump sum payment for accrued and unused vacation hours at the employee's existing salary rate provided, however, that such lump sum payment shall not be made if separation occurs prior to the completion of the initial probationary period.

Section 4.

The Operations Manager or their designee shall schedule vacation for their respective staff with consideration for vacation accrued, seniority, the desires of the staff, and for the work requirements of the department. Vacation requests shall be submitted through the employee's immediate supervisor and approved by the Operations Manager on an "Employee Leave Request Form." Requests for vacation leave shall be submitted at least two (2) weeks prior to the desired vacation time.

Article 18: Sick Leave

Section 1.

Bargaining unit members shall earn sick leave with pay at a rate of .05 hours per hour worked accrued in an unlimited amount. Qualified employees shall be eligible for use of earned sick leave after ninety (90) days of employment with the Employer.

Section 2.

Employees are eligible to use sick leave for the following reasons:

- 1) Personal illness or physical disability.
- 2) Illness or physical disability in the employee's immediate family or household requiring the employee to remain at home.
- 3) Medical appointments and office visits.

Section 3.

Employees unable to report to work due to illness shall report the reason for the absence to their supervisor one (1) hour prior to the scheduled beginning of their shift. Sick leave

with pay may not be allowed if such report has not been made. The supervisor may require sick leave beyond three (3) days to be supported by a physician's statement attesting to the illness.

Section 4.

The Employer and the Union agree that no employee should receive full wages in paid sick leave while also receiving time loss payments on an insured disability or Workers' Compensation claim. The parties therefore agree as follows:

Where the dual payment would result from the employee filing a claim for time loss payments for an injury or disease the employee shall receive only the paid sick leave, if any, for the same condition necessary to bring the employee to full pay for the pay period. The Employer may recoup any overpayment of sick leave paid, either by deductions from gross wages per pay period in an amount not exceeding twenty (20) percent gross wages until the total overpayment is recouped, or the Employer and the employee may, by mutual agreement, provide for some other means for repayment. Upon repayment of the total amount of the excess, the employee's sick leave account shall be credited with that portion of the sick leave repaid.

Section 5.

Sick leave shall not continue to accrue during periods of disability or leave unpaid by the Employer.

Section 6.

Full-time employees who use twenty-four (24) hours or less of sick leave within one fiscal year period shall accrue eight (8) additional hours of vacation leave in exchange of eight (8) hours of sick leave at the end of the fiscal year.

Article 19: Holidays

Section 1.

The following shall be considered holidays for full-time employees:

- | | | |
|----|----------------------------|-----------------------------|
| 1. | New Years Day | January 1 |
| 2. | Martin Luther King Jr. Day | Third Monday in January |
| 3. | Presidents' Day | Third Monday in February |
| 4. | Memorial Day | Last Monday in May |
| 5. | Independence Day | July 4 |
| 6. | Labor Day | First Monday in September |
| 7. | Veterans' Day | November 11 |
| 8. | Thanksgiving Day | Fourth Thursday in November |
| 9. | Christmas Day | December 25 |

Full-time employees shall receive eight (8) hours of straight time pay for each of the holidays enumerated above on which they perform no work. If a full-time employee works on a holiday as enumerated above, the employee shall receive one and one-half (1 ½) time compensation for the time worked in addition to regular holiday pay.

Event Custodians shall receive one and one-half (1 ½) times compensation for actual time worked on the holiday. If a shift crosses both a non-holiday and holiday only the time worked on the holiday will be compensable at the one and one-half (1 ½) times regular hourly pay rate.

In addition to the above holidays, employees who complete their initial probationary period will be eligible to take up to twenty-four (24) hours of personal holiday time. The personal holiday hours must be used within the fiscal year in which they accrue. Employees hired before November 1 will receive twenty-four (24) hours leave. Employees hired on or after November 1 but before December 24 will receive sixteen (16) hours leave. An employee can use personal holiday hours in no less than four (4) hour blocks of time. An employee must request and obtain prior approval before taking such leave. Personal holiday hours not taken by an employee during the fiscal year shall be lost and are not compensable.

Section 2.

Holidays that occur during vacation or paid sick leave shall not be charged against leave.

Section 3.

No employee shall receive holiday pay if the employee is absent for all or part of their scheduled workday either immediately preceding or immediately following the holiday or adjacent, single, or consecutive days off unless they have applied to their supervisor in writing for permission to be so absent and such written request has been applied for and approved by the Operations Manager within that pay period.

Section 4.

Whenever one of the holidays listed in Section 1 of this Article falls on a regularly scheduled day off, the day prior to or the day following the holiday will be scheduled off in accordance with building or event needs pursuant to Section 6 of this article or as mutually agreed.

Section 5.

The holiday shift is the shift on which at least one-half of the hours of the shift are worked.

Section 6.

Employees shall normally be notified of holiday work schedules at least fourteen (14) days in advance, except in situations over which the Employer has no control.

Section 7.

MERC shall offer work available on holidays to volunteers. Employees interested in working the holiday will advise the employer of their desire to do so 72-hours prior to the holiday. If two or more employees volunteer within 72-hours prior to the holiday, the most senior will be selected. If there are no volunteers, the least senior non-probationary employee will be required to work.

Section 8.

When part-time employees are engaged for any work on a holiday, the employee shall be compensated at one and one-half (1-1/2) times the regular straight time hourly rate. Holidays for the purposes of this agreement are New Year's Day (January 1), Martin Luther King, Jr. Day (third Monday in January), Presidents' Day (third Monday in February), Easter Sunday, Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (first Monday in September), Thanksgiving Day (fourth Thursday in November, and Christmas Day (December 25).

Article 20: Other Leaves

Section 1. Parental Leave

The Employer provides parental leave of up to twelve (12) weeks for eligible employees who have become parents. At the employee's discretion, the leave shall be paid from accrued vacation time or accrued sick leave, or be unpaid.

- a) The employee shall be entitled to take parental leave without being penalized for taking leave.
- b) When the employee returns from the leave, he or she must be restored to the former or an equivalent job, without loss of seniority. If the employee cannot be reinstated to the former or equivalent job because the Employer's circumstances have changed, the employee must be reinstated to any other position that is available and suitable.
- c) All employees who have completed ninety (90) days of service are eligible to request the leave.
- d) Employees have the option of using their accumulated leave balances during the parental leave. If the employee chooses to take leave without pay, benefits will be paid through the last day of the month following the month in which the leave without pay commences. If the employee chooses to utilize accumulated balances, benefits will be continued as long as the leave is continued on paid status.
- e) Employees are entitled to a maximum of twelve (12) weeks unpaid parental leave. Such entitlement begins on the date of birth of the child, or on the date of the taking of physical custody of a newly adopted child.
- f) A request shall be submitted simultaneously to the Operations Manager and the Human Resource Division thirty (30) calendar days before the occurrence of the event. The request must be in writing and contain the following information:
 - (1) The employee's intent to take parental leave beginning on a certain date more than thirty (30) days from the date of the request.
 - (2) The anticipated date of birth of the parent's child, or

- (3) The anticipated date that the parent will obtain physical custody of a newly adopted child under six years of age, and
 - (4) The dates when the parent, or if both parents request parental leave, the dates which each parent will commence and terminate his or her portion of the parental leave.
- g) Failure to submit a written request in accordance with (1) above will be handled pursuant to the law applicable.
 - h) Employees who return from parental leave by the date listed in the written request on file will be restored to their former position without loss of seniority or vacation credits. If circumstances change so that the employee's former job is no longer available, that worker will be reinstated to an equivalent position or any other position that is available and suitable. Employees who do not return may be disciplined.

Section 2. Leave Without Pay

In instances where the work will not be seriously handicapped by the temporary absence of a full-time employee, the Operations Manager may grant a leave of absence without pay not to exceed ninety (90) calendar days. Leaves of absence without pay for periods in excess of ninety (90) calendar days, but not exceed six (6) months, must be approved by the MERC General Manager. Requests for such leave must be submitted ten (10) working days before the first day of the requested leave unless there is an unforeseen emergency that is outside the employee's control. The request must be in writing and must establish reasonable justification for approval of the request.

The employee may elect to continue insurance benefits; however, premiums for such extended benefits shall be paid by the employee. Any and all such extension of insurance benefits shall be subject to any and all restrictions and conditions that may exist in each applicable benefit policy or plan. No employee may be denied leave without pay for arbitrary or capricious reasons. Any employee returning from an approved leave shall be reinstated with no greater or lesser employment rights than if the employee had not taken the leave.

Section 3. Union Business Leave

Upon written ~~request~~request, at least two (2) weeks in advance and subject to operating requirements, the Operations Manager shall grant leave without pay for conducting Union business for up to two (2) employees at any one time.

Section 4. Jury Duty

Upon the presentation of written documentation, full-time employees shall be granted leave with pay when called for jury duty or subpoenaed as a witness to attend court in connection with the employee's officially assigned duties subject to the following:

- a) The employee granted such leave shall pay all money received except travel allowance, to the Employer.

- b) An employee on jury duty who is on other than a day shift shall be temporarily assigned to day shift for the duration of jury duty. An employee, whose shift is temporarily changed, as a result of jury duty shall waive all overtime and other premium pay as a result of the schedule change. Nothing in this Agreement shall prohibit the Employer from requesting the court to excuse the employee from jury duty.

Section 5. Military Leave

A non-probationary employee who is a member of the National Guard or a reserve component of the Armed Forces of the United States is entitled to leave of absence for a period not to exceed fifteen (15) days in any calendar year for his/her annual training requirement. Such fifteen (15) calendar day leave shall be granted without loss of pay, or other leave and without impairment of other rights or benefits to which he/she is entitled, providing the employee receives bona fide orders to active training duty for a temporary period and providing he/she returns to his/her position immediately upon expiration of the period for which he/she was ordered to duty. The employee shall provide the Employer with copies of their leave earnings statement. Such employees shall be entitled to the difference, if any, between their regular earnings and their military pay. If their military earnings exceed their regular earnings no payment will be made by the Employer. Leave without pay shall be allowed in accordance with the Oregon state laws for employees entering military service for extended or indefinite periods of active duty.

Section 6. Bereavement Leave

- a) A full-time employee absent from duty by reason of the death of his or her spouse, parents, children, sister, brother, grandparent, grandchildren, father-in-law, mother-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law or other household member shall be allowed not to exceed three (3) days of leave with pay. Additional leave may be granted upon approval. However, such leave shall be charged to the employee's sick leave hours. Eligibility for bereavement leave is extended to domestic partners.
- b) If travel is required, two- (2) additional days, chargeable to sick leave may be allowed upon approval of the Operations Manager.
- c) A full-time employee may attend a funeral ceremony for a fellow employee in the Operations Department or Expo, whichever is applicable, with four (4) hours leave with pay to attend such funeral ceremony, subject to the Employer's operating needs.

Article 21: Insurances

Section 1.

- a) From the signing of this Agreement to December 31, June 30, 2008, 2011 the Employer will fund health benefits to the same limits as funded by Metro for AFSCME represented employees of Metro.

- b) No later than February 1st of each year of this Agreement a joint Health and Welfare Committee shall be formed. This bargaining unit will be represented by on the committee by IUOE Local 701. The employer shall make available to the committee current information regarding insurance premium rates and projected increases; as such information becomes available to the Employer. The committee shall meet to consider adjustments to benefits or coverages to stay below the specified employer contributions for each year of the Agreement.
- c) Effective upon the signing of this Agreement, the Employer shall contribute ~~(\$692.50)~~ \$839.00 amount per employee per month for medical, dental and vision plan provided by an HMO and/or indemnity carrier.

Effective July 1, ~~2009~~ 2006, Metro shall contribute an amount not to exceed ~~(\$923.00)~~ \$727.42 per employee per month for a medical, dental and vision plan provided by an HMO and/or indemnity carrier. Effective July 1, ~~2010~~ 2007 Metro shall contribute an amount not to exceed ~~(\$1016.00)~~ \$763.48 per employee per month for a medical, dental and vision plan provided by an HMO and/or indemnity carrier. Effective July 1, ~~2011~~ 2008 Metro shall contribute an amount not to exceed ~~(\$1118.00)~~ \$801.65 per employee per month for an medical, dental and vision plan provided by an HMO and/or indemnity carrier.

If health insurance costs increase by more than 10% in any given year, (according to each insurance plan) of this agreement, the amount over 10% increase shall be paid equally by the employee and the employer.

Through ~~December 31, 2011~~, January 1, 2008, life insurance and additional dependent life and disability coverages shall be maintained at current levels at no cost to the employee unless adjustments are made by the joint Metro/MERC/AFSCME committee to keep medical, dental and vision costs below the cap for that coverage.

Article 22: Retirement

Employees shall continue to be eligible for participation in the Public Employee Retirement System PERS pursuant to the law. Full-time employees shall continue to have the Employer "pick-up" their required six-percent (6%) monthly contribution to the PERS.

Article 23: Recoupment of Payments

Section 1. Overpayments

- (1) In the event that an employee receives wages or benefits to which the employee is not entitled, regardless of whether the employee knew or should have known of the overpayment, the Employer shall notify the employee in writing of the overpayment which will include information supporting that an overpayment exists and the amount of wages and/or benefits to be repaid. For purposes of recovering overpayments by payroll deduction, the following shall apply:

- (a) The Employer may, at its discretion, use the payroll deduction process to correct any overpayment made within a maximum period of two (2) years before the notification.
 - (b) Where this process is utilized, the employee and employer shall meet and attempt to reach mutual agreement on a repayment schedule within thirty (30) calendar days following written notification.
 - (c) If there is no mutual agreement at the end of the thirty (30) calendar day period, the employer shall implement the repayment schedule stated in subsection (d) below.
 - (d) If the overpayment amount to be repaid is more than five percent (5%) of the employee's regular monthly base salary, the overpayment shall be recovered in monthly amounts not exceeding five percent (5%) of the employee's regular monthly base salary, the overpayment shall be recovered in a lump sum deduction from the employee's paycheck. If an employee leaves Metro service before Metro fully recovers the overpayment, the remaining amount may be deducted from the employee's final check.
- (2) An employee who disagrees with the employer's determination that an overpayment has been made to the employee may grieve the determination through the grievance procedure.
 - (3) This Article does not waive the employer's right to pursue other legal procedures and processes to recoup an overpayment made to an employee at any time.

Section 2. Underpayments

- (1) In the event the employee does not receive the wages or benefits to which the record/documentation has for times indicated the employer agreed the employee was entitled, the employer shall notify the employee in writing of the underpayment. His notification will include information showing that an underpayment exists and the amount of wages and/or benefits to be repaid. The employer shall correct any such underpayment made within a maximum period of two years before the notification.

Article 24: Clothing Allowance

Where the Employer now furnishes and requires specified working clothing for employees in its various operations, such practice will continue.

Article 25: Education & Training

The Employer and the Union share a desire to retain a workforce skilled in job related duties. To the extent possible, the Employer will make available to members of the

bargaining unit current information about available employer approved training opportunities.

Job-related training for employees may be conducted both during and outside of an employee's work schedule. When ~~an employee's attendance is required by the Employer~~ the Employer requires an employee's attendance, they shall be notified in writing and shall be paid for the time as time worked.

The Employer may offer in-house training for employees to improve their knowledge, skills and abilities to perform the job.

The Employer shall conduct or arrange for training in emergency procedures and for safety training on all new products and equipment.

The Operations Coordinator or vendor shall conduct orientation and training for all affected employees on new equipment, products, and procedures for all newly hired employees.

Article 26: Safety and Health

Section 1.

The Employer agrees to provide a safe and healthful workplace, as required by law, and to provide and maintain all tools and equipment required by Employer for use by the employee.

Section 2.

The Employer and the Union agree that a representative will serve on the joint labor-management safety committee in compliance with current Oregon law and administrative rules.

Section 3.

The safety committee shall inquire into and make recommendations to the Employer on all safety issues in the work area. Any employee who observes an unsafe condition in the workplace shall promptly report the same to their supervisor. The supervisor shall promptly take appropriate action.

Section 4

No employee shall be disciplined for failure to perform an unsafe work operation or operate unsafe equipment.

Article 27: Savings Clause

Section 1.

Should any Article, Section or portion thereof of this Agreement be held unlawful and unenforceable by any court of competent jurisdiction, such decision shall apply only to the specific Article, Section or portion thereof directly specified in the decision. Upon the issuance of any such decision, the Parties agree immediately to negotiate a substitute, if

possible, for the invalidated Article, Section or portion thereof. All other portions of this Agreement and the Agreement as a whole shall continue without interruption for the term of this Agreement.

Section 2.

In the event of a conflict between this Agreement and ~~Metro~~ERCMERC policy, the terms of the Agreement shall apply.

Article 28: Maintenance of Standards

Section 1.

The Employer agrees that all conditions of employment established by its individual operations which constitute an economic benefit to employees covered by this Agreement shall be maintained at not less than the standards in effect at the time of the final ratification of this Agreement except where those standards have been modified through collective bargaining.

Section 2.

This article of the Agreement shall not apply to inadvertent or bona fide errors made by the Employer. Any disagreement regarding errors shall be resolved through the grievance process.

Article 29: Term of Agreement

This Agreement shall remain in full force and effect from the signing of this Agreement to December ~~31, 2011~~2008. Either party may give written notice at least sixty (60) days prior to the expiration of the Agreement of its intention to renegotiate the terms and provisions of this Agreement.

Metropolitan Exposition-Recreation
Commission

International Union of Operating
Engineers, Local 701

~~Jeff Miller~~David Woolson, General Manager
~~Holliday, Business Manager~~Chief Executive Officer

~~Mark~~

Date

Date

Kevin B. Dull, Metro/MERC

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January 1, ~~2006~~2008 through December 30, 2008 31, 2011
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Labor and Employee Relations Manager

Date

Don Scorby, Operations Manager

Date

**METROPOLITAN EXPOSITION RECREATION COMMISSION
IOUE LOCAL 701-1 (UTILITY WORKERS) PAY SCHEDULE**

Salary Range	Job Code	Classification	Prob Step	Reg Step
110	8485	Event Custodian	10.82 <u>12.56</u>	12.22 <u>14.19</u>
130	8170	Utility Maintenance Technician	14.54 <u>16.87</u>	15.86 <u>18.41</u>
134	8495	Utility Lead	16.03 <u>18.61</u>	16.78 <u>19.48</u>

Pay rates effective on July 1, 2009 ~~July 1, 2006~~.

Exhibit B



I.U.O.E. LOCAL 701 OFFICIAL GRIEVANCE FORM

IUOE Grievance #: _____ Date of Incident: _____
Date Filed: _____ Date Member Learned of Violation: _____

Employer: _____ Employee: _____
Employer's Phone: _____ Job Classification: _____
Supervisor: _____

Location of Job Site: _____

Article of Contract Violated: _____

Description of Grievance: _____

Settlement Desired: _____

Management's Response: _____

Mgmt. Rep. Signature: _____ Date: _____

Step 2. Date Presented: _____ Response Date: _____

Result: _____

_____ Mgmt. Rep. Signature: _____

Step 3. Date Presented: _____ Response Date: _____

Result: _____

_____ Mgmt. Rep. Signature: _____

Final Disposition: _____

Date: _____ Union Representative: _____

SIDE LETTER OF AGREEMENT

The parties mutual goal is to have as much work performed by staff as possible, and to minimize the use of contracted temporary employees.

The employer agrees that all employees should be given the maximum opportunity to work available hours so long as it is recognized that this is an event driven business and will not be construed otherwise and does not create an overtime situation. Available hours at all facilities shall be offered to employees regardless of their assigned facilities and in the event that two employees request the same hours, then seniority shall govern.

The following employees will be guaranteed 32 hours per week, except as provided below:

- ~~Darlene Davis~~
- ~~Roger Warner~~
- ~~Errol Young~~
- ~~Mersha Kefeyahu~~
- ~~Sam Strawder~~
- ~~Tracy James~~
- ~~Paul Allaert~~
- ~~Robert Ramirez~~
- ~~Lloyd Larson~~
- ~~Mary Ann Hudlow~~

A minimum total of ten (10) Event custodians will be designated as 32-hour employees and guaranteed 32 hours per week, except as provided below. The total of 10 constitutes a permanent number of designees and the list will be replenished as needed to maintain the total.

Designees shall be determined by the Employer based upon quality of performance, desires of the employee, and with consideration of seniority whenever possible.

The number of hours up to 32 are at the discretion of the employee. If an above named employee wants to work fewer hours they must submit a Leave Request form for non-emergencies 14 days in advance of the time off.

In recognition of the event driven nature of this business, no employee can expect nor be guaranteed 40 hours a week. However, if hours are available after the 32-hour obligation is met, an employee may volunteer to work more than 32 hours based on the event driven needs of the employer.

When the employer experiences a reduction of business activity they shall reduce the number of hours in conjunction with the Layoff article. The employer must give 30 days written notice except for an emergency, such as the loss of a show.

The number of employees listed in this side letter of agreement constitutes a permanent number and the list will, as soon as possible, be replenished as based on quality of performance with seniority taken into consideration where possible.

Metropolitan Exposition-Recreation
Commission

Jeff Miller, General Manager

Date

Kevin B. Dull, Metro/MERC

Date

Don Scorby, Operations Manager

Date

International Union of Operating
Engineers, Local 701

Mark Holliday, Business Manager

Date