

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 99-172

Approving a Memorandum of Understanding relating to public facility improvements and financing to support the Portland and Multnomah County visitor industry

The Multnomah County Board of Commissioners Finds:

- a. Multnomah County, City of Portland, Metro, Tri-County Lodging Association, the vehicle rental industry, Tri-Met, Portland Oregon Visitors Association and Portland Development Commission have reached certain understandings about public facility improvements and financial support for the Portland and Multnomah County visitor industry.
- b. The proposed improvements include expansion of the Oregon Convention Center, renovation of the Civic Stadium, extending Fareless Square to the Lloyd Center Max station, and stabilizing the funding and eliminating the capital liabilities of the Portland Center for the Performing Arts.
- c. The combination of industry support for raising Multnomah County taxes on transient lodging and vehicle rental activities, and City of Portland bonding capacity will provide financial support for the public facility improvements and the visitor industry.
- d. The parties have concluded a non-binding Memorandum of Understanding that will be implemented through Intergovernmental Agreements and ordinances.

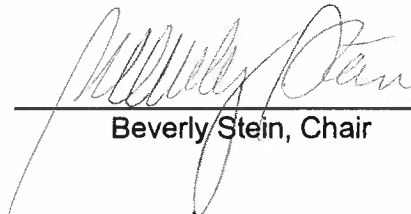
The Multnomah County Board of Commissioners Resolves:

The Board approves the Memorandum of Understanding (MOU) attached as Exhibit A and authorizes the Chair to execute the MOU.

Adopted this 9th day of September, 1999.



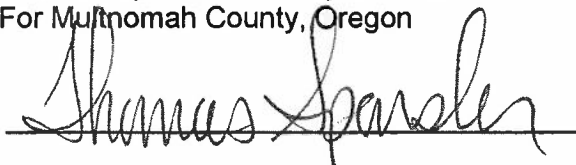
BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Beverly Stein, Chair

REVIEWED:

Thomas Sponsler, County Counsel
For Multnomah County, Oregon



Thomas Sponsler

PROPOSED
MEMORANDUM OF UNDERSTANDING

DATED: August 17, 1999

BETWEEN: City of Portland,
A municipal corporation
("the City")

Multnomah County, Oregon
A municipal corporation
("the County")

Metro
A Metropolitan Service District
("Metro")

Tri-County Lodging Association,
An Oregon non-profit corporation

National Rental Car Companies Represented by
Gardner & Gardner,
(Avis, Hertz, Enterprise, Budget and AutoNation)

Car and Truck Rental and Leasing Association,
An Oregon non-profit corporation
("CATRALA")

Portland Oregon Visitors Association,
An Oregon non-profit corporation
("POVA")

Portland Development Commission
("PDC")

Tri-County Metropolitan Transportation District
("Tri-Met")

RECITALS

A. The Oregon Convention Center, since opening in 1990, has proven to be a key public facility serving the region's visitor industry. However, as other areas have expanded their convention and meeting facilities the competitiveness of the Oregon Convention Center has

declined. To return to a competitive level and continue to attract national conventions, the Oregon Convention Center needs to be expanded. The increased business will create a stronger local economy, ensuring continued and new employment in supporting visitor-related industries.

B. To improve the competitiveness of the Oregon Convention Center, a proposal to finance construction of a second phase of the facility that would result in its full build-out completion was developed, with funding to be supported largely from proceeds of voter-approved general obligation bonds. The bond measure was not approved by voters at the November 1998 general election.

C. Following the defeat of the bond measure, members of the lodging and visitor industry began work on a funding plan for the project that did not require raising property taxes. The plan looked at a range of options based on taxes and revenues generated largely from the regional visitor industry itself.

D. In early 1999, representatives of the visitor industry met with the City, the County, and Metro to review their plan and to explore ways to move forward with the project. Through this collaborative working relationship it was determined that the combination of industry support for raising taxes on transient lodging and vehicle rental activities within Multnomah County and the City's broad financing authority could not only achieve the goal of funding the Convention Center Completion Project, but could also provide financial support for a number of other much needed projects that support the region's visitor industry.

E. The City, does not have authority under its Charter to increase its transient lodgings tax or to impose a vehicle rental tax. Multnomah County does have such authority.

F. The City, the County and Metro acknowledge the support of the lodging industry, which has facilitated the proposed tax increases that make possible the various projects named in this MOU.

G. This collaborative effort fulfills the need to modernize and stabilize the operations of public facilities that are critical to serving the region and vital to supporting the region's visitor industry. Included in these efforts are the expansion that nearly doubles the capacity of the Oregon Convention Center, the renovation of Civic Stadium, doubling the size of Fareless Square by extending it to the Lloyd Center Max station, stabilizing the funding and eliminating the capital liabilities of the performing arts center.

H. The City has entered into a Memorandum of Understandings and is currently in negotiations regarding the redevelopment of Civic Stadium with a private sector entity, who was chosen for further negotiations after an open and competitive request for proposals process.

I. The parties have negotiated over issues relating to the expansion of the Oregon Convention Center, improvements to the (PCPA) and the Civic Stadium, as well as other enhancements to the visitor industry in Portland and Multnomah County and have reached certain understandings. The purpose of this non-binding Memorandum of Understanding ("MOU") is to set forth those understandings, which will implemented through further agreements.

NOW, THEREFORE, the understandings of the parties are as follows:

1. DEFINITIONS

A. Bonds means, collectively, the Civic Stadium Bonds, the Convention Center Completion Bonds and the PCPA Bonds.

B. Civic Stadium Bonds means, the bonds issued by the City to fund the Civic Stadium improvements, to be owned by the City. The total amount of the Civic Stadium Bonds shall not exceed \$33,00,000.

C. Civic Stadium Revenues means the City revenues from the operation of Civic Stadium, as provided in section 2.B(4) below.

D. Convention Center Completion Bonds means the bonds issued by the City to fund the Convention Center Completion Project in an amount not to exceed \$100,000,000.

E. Convention Center Completion Project means the expansion of the Convention Center facilities owned by Metro to include approximately 115,000 square feet of exhibit space, a 35,000 square foot ballroom, 40 meeting rooms, 35,000 square feet of lobby space, a 1350 space parking garage and 10 loading docks. The anticipated budget for the expansion is \$106,000,000.

F. Extension of Fareless Square means the extension of free transit from downtown Portland to the Lloyd Center Max station.

G. National Rental Car Companies Represented by Gardner & Gardner means those car rental companies who are currently clients of Gardner & Gardner, Attorneys, P.C., i.e., AutoNation, Inc., Avis Rent a Car System, Inc., Budget Rent a Car Corporation, Enterprise Rent a Car and The Hertz Corporation.

H. PCPA Bonds means bonds issued by the City to fund capital improvements to the PCPA. PCPA is owned by the City and operated by Metro. The total amount of the PCPA Bonds shall not exceed \$2,100,000.

I. POVA means the Portland Oregon Visitors Association, or any successor entity with whom the City contracts pursuant to City Charter section 7-113 to expend the 1% of the City's transient lodgings tax dedicated to the promotion, solicitation, procurement and service of convention business and the visitor industry.

J. Project Revenues means the proceeds of the additional 2.5% Multnomah County transient lodging tax and the vehicle rental tax, along with interest earnings on accumulated unspent Project Revenues. Project Revenues shall be deposited in a trust account to be administered by the County.

K. Visitor Development Fund Board means a board established as provided in Section 4 below.

2. THE OBLIGATIONS OF THE PARTIES

A. Multnomah County will take appropriate steps to do the following:

(1) Enact an increase in its transient lodgings tax of 2.5%, including a sunset provision that terminates the increase upon the payoff of the Bonds, and collect and dedicate to Project Revenues the proceeds of the tax increase, less a 5% of proceeds handling charge retained by the operator to offset the cost of collection of the increased tax.

(2) Enact an increase in its vehicle rental tax of 2.5%, including a sunset provision that terminates the increase upon the payoff of the Bonds, and collect and dedicate to Project Revenues the proceeds of the tax increase.

(3) Enter into appropriate intergovernmental agreements to dedicate the proceeds of the tax increases described in 2A(1) and (2) above to Project Revenues and to carry out the understandings of this MOU.

(4) Make any changes in its Code or ordinances necessary to allow those funds to be deposited by Metro as Project Revenues and expended for debt service on the Convention Center Completion Bonds issued by the City as provided in this MOU.

(5) Continue its current support to the Regional Arts and Cultural Council, POVA and Portland Center for the Performing Arts (PCPA) and its dedication of a portion of its transient lodgings tax to the Oregon Convention Center under section 11.40 of the County Code.

(6) Participate by appointing two members and confirming three members to the Visitor Development Fund Board.

(7) Provide a Statement of Current Intent signed by the County Chair, in the form of the attached Exhibit A, incorporated herein by the this reference and made a part hereof.

B. City of Portland will take appropriate steps to do the following:

(1) Issue limited tax revenue bonds, secured by the City's full faith and credit and amortized over a period not to exceed 25 years:

(a) in an amount, not to exceed \$100,000,000 to fund the Convention Center Completion Project, including the costs of issuance (Convention Center Completion Bonds);

(b) in the amount not to exceed \$2.1 million to fund capital improvements to PCPA, including the costs of issuance (PCPA Bonds); and

(c) in an amount not to exceed \$33 million to fund capital improvements to Civic Stadium, including the costs of issuance (Civic Stadium Bonds).

(2) Repay the Convention Center Completion Bonds and PCPA Bonds from Project Revenues.

(3) Repay the Civic Stadium Bonds first from Civic Stadium Revenues and then from Project Revenues, as needed.

(4) So long as Civic Stadium Bonds are outstanding:

(a) Dedicate to Civic Stadium Revenues the amounts actually received as the guaranteed annual payment from the Civic Stadium, in the amount now anticipated to be \$908,000 per year beginning in 2001, increased by 4% per annum, or alternative revenues from Civic Stadium, which in no event shall be less than zero;

(b) If the arrangements for the operation of Civic Stadium do not provide the guaranteed annual payment anticipated in subsection (a) of this subsection, the City will dedicate to Civic Stadium Revenues the revenues it receives from the operation of Civic Stadium, net of reasonable operation, maintenance and reserve costs, up to the amount of that anticipated guaranteed annual payment.

(c) Dedicate any additional net revenues from the Civic Stadium, after payment of reasonable operating costs and establishment of appropriate reserves, to redeem the Civic Stadium Bonds prior to their maturity.

(d) Exercise due diligence to maximize revenues received from Civic Stadium operations.

(e) Use any proceeds from the sale or partial sale of Civic Stadium to repay Civic Stadium Bonds.

(5) Provide to Metro on behalf of the operator of the PCPA \$600,000 per year, adjusted annually based on the rate of inflation in Portland, to be used one half for PCPA operations support and one half for PCPA capital support.

(6) Continue its current dedication of a 1% transient lodgings tax as provided in Section 7-113.2 of the City Charter.

(7) Enter into appropriate intergovernmental agreements to dedicate Civic Stadium Revenues as provided herein and to carry out the understandings of this MOU.

(8) Support the extension of Fareless Square to the Lloyd Center Max station and provide \$300,000 per year, adjusted annually based on the rate of inflation in Portland, to support the cost of the Extension of Fareless Square to the Lloyd Center Max station.

(9) When funds are made available to it by the VDF Board, conduct a study of the feasibility of extending Fareless Square to the central eastside and the Civic Stadium Max station.

(10) Participate by appointing two members and confirming three members to the Visitor Development Fund Board.

(11) Provide a Statement of Current Intent signed by the Mayor in the form of the attached Exhibit A, incorporated herein by the this reference and made a part hereof.

C. Tri-County Lodging Association will take appropriate steps to do the following:

- (1) support the Multnomah County tax increases provided in Section 1 above;
- (2) participate by nominating five members to the Visitor Development Fund Board; and

(3) Provide a Statement of Current Intent, signed by the President of the Tri-County Lodging Association in the form of the attached Exhibit B, incorporated herein by the this reference and made a part hereof.

D. National Rental Car Companies Represented by Gardner & Gardner and CATRALA will take appropriate steps to do the following acknowledge the contents of this MOU and, presuming its enactment occurs, participate by nominating two members to the Visitor Development Fund Board to ensure that, to the fullest extent possible, rental car users benefit from the expenditures of the VDF.

E. Metro will take the appropriate steps to do the following:

(1) Be responsible for operating the Oregon Convention Center and budgeting and accounting for its activities.

(2) Manage the construction of the capital improvements made to the Oregon Convention Center and the PCPA facilities. Metro will enter into a negotiated guaranteed maximum price contract for the Convention Center Completion Project with a general contractor selected through a competitive process. Metro will not authorize expenditures for the project that exceed the capital budget provided in this MOU. This may mean that Metro will delete items from the project as currently planned.

(3) Develop annual budgets and financial plans showing the anticipated revenues and expenditures for capital improvements and operations of the Oregon Convention Center and PCPA. Revenues for PCPA shall include the support from the current Multnomah County transient lodgings tax (in the amount of approximately \$1,200,000), the City support of \$600,000 and the \$500,000 from Project Revenues.

(4) If Project Revenues are insufficient to pay debt service when due on the Convention Center Completion Bonds, make available funds sufficient to pay any shortfall in that debt service in an amount not to exceed the transient lodgings tax received by Metro from the County for operation of the Convention Center.

(5) Contribute from Convention Center reserves an amount not less than \$5,000,000 to the Convention Center Completion Project.

(6) Allocate the current transient lodgings tax collected by Multnomah County for the Convention Center as follows:

(a) With the intent of continuing a minimum of the current 1% level of support for marketing of the Oregon Convention Center and the Portland and Multnomah County area for the purpose of maximizing hotel occupancy and vehicle rentals;

(b) The remainder, after paying all reasonable operating, capital repair and maintenance costs of the Convention Center, to reserves for future operating and capital needs as provided in Multnomah County Code section 11.400.

(7) Use one half of the annual PCPA support received from the City for operations and one half for capital support.

(8) Enter into appropriate intergovernmental agreements to carry out the understandings of this MOU.

(9) Participate by appointing two members and confirming three members to the Visitor Development Fund Board.

(10) Provide a Statement of Current Intent signed by the Presiding Officer of the Council, in the form of the attached Exhibit A, incorporated herein by the this reference and made a part hereof.

F. POVA, or its successor as defined in section 1.H above, will take the appropriate steps to do the following:

- (1) At the direction of the Visitor Development Fund Board, manage the Visitor Development Fund to be funded from Project Revenues; and
- (2) Participate by nominating two members to the Visitor Development Board.

G. Tri-Met will take the appropriate steps to do the following:

- (1) Allocate the sums provided in subsections (2) and (3) of this section and take the appropriate steps to accomplish the Extension of Fareless Square to the Lloyd Center Max station;

- (2) As provided in this MOU, receive \$300,000 per year from Project Revenues and \$300,000 from the City, both amounts increased annually by the rate of inflation in Portland, and apply those annual contributions towards the cost of the Extension of Fareless Square to the Lloyd Center Max station;

- (3) Contribute services in the amount of \$300,000 per year, increased by the rate of inflation in Portland, for the cost of the Extension of Fareless Square to the Lloyd Center Max station; and

- (4) Enter into appropriate intergovernmental agreements to carry out the understandings of this MOU. It is anticipated that Tri-Met and the City will negotiate terms of an intergovernmental agreement to extend Fareless Square to the Lloyd Center Max station, including a project schedule, the terms and conditions of the extension and the respective roles and responsibilities of Tri-Met and the City.

H. PDC shall either provide \$5,000,000 in tax increment funds toward the cost of the Convention Center Completion Project, or purchase land or construct other related facilities that will reduce the cost of the Convention Center Completion Project by at least \$5,000,000. The purchase of land or the construction of other related facilities shall be approved by Metro.

3. PROJECT REVENUES

A. Project Revenues shall be deposited in a trust account and administered by the County. The County shall be responsible for distributing and accounting for Project Revenues pursuant to the terms of this MOU as designated in the related intergovernmental agreements and any bond ordinances.

B. The City Auditor, the County Auditor and the Metro Auditor will review the County's annual accounting of Project Revenues and expenditures. The Auditors will report to the City, the County, Metro and the VDF Board regarding that accounting.

C. Project Revenues shall be expended as follows:

(1) first, to the City the amount required to pay debt service on the Convention Center Bonds;

(2) second, to the City the amount required to pay debt service on the PCPA Bonds;

(3) third, to the City the amount required to pay any debt service on the Civic Stadium Bonds remaining after application of the Civic Stadium Revenues to pay debt service on the Civic Stadium Bonds;

(4) fourth, to Metro the amount, if any, required to pay reasonable operating, capital repair and maintenance costs of the Convention Center in excess of the revenues collected from the Oregon Convention Center and the transient lodgings tax received by Metro from the

County for operation of the Convention Center. However, during years 1 through 6 of the agreement implementing this MOU the amount to be provided from Project Revenues to Metro under this subsection shall not exceed a total of \$8.84 million;

(5) fifth, to Tri-Met the amount of \$300,000 in the first year in which there are Project Revenues, increased each year by the rate of inflation in Portland, for contribution to the costs associated with the Extension of Fareless Square to the Lloyd Center Max station.

(6) sixth, to the Visitor Development Fund ("VDF"), the amount of \$250,000 in the first year that Project Revenues are available, the amount of \$500,000 in the second year, thereafter increased by the rate of inflation in Portland for each ensuing year;

(7) seventh, to Metro on behalf of the operator of the PCPA, \$500,000 annually, increased by the rate of inflation in Portland, to support the operations of the PCPA; and

(8) eighth, to Metro to fund Convention Center cumulative operating deficits in excess of \$8.84 million incurred during years 1 through 6.

(9) ninth, any Project Revenues remaining after the payments provided in subsections (1) through (8) above shall be the Ending Fund Balance. The Ending Fund Balance shall be retained in the Project Revenues trust account to be expended according to the budget proposed by the VDF Board and approved by the City, the County and Metro, as provided in section 4.G of this MOU.

4. VISITOR DEVELOPMENT FUND BOARD

A. The VDF Board will consist of 5 members who are representatives of the Tri-County Lodging Association from within Multnomah County, 2 members who are representatives of the National Car Rental Companies Represented by Gardner & Gardner or

CATRALA from within Multnomah County, 2 members who are elected officials appointed by the City, 2 members who are elected officials appointed by the County, 2 members appointed by Metro, who shall be the Presiding Officer of the Council and the Metro Executive, and 2 members appointed by POVA from within Multnomah County.

B. The private members of the Board shall be nominated and confirmed as follows:

(1) The Tri-County Lodging Association

(a) The Tri-County Lodging Association shall nominate as its representatives its President, Vice-President, Secretary-Treasurer, and two at-large members. If the President, Vice-President or Secretary-Treasurer is not from within Multnomah County, the Tri-County Lodging Association shall nominate alternate members from within the County. One of the at large members shall be from an area of Multnomah County outside of the City of Portland.

(b) The County shall be responsible to confirm the nominations of the President, Vice-President and Secretary-Treasurer or alternate nominees.

(c) The City shall be responsible to confirm the nomination of one of the two at-large members.

(d) Metro shall be responsible to confirm the nomination of one of the two at-large members.

(2) The National Car Rental Companies Represented by Gardner & Gardner and CATRALA

(a) The National Car Rental Companies Represented by Gardner & Gardner and CATRALA shall nominate two members from within Multnomah County.

(b) Metro shall be responsible to confirm the nomination of these members.

(3) POVA

(a) POVA shall nominate as its representatives its President and Board Chair.

(b) The City shall be responsible to confirm the nominations of the POVA members.

(4) The public bodies may reject the nominations of the private members only for just cause, which shall be defined as part of the Board's rules, policies and procedures as provided in section 4.C of this MOU.

(5) The terms of the sitting private members of the VDF Board shall not expire until their replacements have been confirmed by the appropriate public body.

C. The VDF Board and VDF shall be created by an intergovernmental agreement of the City, the County and Metro, through the following process:

(1) The members of the VDF Board shall be appointed as provided in section 4.A by the public bodies and nominated and confirmed provided above initially as members of a temporary organizing committee.

(2) The temporary organizing committee shall propose the terms of an intergovernmental agreement by which the VDF Board will be created and the rules, policies and procedures for the oversight of the VDF and Ending Fund Balance, according to the terms of this MOU.

(3) The proposed IGA and rules, policies and procedures shall be submitted to the City, the County and Metro for approval.

(4) Approval by the City, the County and Metro shall include the confirmation of the Tri-County Lodging Association, rental car industry and POVA nominations to the VDF Board.

D. The expenditures of the VDF and Ending Fund Balance shall be administered by POVA or its successor, within its available resources, under the direction of the VDF Board and pursuant to the budgets approved as provided in section 4.G below.

E. The VDF will be funded from Project Revenues as provided in Section 3C above.

F. The following shall be the amounts to be paid from Project Revenues into the VDF to the extent funds are available as provided in Section 3C above:

- (1) \$250,000 in the first year;
- (2) \$500,00 in the second year; and
- (3) \$500,000 increased by the rate of inflation in Portland in each subsequent year.

G. Each year the VDF Board shall submit for approval by the County, the City and Metro its proposed budget for the ensuing fiscal year. The proposed budget shall include the VDF and any anticipated Ending Fund Balance, including reserves. The budget shall be consistent with the format of the POVA budget submitted to and approved by the City. Approval of two of the public bodies shall constitute approval of the proposed budget. After the budget is approved, the VDF Board shall be authorized to make expenditures consistent with the budget and shall not be required to obtain separate approval of each expenditure.

(1) The VDF shall be expended to attract visitors to Portland and Multnomah County that maximize, hotel occupancy, and vehicle rentals.

(2) The first use of Ending Fund Balance funds shall be to accomplish prudent fiscal planning and to establish appropriate reserves for the items to be funded with Project Revenues.

(3) In the first year that sufficient Ending Fund Balance funds are available, the VDF Board shall budget \$100,000 to fund a study of the feasibility of extending Fareless Square to the central eastside and the Civic Stadium Max station to be conducted jointly by the City and Tri-Met. When the \$100,000 is made available by the VDF Board, the City and Tri-Met will mutually agree upon the scope and methodology before undertaking the study. The VDF Board shall consider the recommendations resulting from that study.

H. In conjunction with submitting its proposed budget, the VDF Board shall provide to the County, the City and Metro a report showing the expenditures from the VDF and the Ending Fund Balance for that fiscal year. The City Auditor, the County Auditor and the Metro Auditor shall audit the records of the VDF Board and shall report the results of the audit to the City, the County, Metro and the VDF Board.

5. FURTHER AGREEMENTS

A. The parties recognize that a number of substantive agreements among the parties will be required to accomplish the understandings of this MOU. The parties will cooperate to develop those agreements in a timely manner.

B. The public parties shall establish a dispute resolution process to resolve disputes as to what constitute reasonable Convention Center operating, capital repair and maintenance costs under Section 3.C(4) and other disputes that may arise.

C. Capital improvement projects at the Convention Center, the Civic Stadium and PCPA shall be subject to prevailing wage requirements.

D. The County and the City agree to continue to coordinate their tax policies.

E. The parties acknowledge that this is not a legally binding agreement and that portions of the MOU will be encompassed in legal documents among the parties.

IN WITNESS WHEREOF, the parties have executed and delivered this MOU to be effective on the date first set forth above.

MULT NOMAH COUNTY, OREGON

By:

THE CITY OF PORTLAND

By:

TRI-COUNTY LODGING ASSOCIATION

By:

NATIONAL RENTAL CAR COMPANIES
REPRESENTED BY GARDNER & GARDNER

By:

CAR AND TRUCK RENTAL AND LEASING
ASSOCIATION

By:

METRO

By:

TRI-COUNTY METROPOLITAN
TRANSPORTATION DISTRICT

By:

PORTLAND DEVELOPMENT COMMISSION

By:

PORTLAND OREGON VISITORS
ASSOCIATION

By:

EXHIBIT A
STATEMENT OF CURRENT INTENT

Although government bodies may not contract away their taxing authority, the undersigned, on behalf of their respective government bodies, state that they do not now intend to increase or impose an additional transient lodgings tax or vehicle rental tax.

Vera Katz
Mayor

Beverly Stein
County Chair

Rod Monroe
Metro Presiding Officer

EXHIBIT B

STATEMENT OF CURRENT INTENT

The Tri-County Lodging Association does not now intend to seek or support a legislative requirement that the lodging industry be allowed to retain an administrative fee for collection of transient lodgings taxes in the City of Portland.

President, Tri-County Lodging Association