

RESOLUTION No.

36950

Authorize the Chief Administrative Officer to negotiate an Operating Agreement for the Veterans Memorial Coliseum with the Portland Development Commission and to develop a separate agreement formalizing PDC's lead role in the redevelopment of the Rose Quarter. (Resolution)

WHEREAS, future Rose Quarter development will realize the long-anticipated community vision of a pedestrian-oriented, mixed-use district, creates jobs, and is well integrated and connected with the surrounding neighborhood and adjacent Lloyd district; and

WHEREAS, the City and the Portland Development Commission (PDC) also embarked on a process to determine the future use of the Veterans Memorial Coliseum (VMC); and

WHEREAS, the VMC is owned by the City of Portland and operated by Portland Arena Management (PAM) pursuant to an Operating Agreement (City/PAM OA); and

WHEREAS, on November 17, 2010, pursuant to Resolution No. 36826, City Council directed, among other things, that the Office of Management and Finance (OMF) work with PDC in negotiating a Phase 1 improvement project for the Rose Quarter with PAM, and that Phase 1 project was determined to be the renovation of the VMC; and

WHEREAS, on November 17, 2010, pursuant to Resolution No. 36826, City Council authorized, among other things, the Chief Administrative Officer to enter into the Fifth Amendment to the Development Agreement with PAM, extending PAM's right to develop certain areas in the Rose Quarter (the "Development Rights") to May 24, 2011; and

WHEREAS, on November 17, 2011, pursuant to Resolution No. 36887, the City Council affirmed the City's support for the renovation of the VMC and authorized the Mayor's office and OMF to continue negotiating a redevelopment agreement with PAM and the Portland Winterhawks (PWH) and

WHEREAS, since November 2011, OMF, PDC, PAM, and PWH have been meeting to develop the potential scope of the VMC renovation, the cost of the renovation and to determine what resources, both public and private, might be available for funding the VMC renovation; and

WHEREAS, on January 25, 2012, City Council authorized the CAO and City Auditor to execute an IGA with the Portland Development Commission for the renovation of the VMC; and

WHEREAS, significant progress has been made in negotiations on the Redevelopment Agreement, Second Amendment to the Operating Agreement, Revenue Sharing Agreement, and other associated agreements; and

WHEREAS, the parties have limited the scope of the project to meet the projected budget; and

WHEREAS, on May 23, 2011 the PDC Board approved an Amended and Restated IGA with OMF, providing for a loan to be repaid by the Spectator Facilities Fund; and

WHEREAS, PAM will be agreeing to a five year extension of the City/PAM OA as amended by the Second Amendment to the Operating Agreement when the RDA is executed (for July 1, 2013-June 30, 2018), and has been asked to exercise its option to extend to June 30, 2023 at the same time; and

WHEREAS, PAM will not agree at this time to exercise options to extend the City/PAM Operating Agreement beyond 2023; and

WHEREAS, PWH has requested the right to play at the VMC for a period of twenty (20 years) as a condition to providing \$10 million to the renovation of the VMC; and

WHEREAS, the City cannot accommodate the potential risk to the Spectator Facilities Fund (SFF) and General Fund (GF) that would result from agreeing to a license for a term of longer than ten years for PWH to play at the VMC; and

WHEREAS, in order to provide assurances to PWH that they will be able to play in the VMC for the next twenty years, PDC has agreed to assume responsibility for operations of the VMC in the event that PAM does not elect to continue as the operator for the VMC beyond June 2023; and

WHEREAS, PDC has agreed to negotiate an Operating Agreement (the "City/PDC OA") with the City and a Sublicense for the Winterhawks to play at the VMC for the period July 2033-June 2032; and

WHEREAS, the CAO and the Executive Director of the PDC have negotiated the the basic agreed upon terms which would be included in any subsequently negotiated City/PDC OA for PDC to assume responsibility for the operations of the VMC, included in the "Letter of Agreement and Binding Term Sheet" attached (Exhibit A); and

WHEREAS, the CAO and the Executive Director of the PDC agreed that the Binding Term Sheet would be subject to formal approval by the PDC Board and by City Council in August and completion of the documents listed in the section titled "Concurrent Agreements and Documentation;" and

WHEREAS, the PDC agreed to provide as part of the Concurrent Agreements and Documentation a written description of the types of funds that will be used for the operation of the VMC and examples of PDC operation of other facilities; and agreed to provide a written legal opinion from PDC Legal Counsel describing the legality of PDC assuming any and all of the contemplated responsibilities related to the VMC and the legality of using the identified PDC financial resources for purposed contemplated by the City/PDC OA; and

WHEREAS, on August 15, 2012, the PDC Board considered a resolution to authorize the PDC Executive Director to conduct negotiations with the City "using the attached VMC Term Sheet as the basis of negotiations" noting that "no agreement concerning the operation of the Veterans

Memorial Coliseum . . . shall be binding unless and until [the PDC] Board by subsequent action approves a final City/PDC OA;" and

WHEREAS, the City Council may choose to amend or modify provisions of the attached Term Sheet; and

WHEREAS, no agreement concerning the operation of the Veterans Memorial Coliseum shall be binding unless and until the City Council by subsequent action approves a final City/PDC OA; and

WHEREAS, with a City/PDC OA, the PDC can negotiate a sublicense with PWH for the second ten year period; and

WHEREAS, PDC is the duly designated Urban Renewal Agency of the City and has been working with the Bureau of Planning and Sustainability and the community on developing plans for the future of the Rose Quarter and the surrounding N/NE Quadrant of the Central City; and

WHEREAS, the CAO and PDC Executive Director agreed in the Binding Term Sheet to develop a separate agreement formalizing PDC's lead role in the redevelopment of the Rose Quarter; and

WHEREAS, PAM did not exercise its Development Rights prior to May 24, 2011, and those Development Rights have expired; and

WHEREAS, it is the intent of the City to formalize PDC's lead role in the redevelopment of the Rose Quarter through granting to PDC the same Development Rights as those formerly held by PAM; and

NOW, THEREFORE, BE IT RESOLVED that the City Council authorizes the CAO to negotiate the City/PDC OA for the VMC with the PDC to be put into effect in July 2023 in the event that PAM does not elect to continue as the operator of the VMC; and

BE IT FURTHER RESOLVED, that the City/PDC OA shall be based substantially on the existing City/PAM Operating Agreement as amended by the Second Amendment, modified as described in the attached Letter of Agreement and Binding Term Sheet, and as further modified by City Council direction and feedback; and

BE IT FURTHER RESOLVED, that the PDC Executive Director is directed to provide to the City Council the written description of the types of funds and the legal opinion as described in the Concurrent Agreements and Documentation section of the Binding Term Sheet prior to submission of the RDA for City Council consideration; and

BE IT FURTHER RESOLVED, that the City Council authorizes the CAO to work with the PDC Executive Director to develop a separate agreement formalizing PDC's lead role in the redevelopment of the Rose Quarter; and

BE IT FURTHER RESOLVED, that this separate agreement shall provide PDC with the same Development Rights as were held by PAM under the Fifth Amendment to the Development Agreement.

Adopted by the Council: **AUG 22 2012**

Mayor Sam Adams

Prepared by: Betsy Ames

Date Prepared: August 13, 2012

LaVonne Griffin-Valade
Auditor of the City of Portland

By *Gayle Jennings*

Deputy

Agenda No.
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INTRODUCED BY Commissioner/Auditor: Mayor Sam Adams	CLERK USE: DATE FILED <u>AUG 17 2012</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Adams Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Leonard	LaVonne Griffin-Valade Auditor of the City of Portland <i>Peter Rutsch on Behalf of Mayor Adams</i> By: _____ Deputy
BUREAU APPROVAL Bureau: OMF Bureau Head: Jack Graham Prepared by: Betsy Ames Date Prepared: August 16, 2012 Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input type="checkbox"/> Council Meeting Date August 22, 2012 City Attorney Approval: required for contract, code, easement, franchise, charter, Comp Plan	ACTION TAKEN:

AGENDA TIME CERTAIN <input checked="" type="checkbox"/> Start time: 2:00 PM Total amount of time needed: 45 minutes (for presentation, testimony and discussion) CONSENT <input type="checkbox"/> REGULAR <input checked="" type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)
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FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Leonard	4. Leonard	✓	
Adams	Adams	✓	