

BEFORE THE METRO COUNCIL CONTRACT REVIEW BOARD
AND MERC CONTRACT REVIEW BOARD

RESOLUTION OF METRO COUNCIL, ACTING AS THE)	RESOLUTION NO. 07-3748A
METRO AND MERC CONTRACT REVIEW BOARD,)	
ADOPTING FINDINGS GRANTING AN EXEMPTION)	
TO THE METRO AND MERC CONTRACTING RULES,)	
AUTHORIZING ACCEPTANCE OF PDC'S)	Introduced by Chief Operating
CONTRACTING PROCESS; AUTHORIZING)	Officer Michael J. Jordan, with the
EXCLUSIVE NEGOTIATIONS WITH THE SELECTED)	concurrence of Council President
PROJECT TEAM; AND AUTHORIZING USE OF)	David Bragdon
ALTERNATIVE CONTRACTING METHODS FOR)	
DESIGN, CONSTRUCTION, MANAGEMENT,)	
OPERATION AND FINANCING OF THE OCC)	
HEADQUARTERS HOTEL)	

WHEREAS, in 1989 the Oregon Convention Center Urban Renewal Plan was approved by the Portland City Council, Ordinance No. 161925, Goal 1 of which was to maximize the regional job potential of the Oregon Convention Center (OCC) through development of a convention center headquarters hotel; and

WHEREAS, the Oregon Convention Center ("OCC") produces substantial economic benefit to the region both directly and indirectly and helps support thousands of regional jobs; and

WHEREAS, the cumulative economic effects of the OCC from 1990 to 2005 amount to \$6.0 billion in total convention spending and 92,620 FTE jobs in the Tri-County metropolitan region, as well as \$185 million in tax revenue in the state of Oregon, according to the cumulative annual reports by the independent consulting firm KPMG measuring the regional economic impact of the OCC; and

WHEREAS, the Portland Oregon Visitors Association ("POVA") has conducted a study analyzing the reasons that some national conventions do not select the OCC, and the POVA study concludes that the largest single reason for such "lost business" is the lack of an adjacent "headquarters hotel" for convention users able to offer a substantial single location room block for the convention and that the future impact on the OCC and on the regional economy of the lack of such a hotel is substantial; and

WHEREAS, during 2003 through 2006 several independent studies were commissioned regarding the potential economic impact of a Convention Center Headquarters Hotel on both the convention center and on the regional and statewide economy; including a February 2003 study by the Strategic Advisory Group ("SAG") engaged collaboratively by Metro, MERC, the Portland Development Commission ("PDC"), POVA, and the Tri-County Lodging Association ("TCLA"); a July 2005 study by KPMG commissioned by the OCC; a study by PKF Consulting (PKF) commissioned by PDC in May 2006; and a study by ECONorthwest in June 2006; and

WHEREAS, the SAG study concluded that an appropriately-sized headquarters hotel would be necessary in order for the OCC to maximize its positive economic impact on the Metro region; and the study projected that over thirty (30) years the benefits to the Metro region and the State of Oregon from a convention center headquarters hotel would add millions of additional

hotel room nights and millions of dollars in additional spending, and thousands of additional jobs supported each year; and

WHEREAS, the KPMG report estimated that the regional benefit of a convention center Headquarters Hotel would range from \$83.8 to \$111.7 million annually; and that approximately 1,250 to 1,600 full-time jobs within the area's convention industry would be needed to support the new convention business (laundry services, florists, audio/visual providers, and the like); and

WHEREAS the PKF study recommended that an OCC Headquarters Hotel contain 600 rooms with 41,000 square feet of function space, which would have an impact of preventing an erosion of current OCC convention volume of an estimated 25,000 rooms per night annually by 2013, and that competitive hotels' rates and occupancies would likely be equal to or greater than that achieved without such a hotel, and that a Headquarters' Hotel would provide a catalyst for new business relocation to the hotel's area and would also provide significant economic impact via jobs, taxes, and income; and

WHEREAS, the ECONorthwest study examined the economic impact of a convention center Headquarters Hotel in Portland, and concluded that such a hotel would generate expenditures of almost \$50 million in the Portland region in 2013 (in 2004 dollars), which expenditures would generate a total economic impact of over \$100 million in business sales and \$40 million in labor income, and the equivalent of almost 1500 full-time jobs in the Portland region in 2013; and that the present value in 2006 of future benefits generated by the Headquarters hotel is \$850 million to \$1.4 billion in business sales, \$340 million to \$653 million in labor income, and the equivalent of 278 to 2,058 annual full-time jobs; and

WHEREAS, in July 2003 the Portland Development Commission ("PDC") approved via Resolution No. 6040 a Headquarters Hotel Implementation Strategy prepared in consultation with Metro, MERC, and other stakeholders including POVA and the TCLA; and

WHEREAS, the Headquarters Hotel Implementation Strategy recommended a two-step process to identify potential developers for the Headquarters Hotel Project ("Project") including issuance of a Request for Qualifications ("RFQ") and a subsequent Request for Proposals ("RFP"); and

WHEREAS, in September 2003 the PDC issued and gave public notice of RFQ 03-22 "Request for Qualifications to Develop a Convention Center Headquarters Hotel" ("Hotel RFQ") to identify qualified developers for a subsequent RFQ solicitation; and

WHEREAS, in September 2004 the PDC issued and gave public notice of RFP 04-09 "Request for Proposals for an Oregon Convention Center Headquarters Hotel," and issued Addendums ## 1 – 4 in November 2004 through June 2005 ("Hotel RFP"), which RFP invited qualified respondents to make proposals for both private and public financing and ownership of a convention center headquarters hotel, to which there were four respondents; and

WHEREAS in January 2005 the PDC approved via Resolution No. 6218 a Headquarters Hotel Developer Selection Process which identified specific opportunities for public comment and community involvement and a schedule for deliberations by a designated evaluation committee for the selection of the development team; and

WHEREAS, an Oregon Convention Center Headquarters Hotel Evaluation Committee was formed to review and analyze the four RFP responses that were submitted, which committee

was comprised of the MERC Oregon Convention Center manager, the Chairman of the MERC Commission, the Metro Chief Financial Officer, a POVA board member, a City of Portland finance officer, and members of the Lloyd Transportation Management Association, the Lloyd Business Improvement District, the Lloyd Community Association, the TCLA; and

WHEREAS, in September 2005 the OCC Headquarters Hotel Evaluation Committee presented and made publicly available its report containing its recommendations, in which the Committee unanimously recommended the selection of the Garfield Traub Development/ Ashforth Pacific Inc. team (with the architectural firm Zimmer Gunsul Frasca; the construction firm Turner Construction Inc.; and the hotel operator/flag Starwood Hotels/Westin; and the underwriting firm Piper Jaffray & Co) (“Development Team”) as the most responsive proposal submitted in accordance with the evaluation criteria set forth in RFP #04-09; and

WHEREAS, in October 2005 the PDC adopted Resolution No. 6305 which accepted the OCC Headquarters Hotel Evaluation Committee’s recommendation and authorized the PDC Executive Director to initiate exclusive negotiations with the Development Team to develop the OCC Headquarters Hotel; and

WHEREAS, MERC, and PDC staff have studied the proposals from the RFP respondents, reviewed the analysis of outside consultants, and heard testimony from national meeting planners, and have determined that a publicly-owned, 600-800 room convention center hotel adjacent to the convention center containing public function and ballroom spaces and the ability to offer a 500-room-block for conventions is the model that will meet the goals of the region for bringing national conventions to the Oregon Convention Center and increasing tourism and economic development to Portland, the metropolitan region, and the state; and

WHEREAS, the Evaluation Committee and MERC, and the PDC have studied the RFP responses and financial models and have concluded that due to the inclusion of certain non-revenue-producing goals associated with a hotel designed to serve the convention center and the region, such as a large room block commitment available to conventioners, convention break-out rooms and banquet halls, payment of prevailing wages, focused inclusion of minority and emerging businesses, environmentally “green” construction standards, and the like, that a private ownership model for a hotel would not be financially feasible without a substantial public subsidy, and that a public ownership/private operation headquarters hotel model would provide both the requisite public control over the Project and would also be able to provide the non-revenue-producing goals that would serve both the convention center and the regional economy; and

WHEREAS, the PDC, with Metro and MERC involvement, has formed a Technical Advisory Committee (“TAC”), whose membership includes representatives from the local hotel and visitor industry and adjacent neighborhoods and business groups to provide technical input regarding Project design, program, cost and industry benefits and impacts; and

WHEREAS, the PDC owns real property valued at over several million dollars plus an additional contribution of at least \$4 million that PDC is prepared to donate to Metro for the development of a publicly-owned headquarters hotel; and

WHEREAS, Metro’s interest and ability to take part in a Headquarters Hotel will also be contingent upon establishing partnerships with other public entities for financial and other contributions to this Project, and also on the ability to negotiate financially feasible agreements

with the developer, operator, manager, architect, and underwriter of the hotel; and the Project will also be contingent upon determining a financing model that will protect Metro's interests; and

WHEREAS, due to the fact that the PDC has engaged in and completed, with Metro's and MERC's involvement, a several-years-long competitive contracting process for the design, construction, management and operation of the Oregon Convention Center Headquarters Hotel resulting in the selection of the Development Team, it would be most efficient in terms of time, construction costs, and public investment for Metro to accept the results of the PDC's competitive process rather than re-start the process all over again with Metro in the lead rather than the PDC; and

WHEREAS, the Metro Council is designated as the local public Contract Review Board ("CRB") for Metro pursuant to ORS 279A.060 and Metro Code 2.04.010(d), and as the CRB for MERC pursuant to Metro Code 2.04.024; and

WHEREAS, Metro Code 2.04.053(c) provides for a special procurement contracting process as an exemption to public contracting procedures in accordance with state law in Oregon Revised Code Chapters 279A, B, and C; and state law also provides that in granting exemptions for public improvement contracts that the public body shall, when appropriate, use alternate contracting methods that take account of market realities and modern practices and are consistent with the public policy of encouraging competition; and

WHEREAS, the "Design-Build" alternative contracting method allows for the opportunity to integrate value engineering into the design phase, as the construction contractor joins the Project team early with design responsibilities under a team approach, with the potential of reducing contract change orders and the risk of design flaws, shortening project time, and obtaining innovative design solutions through the collaboration of the contractor and design team which would not otherwise be possible if the contractor had not yet been selected; and

WHEREAS, pursuant to ORS 279B.085(5) and ORS 279C.335(5), the Metro Council held a duly noticed and advertised public hearing at its meeting of February 8, 2007 on the proposal to exempt the Project from competitive bidding, to accept the PDC's contracting process, to enter into exclusive negotiations with the selected project Development Team, and to utilize the Design-Build process; and

WHEREAS, Metro Code 2.04.026(1) provides that the Metro Council must approve any IGA in which Metro acquires or transfers any interest in real property or assumes any function or duty of another governmental entity; and

WHEREAS, the Metro Council, sitting as the CRB for Metro and MERC, concludes that it is the most advantageous, expeditious, and cost effective approach for the Project to accept the results of the PDC's competitive process and negotiate with the Development Team selected by that competitive process rather than re-start the process all over again with Metro in the lead, and also to utilize the Design-Build alternative contracting method;

NOW THEREFORE, BE IT RESOLVED THAT:

- 1. Authorization to Accept the Results of the PDC's Competitive Contracting Process and to Enter Into Exclusive Negotiations With Project Team:** The CRB hereby exempts the Project from formal competitive bidding pursuant to Metro Code 2.04.053(c), ORS 279B.085, and ORS 279C.335(2), and accepts the results of the PDC's competitive contracting process; and the CRB hereby authorizes and directs the Metro COO, the Metro Attorney, and MERC to enter into exclusive negotiations with the Development Team identified and recommended by the PDC's competitive process, the Headquarters Hotel Developer Selection Process and the OCC Headquarters Hotel Evaluation Committee: Garfield Traub Development/Ashforth Pacific Inc. team (with the architectural firm Zimmer Gunsul Frasca; the construction firm Turner Construction Inc., the hotel operator/flag Starwood Hotels/Westin; and the underwriting firm Piper Jaffray & Co.) for the purpose of developing, designing, constructing, and operating a Oregon Convention Center Headquarters Hotel, if such agreements can be negotiated that adequately protect Metro's financial interests and overall purposes in engaging in the Project, and which agreements shall be contingent upon and presented to the Metro Council in the Spring of 2007, or as soon thereafter as possible, for final review and approval; and
- 2. Authorization of Alternative Contracting Methods Including the Design-Build Contracting Method:** The CRB hereby further authorizes and directs the Metro COO, the Metro Attorney, and MERC that the exclusive negotiations with the Development Team as set forth in Section 1 above may result in the utilization of alternative contracting procedures such as a Design-Build contract for the hotel construction; an Operating Agreement with the hotel operator that shall include a Room Block Agreement for the Oregon Convention Center; a Development Agreement; and any other agreements deemed necessary or beneficial by the Metro COO, the Metro CFO, the Metro Attorney, and MERC for the completion of the OCC Headquarters Hotel; and all such agreements that may be negotiated with the Development Team shall be contingent upon and presented to the Metro Council in the Spring of 2007, or as soon thereafter as possible, for final review and approval; and
- 3. Authorization to Negotiate an Intergovernmental Agreement ("IGA") With the PDC for the purpose of Accepting Ownership of the Real Property Designated for the OCC Headquarters Hotel; and Authorization to Negotiate Other IGAs As May Be Necessary For the OCC Headquarters Hotel:** In accordance with Metro Code 2.04.026(1) and state law, the Metro Council hereby authorizes and directs the Metro COO, the Metro Attorney, and MERC to negotiate an Intergovernmental Agreement ("IGA") with the Portland Development Commission ("PDC") whereby the PDC will transfer ownership to Metro of the real property on which the OCC Headquarters Hotel will be located, via a Development and Disposition Agreement with the PDC or other similar agreement; and the Metro Council also hereby authorizes and directs the Metro COO, the Metro CFO, the Metro Attorney, and MERC to negotiate with other public entities, including the PDC, the City of Portland, Multnomah County, the Port, and the State of Oregon, regarding the financing and other pending issues regarding the OCC Headquarters Hotel; and any IGAs or financing agreements that may be negotiated under this provision shall be contingent upon and presented to the Metro Council in the Spring of 2007, or as soon thereafter as possible, for final review and approval; and
- 4. Findings re Accepting the PDC's Competitive Contracting Process:** As required by ORS 279B.085(4), ORS 279C.330, and ORS 279C.335(2) and (4), the CRB makes the following findings in support of the decision set forth in Section 1 above:

- a. The CRB finds that Metro should accept the results of the PDC's competitive contracting process for the Project rather than have Metro re-start the process and conduct its own competitive contracting process, and therefore that Metro should exempt the Project from Metro's formal competitive bidding pursuant to Metro Code 2.04.053(c), ORS 279B.085, ORS 279C.330, and ORS 279C.335(2) and (4). The CRB finds that exempting this Project satisfies the requirements in ORS 279B.085(4) that the exemption is "unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts; and result in substantial cost savings to the contracting agency or to the public; or otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the [other-wise applicable public contracting] requirements;" and also that the exemption satisfies the exemption requirements in ORS 279C.335(2) regarding public improvement contracts in that "it is unlikely that the exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts; and the awarding of public improvement contracts under the exemption will result in substantial cost savings to the contracting agency," for the reasons set forth below. In addition, in accordance with ORS 279C.330, the CRB finds that the exemption is justified due to the information set forth below regarding operational, budget and financial data; public benefits; value engineering; specialized expertise required; public safety; market conditions; technical complexity; and funding sources;
- b. Accepting the results of the PDC's competitive contracting process for the Project rather than have Metro conduct its own competitive contracting process, and entering into exclusive negotiations with the development team of Garfield Traub Development/Ashforth Pacific Inc. (with the architectural firm Zimmer Gunsul Frasca; the construction firm Turner Construction Inc.; the hotel operator/flag Starwood Hotels/Westin; and the underwriting firm Piper Jaffray & Co.) ("Development Team") is unlikely to encourage favoritism in the awarding of public/public improvement contracts or to substantially diminish competition for public contracts because the Development Team was selected pursuant to a competitive qualifications based RFQ and RFP selection process; the RFQ and RFP were formally advertised; the RFP resulted in proposals from four development teams from around the country; and the award was based upon identified selection criteria which were analyzed and publicly reported by the Oregon Convention Center Headquarters Hotel Evaluation Committee, which included the OCC manager, the Chairman of the MERC Commission, the Metro Chief Financial Officer, a POVA board member, a City of Portland finance officer, and members of the Lloyd Transportation Management Association, the Lloyd Business Improvement District, the Lloyd Community Association, the Tri-County Lodging Association;
- c. In addition, the CRB finds that accepting the results of the PDC's competitive contracting process for the Project rather than have Metro conduct its own competitive contracting process is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts because Metro and MERC substantially participated in the PDC's extensive public competitive RFQ and RFP process for the development of the OCC Headquarters Hotel, in which the Development Team was selected. The Development Team was unanimously recommended by the Headquarters Hotel Developer Selection Process and the OCC Headquarters Hotel Evaluation Committee, both of which included Metro and MERC members;
- d. In addition, the CRB finds that accepting the results of the PDC's competitive contracting process for the Project rather than have Metro conduct its own competitive contracting

process is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts because the PDC's competitive contracting process for the development of the headquarters hotel was widely publicized and drew competitive proposals from a number of nationally-recognized development teams, which included both local and national architectural, development, hotel management, and construction firms;

- e. Accepting the results of the PDC's competitive contracting process for the Project rather than have Metro conduct its own competitive contracting process, and entering into exclusive negotiations with the Development Team, will result in substantial cost savings to Metro and to the public, because an RFQ/RFP process for a Project of this magnitude can take many months, if not several years, to complete, as evidenced by the fact that the PDC's public competitive contracting process, which resulted in the selection of this Development Team, began in 2003. Construction costs in that period have skyrocketed, and are forecasted to continue to grow rapidly. In addition, the investment of time, energy, and focus from both public and private interested parties has been substantial, and would be difficult to reinvigorate;
- f. Accepting the results of the PDC's competitive contracting process for the Project rather than have Metro conduct its own competitive contracting process, and entering into exclusive negotiations with the Development Team, will also substantially promote the public interest in a manner that could not practicably be realized if Metro were to conduct its own competitive contracting process at this point, because the acceptance of the PDC's development team will result in quicker completion of the Project with fewer disruptions to the important public services performed by Metro and MERC;
- g. The public interest will also be substantially promoted by accepting the PDC's results and moving forward with negotiations because the convention business is a critical element of the region's economy. The benefits to area restaurants, transportation services, retailers, hotels, entertainment providers, and other services are substantial. The economic return could be substantially greater with the additional convention business made possible by the OCC Headquarters Hotel. According to a report from KPMG, commissioned by the OCC in April 2005, the estimated benefit to the region with the addition of a Headquarters Hotel would range from \$83.8 to \$111.7 million annually;
- h. The public would also benefit by moving forward now with an OCC Headquarters Hotel because the hotel is expected to generate a significant number of new jobs for the region. Direct employment at the hotel is estimated to be 300 to 400 full-time positions. The KPMG report also indicates that approximately 1,250 to 1,600 full-time jobs within the area's convention industry would be needed to support the new convention business (laundry services, florists, audio/visual providers, etc). During construction, it is estimated that several thousand construction jobs will be created. The ECONorthwest study indicates that a Headquarters Hotel in Portland would generate expenditures of almost \$50 million in the Portland region in 2013 (in 2004 dollars), which expenditures would generate a total economic impact of over \$100 million in business sales and \$40 million in labor income, and the equivalent of almost 1500 full-time jobs in the Portland region in 2013; and that the present value in 2006 of future benefits generated by the Headquarters hotel is \$850 million to \$1.6 billion in business sales, \$340 million to \$653 million in labor income, and the equivalent of 278 to 2,058 annual full-time jobs;

- i. The Development Team selected via the PDC's RFQ and RFP process, and unanimously recommended by the Headquarters Hotel Developer Selection Process and the OCC Headquarters Hotel Evaluation Committee, also satisfies the requirement set forth in ORS 279B.085(6) that the contract will be awarded to the entity that is "the most advantageous to the contracting agency" because the Development Team was unanimously recommended by the OCC Headquarters Hotel Evaluation Committee, which included the OCC manager, the Chairman of the MERC Commission, the Metro Chief Financial Officer, a POVA board member, a City of Portland finance officer, and members of the Lloyd Transportation Management Association, the Lloyd Business Improvement District, the Lloyd Community Association, the Tri-County Lodging Association. The Evaluation Committee's written recommendation states that the Garfield Traub/Ashforth Pacific Development Team members "have significant experience in the development of hotel properties and real estate financing and represent a mix of highly regarded local and national firms . . . [The Development Team's] conceptual Project design was considered compelling and would appear to positively transform the MLK Jr. Blvd./Grand Ave. corridor and create a very strongly compatible hotel facility at the main entrance to the Oregon Convention Center."

5. Findings re Authorization of Alternative Contracting Methods Including the Design-Build Contracting Method: As required by ORS 279B.085(4), ORS 279C.330, and ORS 279C.335(2) and (4), the CRB makes the following findings in support of the decisions set forth in Section 2 above:

- a. Pursuant to Metro Code 2.04.053(c), ORS 279B.085(4), ORS 279C.330, and ORS 279C.335(2) and (4), the CRB finds that utilizing alternative contracting procedures including the Design-Build process for the headquarters hotel Project is "unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts; and result in substantial cost savings to the contracting agency or to the public; or otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the [other-wise applicable public contracting] requirements;" and "it is unlikely that the exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts; and the awarding of public improvement contracts under the exemption will result in substantial cost savings to the contracting agency," for the reasons set forth below. In addition, in accordance with ORS 279C.330, the CRB finds that the exemption is justified due to the information set forth below regarding operational, budget and financial data; public benefits; value engineering; specialized expertise required; public safety; market conditions; technical complexity; and funding sources.
- b. Utilizing alternative contracting procedures including the Design-Build process for the headquarters hotel Project is unlikely to encourage favoritism in the awarding of public/public improvement contracts or to substantially diminish competition for public contracts because the Project is unique; and also because the Design-Build team was selected pursuant to a qualifications based RFQ and RFP selection process; the RFQ and RFP were formally advertised; the RFP resulted in proposals from four development teams from around the country; and the award was based upon identified selection criteria which was analyzed and publicly reported by the Oregon Convention Center Headquarters Hotel Evaluation Committee, which included the OCC manager, the Chairman of the MERC Commission, the Metro Chief Financial Officer, a POVA board

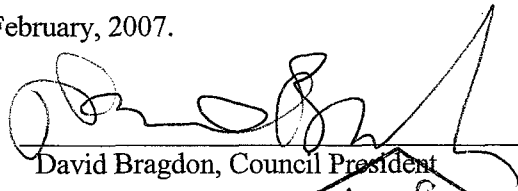
member, a City of Portland finance officer, and members of the Lloyd Transportation Management Association, the Lloyd Business Improvement District, the Lloyd Community Association, the Tri-County Lodging Association.

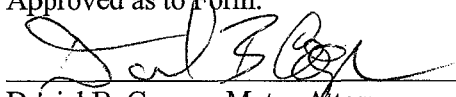
- c. Utilizing alternative contracting procedures including the Design-Build process for the headquarters hotel Project will result in substantial cost savings to Metro and to the public, because the Design-Build team approach will allow for the integration of value engineering suggestions into the design phase, as the construction contractor joins the Project team early with design responsibilities under a team approach, which should give Metro more cost solutions and alternatives, which will better enable Metro to keep the Project within budget.
 - d. In addition, the use of alternative contracting procedures including the Design-Build process will result in substantial cost savings to Metro and to the public, and will also substantially promote the public interest in a manner that could not practicably be realized if traditional contracting procedures were utilized, and will also satisfy the requirement set forth in ORS 279B.085(6) that the contract will be awarded to the entity that is “the most advantageous to the contracting agency,” because this type of contracting will allow the possibility of innovative design solutions and value engineering through the collaboration of the contractor and design team, and thereby also shorten Project time, which would not otherwise be possible if the contractor had not yet been selected.
- 6.** In making the above findings in Sections 4 and 5, the CRB considered the following factors pursuant to ORS 279C.330:
- a. Operational, budget and financial data: Accepting the PDC’s process and utilizing the design-build process will allow Metro to obtain a Guaranteed Maximum Price at an earlier time from the construction contractor, and thus avoid costly change orders and overruns. In addition, the experienced Development Team selected via the PDC’s process will also reduce outside oversight costs.
 - b. Public Benefits: In addition to the public benefits from the cost savings noted above, expeditious completion of the Project by utilizing the PDC’s selected Development Team will ensure that the hotel is available for use by conventioners as soon as possible, thus more quickly bringing substantial economic benefits to the community, the region, and the state. Moreover, as determined by the study conducted by ECONorthwest, the impact of a convention center Headquarters Hotel in Portland is expected to generate expenditures of almost \$50 million in the Portland region in 2013 (in 2004 dollars), which expenditures would generate a total economic impact of over \$100 million in business sales and \$40 million in labor income, and the equivalent of almost 1500 full-time jobs in the Portland region in 2013; and the present value in 2006 of future benefits generated by the Headquarters hotel is \$850 million to \$1.6 billion in business sales, \$340 million to \$653 million in labor income, and the equivalent of 278 to 2,058 annual full-time jobs.
 - c. Value engineering: The Design-Build process will enable the contractor to work with the architect to minimize construction costs. This type of contracting will allow the possibility of innovative design solutions and value engineering through the collaboration of the contractor and design team, and thereby also shorten Project time, which would not

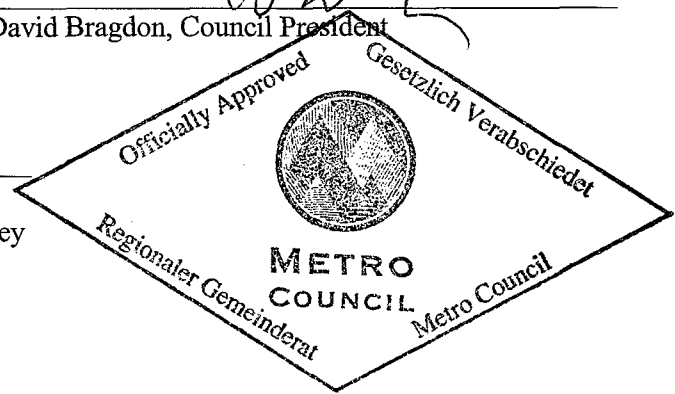
otherwise be possible if the contractor had not yet been selected.

- d. Specialized expertise required. The design, construction, operation, and management of a convention center headquarters hotel that must accommodate and serve a public convention center as well as private hotel customers requires special expertise and experience, all of which have been established through the Hotel RFQ and RFP process that was conducted by the PDC's public processes. In addition, this is a large Project where the work will be conducted under a tight construction schedule, and the Development Team selected has the specialized expertise to complete the Project within this timeframe. In addition, the use of alternative contracting methods such as the Design-Build method allow the specialized coordination between the developer, architect, and construction contractor.
- e. Public safety: Because this is a large Project where the work will be conducted under a tight construction schedule, the CRB requires contractors who can expeditiously and safely complete the work. The Development Team selected has the specialized expertise to complete the Project in a safe and thorough manner.
- f. Market conditions: Costs of construction have dramatically risen since the beginning of the PDC's public process to select the Development Team, and these costs are expected to continue to rise significantly. Accepting the results of the PDC's competitive contracting process for the Project rather than have Metro re-start the process and conduct its own competitive contracting process, and using the Design-Build alternative contracting process, will allow Metro to receive a Guaranteed Maximum Price from the construction contractor within the next several months, rather than have to wait years to re-start a new proposal process, which could result in the Project being financially infeasible at that future time.
- g. Technical complexity: The design, construction, operation, and management of a convention center headquarters hotel is technically complex due to the numerous design, architectural and budget constraints and purposes imposed on and served by this Project. Selecting a development team that is familiar with and has successfully completed similar projects, and utilizing a design-build process that will integrate architectural requirements and construction costs and constraints is necessary to the successful completion of this Project.
- h. Funding sources: This Project will be funded through the issuance of revenue bonds, contributions from the Development Team, lodging taxes, and other funding mechanisms to be determined prior to finalization of the Project.

ADOPTED by the Metro Council this 8th day of February, 2007.


David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney
Alison Kean Campbell, Metro Senior Assistant Attorney



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WHEREAS, despite the significant economic impact the OCC has on the region, the facility itself is struggling with a projected gap in strategic fund balance, and it is forecasted to experience a strategic fund balance gap of over \$1 million in fiscal years 2007-2008 increasing to a fund gap of almost \$4.2 million in fiscal year 2013-2014 under current conditions; and

WHEREAS, the Portland Oregon Visitors Association ("POVA") has conducted a study analyzing the reasons that some national conventions do not select the OCC, and the POVA study concludes that the largest single reason for such "lost business" is the lack of an adjacent "headquarters hotel" for convention users able to offer a substantial single location room block for the convention and that the future impact on the OCC and on the regional economy of the lack of such a hotel is substantial; and

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WHEREAS, the SAG study concluded that an appropriately-sized headquarters hotel would be necessary in order for the OCC to maximize its positive economic impact on the Metro region; and the study projected that over thirty (30) years the benefits to the Metro region and the State of Oregon from a convention center headquarters hotel would add millions of additional hotel room nights and millions of dollars in additional spending, and thousands of additional jobs supported each year; and

WHEREAS, the KPMG report estimated that the regional benefit of a convention center Headquarters Hotel would range from \$83.8 to \$111.7 million annually; and that approximately 1,250 to 1,600 full-time jobs within the area's convention industry would be needed to support the new convention business (laundry services, florists, audio/visual providers, and the like); and

WHEREAS the PKF study recommended that an OCC Headquarters Hotel contain 600 rooms with 41,000 square feet of function space, which would have an impact of preventing an erosion of current OCC convention volume of an estimated 25,000 rooms per night annually by 2013, and that competitive hotels' rates and occupancies would likely be equal to or greater than that achieved without such a hotel, and that a Headquarters' Hotel would provide a catalyst for new business relocation to the hotel's area and would also provide significant economic impact via jobs, taxes, and income; and

WHEREAS, the ECONorthwest study examined the economic impact of a convention center Headquarters Hotel in Portland, and concluded that such a hotel would generate expenditures of almost \$50 million in the Portland region in 2013 (in 2004 dollars), which expenditures would generate a total economic impact of over \$100 million in business sales and \$40 million in labor income, and the equivalent of almost 1500 full-time jobs in the Portland region in 2013; and that the present value in 2006 of future benefits generated by the Headquarters hotel is \$850 million to \$1.4 billion in business sales, \$340 million to \$653 million in labor income, and the equivalent of 278 to 2,058 annual full-time jobs; and

WHEREAS, in July 2003 the Portland Development Commission ("PDC") approved via Resolution No. 6040 a Headquarters Hotel Implementation Strategy prepared in consultation with Metro, MERC, and other stakeholders including POVA and the TCLA; and

WHEREAS, the Headquarters Hotel Implementation Strategy recommended a two-step process to identify potential developers for the Headquarters Hotel Project ("Project") including issuance of a Request for Qualifications ("RFQ") and a subsequent Request for Proposals ("RFP"); and

WHEREAS, in September 2003 the PDC issued and gave public notice of RFQ 03-22 "Request for Qualifications to Develop a Convention Center Headquarters Hotel" ("Hotel RFQ") to identify qualified developers for a subsequent RFQ solicitation; and

WHEREAS, in September 2004 the PDC issued and gave public notice of RFP 04-09 "Request for Proposals for an Oregon Convention Center Headquarters Hotel," and issued Addendums ## 1 – 4 in November 2004 through June 2005 ("Hotel RFP"), which RFP invited qualified respondents to make proposals for both private and public financing and ownership of a convention center headquarters hotel, to which there were four respondents; and

WHEREAS in January 2005 the PDC approved via Resolution No. 6218 a Headquarters Hotel Developer Selection Process which identified specific opportunities for public comment

and community involvement and a schedule for deliberations by a designated evaluation committee for the selection of the development team; and

WHEREAS, an Oregon Convention Center Headquarters Hotel Evaluation Committee was formed to review and analyze the four RFP responses that were submitted, which committee was comprised of the MERC Oregon Convention Center manager, the Chairman of the MERC Commission, the Metro Chief Financial Officer, a POVA board member, a City of Portland finance officer, and members of the Lloyd Transportation Management Association, the Lloyd Business Improvement District, the Lloyd Community Association, the TCLA; and

WHEREAS, in September 2005 the OCC Headquarters Hotel Evaluation Committee presented and made publicly available its report containing its recommendations, in which the Committee unanimously recommended the selection of the Garfield Traub Development/ Ashforth Pacific Inc. team (with the architectural firm Zimmer Gunsul Frasca; the construction firm Turner Construction Inc.; and the hotel operator/flag Starwood Hotels/Westin; and the underwriting firm Piper Jaffray & Co) (“Development Team”) as the most responsive proposal submitted in accordance with the evaluation criteria set forth in RFP #04-09; and

WHEREAS, in October 2005 the PDC adopted Resolution No. 6305 which accepted the OCC Headquarters Hotel Evaluation Committee’s recommendation and authorized the PDC Executive Director to initiate exclusive negotiations with the Development Team to develop the OCC Headquarters Hotel; and

WHEREAS, Metro, MERC, and PDC staff have studied the proposals from the RFP respondents, reviewed the analysis of outside consultants, and heard testimony from national meeting planners, and have determined that a publicly-owned, 600-800 room convention center hotel adjacent to the convention center containing public function and ballroom spaces and the ability to offer a 500-room-block for conventions is the model that will meet the goals of the region for bringing national conventions to the Oregon Convention Center and increasing tourism and economic development to Portland, the metropolitan region, and the state; and

WHEREAS, the Evaluation Committee and Metro, MERC, and the PDC have studied the RFP responses and financial models and have concluded that due to the inclusion of certain non-revenue-producing goals associated with a hotel designed to serve the convention center and the region, such as a large room block commitment available to conventioners, convention break-out rooms and banquet halls, payment of prevailing wages, focused inclusion of minority and emerging businesses, environmentally “green” construction standards, and the like, that a private ownership model for a hotel would not be financially feasible without a substantial public subsidy, and that a public ownership/private operation headquarters hotel model would provide both the requisite public control over the Project and would also be able to provide the non-revenue-producing goals that would serve both the convention center and the regional economy; and

WHEREAS, the PDC, with Metro and MERC involvement, has formed a Technical Advisory Committee (“TAC”), whose membership includes representatives from the local hotel and visitor industry and adjacent neighborhoods and business groups to provide technical input regarding Project design, program, cost and industry benefits and impacts; and

WHEREAS, the PDC owns real property valued at over several million dollars plus an additional contribution of at least \$4 million that PDC is prepared to donate to Metro for the development of a publicly-owned headquarters hotel; and

WHEREAS, Metro's interest and ability to take part in a Headquarters Hotel will also be contingent upon establishing partnerships with other public entities for financial and other contributions to this Project, and also on the ability to negotiate financially feasible agreements with the developer, operator, manager, architect, and underwriter of the hotel; and the Project will also be contingent upon determining a financing model that will protect Metro's interests; and

WHEREAS, due to the fact that the PDC has engaged in and completed, with Metro's and MERC's involvement, a several-years-long competitive contracting process for the design, construction, management and operation of the Oregon Convention Center Headquarters Hotel resulting in the selection of the Development Team, it would be most efficient in terms of time, construction costs, and public investment for Metro to accept the results of the PDC's competitive process rather than re-start the process all over again with Metro in the lead rather than the PDC; and

WHEREAS, the Metro Council is designated as the local public Contract Review Board ("CRB") for Metro pursuant to ORS 279A.060 and Metro Code 2.04.010(d), and as the CRB for MERC pursuant to Metro Code 2.04.024; and

WHEREAS, Metro Code 2.04.053(c) provides for a special procurement contracting process as an exemption to public contracting procedures in accordance with state law in Oregon Revised Code Chapters 279A, B, and C; and state law also provides that in granting exemptions for public improvement contracts that the public body shall, when appropriate, use alternate contracting methods that take account of market realities and modern practices and are consistent with the public policy of encouraging competition; and

WHEREAS, the "Design-Build" alternative contracting method allows for the opportunity to integrate value engineering into the design phase, as the construction contractor joins the Project team early with design responsibilities under a team approach, with the potential of reducing contract change orders and the risk of design flaws, shortening project time, and obtaining innovative design solutions through the collaboration of the contractor and design team which would not otherwise be possible if the contractor had not yet been selected; and

WHEREAS, pursuant to ORS 279B.085(5) and ORS 279C.335(5), the Metro Council held a duly noticed and advertised public hearing at its meeting of February 8, 2007 on the proposal to exempt the Project from competitive bidding, to accept the PDC's contracting process, to enter into exclusive negotiations with the selected project Development Team, and to utilize the Design-Build process; and

WHEREAS, Metro Code 2.04.026(1) provides that the Metro Council must approve any IGA in which Metro acquires or transfers any interest in real property or assumes any function or duty of another governmental entity; and

WHEREAS, the Metro Council, sitting as the CRB for Metro and MERC, concludes that it is the most advantageous, expeditious, and cost effective approach for the Project to accept the results of the PDC's competitive process and negotiate with the Development Team selected by that competitive process rather than re-start the process all over again with Metro in the lead, and also to utilize the Design-Build alternative contracting method;

NOW THEREFORE, BE IT RESOLVED THAT:

1. Authorization to Accept the Results of the PDC's Competitive Contracting Process and to Enter Into Exclusive Negotiations With Project Team: The CRB hereby exempts the Project from formal competitive bidding pursuant to Metro Code 2.04.053(c), ORS 279B.085, and ORS 279C.335(2), and accepts the results of the PDC's competitive contracting process; and the CRB hereby authorizes and directs the Metro COO, the Metro Attorney, and MERC to enter into exclusive negotiations with the Development Team identified and recommended by the PDC's competitive process, the Headquarters Hotel Developer Selection Process and the OCC Headquarters Hotel Evaluation Committee: Garfield Traub Development/Ashforth Pacific Inc. team (with the architectural firm Zimmer Gunsul Frasca; the construction firm Turner Construction Inc., the hotel operator/flag Starwood Hotels/Westin; and the underwriting firm Piper Jaffray & Co.) for the purpose of developing, designing, constructing, and operating a Oregon Convention Center Headquarters Hotel, if such agreements can be negotiated that adequately protect Metro's financial interests and overall purposes in engaging in the Project, and which agreements shall be contingent upon and presented to the Metro Council in the Spring of 2007, or as soon thereafter as possible, for final review and approval; and

2. Authorization of Alternative Contracting Methods Including the Design-Build Contracting Method: The CRB hereby further authorizes and directs the Metro COO, the Metro Attorney, and MERC that the exclusive negotiations with the Development Team as set forth in Section 1 above may result in the utilization of alternative contracting procedures such as a Design-Build contract for the hotel construction; an Operating Agreement with the hotel operator that shall include a Room Block Agreement for the Oregon Convention Center; a Development Agreement; and any other agreements deemed necessary or beneficial by the Metro COO, the Metro CFO, the Metro Attorney, and MERC for the completion of the OCC Headquarters Hotel; and all such agreements that may be negotiated with the Development Team shall be contingent upon and presented to the Metro Council in the Spring of 2007, or as soon thereafter as possible, for final review and approval; and

3. Authorization to Negotiate an Intergovernmental Agreement ("IGA") With the PDC for the purpose of Accepting Ownership of the Real Property Designated for the OCC Headquarters Hotel; and Authorization to Negotiate Other IGAs As May Be Necessary For the OCC Headquarters Hotel: In accordance with Metro Code 2.04.026(1) and state law, the Metro Council hereby authorizes and directs the Metro COO, the Metro Attorney, and MERC to negotiate an Intergovernmental Agreement ("IGA") with the Portland Development Commission ("PDC") whereby the PDC will transfer ownership to Metro of the real property on which the OCC Headquarters Hotel will be located, via a Development and Disposition Agreement with the PDC or other similar agreement; and the Metro Council also hereby authorizes and directs the Metro COO, the Metro CFO, the Metro Attorney, and MERC to negotiate with other public entities, including the PDC, the City of Portland, Multnomah County, the Port, and the State of Oregon, regarding the financing and other pending issues regarding the OCC Headquarters Hotel; and any IGAs or financing agreements that may be negotiated under this provision shall be contingent upon and presented to the Metro Council in the Spring of 2007, or as soon thereafter as possible, for final review and approval; and

4. Findings re Accepting the PDC's Competitive Contracting Process: As required by ORS 279B.085(4), ORS 279C.330, and ORS 279C.335(2) and (4), the CRB makes the following findings in support of the decision set forth in Section 1 above:

- a. The CRB finds that Metro should accept the results of the PDC's competitive contracting process for the Project rather than have Metro re-start the process and conduct its own competitive contracting process, and therefore that Metro should exempt the Project from Metro's formal competitive bidding pursuant to Metro Code 2.04.053(c), ORS 279B.085, ORS 279C.330, and ORS 279C.335(2) and (4). The CRB finds that exempting this Project satisfies the requirements in ORS 279B.085(4) that the exemption is "unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts; and result in substantial cost savings to the contracting agency or to the public; or otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the [other-wise applicable public contracting] requirements;" and also that the exemption satisfies the exemption requirements in ORS 279C.335(2) regarding public improvement contracts in that "it is unlikely that the exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts; and the awarding of public improvement contracts under the exemption will result in substantial cost savings to the contracting agency," for the reasons set forth below. In addition, in accordance with ORS 279C.330, the CRB finds that the exemption is justified due to the information set forth below regarding operational, budget and financial data; public benefits; value engineering; specialized expertise required; public safety; market conditions; technical complexity; and funding sources;
- b. Accepting the results of the PDC's competitive contracting process for the Project rather than have Metro conduct its own competitive contracting process, and entering into exclusive negotiations with the development team of Garfield Traub Development/Ashforth Pacific Inc. (with the architectural firm Zimmer Gunsul Frasca; the construction firm Turner Construction Inc.; the hotel operator/flag Starwood Hotels/Westin; and the underwriting firm Piper Jaffray & Co.) ("Development Team") is unlikely to encourage favoritism in the awarding of public/public improvement contracts or to substantially diminish competition for public contracts because the Development Team was selected pursuant to a competitive qualifications based RFQ and RFP selection process; the RFQ and RFP were formally advertised; the RFP resulted in proposals from four development teams from around the country; and the award was based upon identified selection criteria which were analyzed and publicly reported by the Oregon Convention Center Headquarters Hotel Evaluation Committee, which included the OCC manager, the Chairman of the MERC Commission, the Metro Chief Financial Officer, a POVA board member, a City of Portland finance officer, and members of the Lloyd Transportation Management Association, the Lloyd Business Improvement District, the Lloyd Community Association, the Tri-County Lodging Association;
- c. In addition, the CRB finds that accepting the results of the PDC's competitive contracting process for the Project rather than have Metro conduct its own competitive contracting process is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts because Metro and MERC substantially participated in the PDC's extensive public competitive RFQ and RFP process for the development of the OCC Headquarters Hotel, in which the Development Team was selected. The Development Team was unanimously recommended by the Headquarters Hotel Developer Selection Process and the OCC Headquarters Hotel Evaluation Committee, both of which included Metro and MERC members;
- d. In addition, the CRB finds that accepting the results of the PDC's competitive contracting process for the Project rather than have Metro conduct its own competitive contracting

process is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts because the PDC's competitive contracting process for the development of the headquarters hotel was widely publicized and drew competitive proposals from a number of nationally-recognized development teams, which included both local and national architectural, development, hotel management, and construction firms;

- e. Accepting the results of the PDC's competitive contracting process for the Project rather than have Metro conduct its own competitive contracting process, and entering into exclusive negotiations with the Development Team, will result in substantial cost savings to Metro and to the public, because an RFQ/RFP process for a Project of this magnitude can take many months, if not several years, to complete, as evidenced by the fact that the PDC's public competitive contracting process, which resulted in the selection of this Development Team, began in 2003. Construction costs in that period have skyrocketed, and are forecasted to continue to grow rapidly. In addition, the investment of time, energy, and focus from both public and private interested parties has been substantial, and would be difficult to reinvigorate;
- f. Accepting the results of the PDC's competitive contracting process for the Project rather than have Metro conduct its own competitive contracting process, and entering into exclusive negotiations with the Development Team, will also substantially promote the public interest in a manner that could not practicably be realized if Metro were to conduct its own competitive contracting process at this point, because the acceptance of the PDC's development team will result in quicker completion of the Project with fewer disruptions to the important public services performed by Metro and MERC;
- g. The public interest will also be substantially promoted by accepting the PDC's results and moving forward with negotiations because the convention business is a critical element of the region's economy. The benefits to area restaurants, transportation services, retailers, hotels, entertainment providers, and other services are substantial. The economic return could be substantially greater with the additional convention business made possible by the OCC Headquarters Hotel. According to a report from KPMG, commissioned by the OCC in April 2005, the estimated benefit to the region with the addition of a Headquarters Hotel would range from \$83.8 to \$111.7 million annually;
- h. The public would also benefit by moving forward now with an OCC Headquarters Hotel because the hotel is expected to generate a significant number of new jobs for the region. Direct employment at the hotel is estimated to be 300 to 400 full-time positions. The KPMG report also indicates that approximately 1,250 to 1,600 full-time jobs within the area's convention industry would be needed to support the new convention business (laundry services, florists, audio/visual providers, etc). During construction, it is estimated that several thousand construction jobs will be created. The ECONorthwest study indicates that a Headquarters Hotel in Portland would generate expenditures of almost \$50 million in the Portland region in 2013 (in 2004 dollars), which expenditures would generate a total economic impact of over \$100 million in business sales and \$40 million in labor income, and the equivalent of almost 1500 full-time jobs in the Portland region in 2013; and that the present value in 2006 of future benefits generated by the Headquarters hotel is \$850 million to \$1.6 billion in business sales, \$340 million to \$653 million in labor income, and the equivalent of 278 to 2,058 annual full-time jobs;

- i. The Development Team selected via the PDC's RFQ and RFP process, and unanimously recommended by the Headquarters Hotel Developer Selection Process and the OCC Headquarters Hotel Evaluation Committee, also satisfies the requirement set forth in ORS 279B.085(6) that the contract will be awarded to the entity that is "the most advantageous to the contracting agency" because the Development Team was unanimously recommended by the OCC Headquarters Hotel Evaluation Committee, which included the OCC manager, the Chairman of the MERC Commission, the Metro Chief Financial Officer, a POVA board member, a City of Portland finance officer, and members of the Lloyd Transportation Management Association, the Lloyd Business Improvement District, the Lloyd Community Association, the Tri-County Lodging Association. The Evaluation Committee's written recommendation states that the Garfield Traub/Ashforth Pacific Development Team members "have significant experience in the development of hotel properties and real estate financing and represent a mix of highly regarded local and national firms [The Development Team's] conceptual Project design was considered compelling and would appear to positively transform the MLK Jr. Blvd./Grand Ave. corridor and create a very strongly compatible hotel facility at the main entrance to the Oregon Convention Center."

5. Findings re Authorization of Alternative Contracting Methods Including the Design-Build Contracting Method: As required by ORS 279B.085(4), ORS 279C.330, and ORS 279C.335(2) and (4), the CRB makes the following findings in support of the decisions set forth in Section 2 above:

- a. Pursuant to Metro Code 2.04.053(c), ORS 279B.085(4), ORS 279C.330, and ORS 279C.335(2) and (4), the CRB finds that utilizing alternative contracting procedures including the Design-Build process for the headquarters hotel Project is "unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts; and result in substantial cost savings to the contracting agency or to the public; or otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the [other-wise applicable public contracting] requirements;" and "it is unlikely that the exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts; and the awarding of public improvement contracts under the exemption will result in substantial cost savings to the contracting agency," for the reasons set forth below. In addition, in accordance with ORS 279C.330, the CRB finds that the exemption is justified due to the information set forth below regarding operational, budget and financial data; public benefits; value engineering; specialized expertise required; public safety; market conditions; technical complexity; and funding sources.
- b. Utilizing alternative contracting procedures including the Design-Build process for the headquarters hotel Project is unlikely to encourage favoritism in the awarding of public/public improvement contracts or to substantially diminish competition for public contracts because the Project is unique; and also because the Design-Build team was selected pursuant to a qualifications based RFQ and RFP selection process; the RFQ and RFP were formally advertised; the RFP resulted in proposals from four development teams from around the country; and the award was based upon identified selection criteria which was analyzed and publicly reported by the Oregon Convention Center Headquarters Hotel Evaluation Committee, which included the OCC manager, the Chairman of the MERC Commission, the Metro Chief Financial Officer, a POVA board

member, a City of Portland finance officer, and members of the Lloyd Transportation Management Association, the Lloyd Business Improvement District, the Lloyd Community Association, the Tri-County Lodging Association.

- c. Utilizing alternative contracting procedures including the Design-Build process for the headquarters hotel Project will result in substantial cost savings to Metro and to the public, because the Design-Build team approach will allow for the integration of value engineering suggestions into the design phase, as the construction contractor joins the Project team early with design responsibilities under a team approach, which should give Metro more cost solutions and alternatives, which will better enable Metro to keep the Project within budget.
 - d. In addition, the use of alternative contracting procedures including the Design-Build process will result in substantial cost savings to Metro and to the public, and will also substantially promote the public interest in a manner that could not practicably be realized if traditional contracting procedures were utilized, and will also satisfy the requirement set forth in ORS 279B.085(6) that the contract will be awarded to the entity that is “the most advantageous to the contracting agency,” because this type of contracting will allow the possibility of innovative design solutions and value engineering through the collaboration of the contractor and design team, and thereby also shorten Project time, which would not otherwise be possible if the contractor had not yet been selected.
- 6.** In making the above findings in Sections 4 and 5, the CRB considered the following factors pursuant to ORS 279C.330:
- a. Operational, budget and financial data: Accepting the PDC’s process and utilizing the design-build process will allow Metro to obtain a Guaranteed Maximum Price at an earlier time from the construction contractor, and thus avoid costly change orders and overruns. In addition, the experienced Development Team selected via the PDC’s process will also reduce outside oversight costs.
 - b. Public Benefits: In addition to the public benefits from the cost savings noted above, expeditious completion of the Project by utilizing the PDC’s selected Development Team will ensure that the hotel is available for use by conventioners as soon as possible, thus more quickly bringing substantial economic benefits to the community, the region, and the state. Moreover, as determined by the study conducted by ECONorthwest, the impact of a convention center Headquarters Hotel in Portland is expected to generate expenditures of almost \$50 million in the Portland region in 2013 (in 2004 dollars), which expenditures would generate a total economic impact of over \$100 million in business sales and \$40 million in labor income, and the equivalent of almost 1500 full-time jobs in the Portland region in 2013; and the present value in 2006 of future benefits generated by the Headquarters hotel is \$850 million to \$1.6 billion in business sales, \$340 million to \$653 million in labor income, and the equivalent of 278 to 2,058 annual full-time jobs.
 - c. Value engineering: The Design-Build process will enable the contractor to work with the architect to minimize construction costs. This type of contracting will allow the possibility of innovative design solutions and value engineering through the collaboration of the contractor and design team, and thereby also shorten Project time, which would not

otherwise be possible if the contractor had not yet been selected.

- d. Specialized expertise required. The design, construction, operation, and management of a convention center headquarters hotel that must accommodate and serve a public convention center as well as private hotel customers requires special expertise and experience, all of which have been established through the Hotel RFQ and RFP process that was conducted by the PDC's public processes. In addition, this is a large Project where the work will be conducted under a tight construction schedule, and the Development Team selected has the specialized expertise to complete the Project within this timeframe. In addition, the use of alternative contracting methods such as the Design-Build method allow the specialized coordination between the developer, architect, and construction contractor.
- e. Public safety: Because this is a large Project where the work will be conducted under a tight construction schedule, the CRB requires contractors who can expeditiously and safely complete the work. The Development Team selected has the specialized expertise to complete the Project in a safe and thorough manner.
- f. Market conditions: Costs of construction have dramatically risen since the beginning of the PDC's public process to select the Development Team, and these costs are expected to continue to rise significantly. Accepting the results of the PDC's competitive contracting process for the Project rather than have Metro re-start the process and conduct its own competitive contracting process, and using the Design-Build alternative contracting process, will allow Metro to receive a Guaranteed Maximum Price from the construction contractor within the next several months, rather than have to wait years to re-start a new proposal process, which could result in the Project being financially infeasible at that future time.
- g. Technical complexity: The design, construction, operation, and management of a convention center headquarters hotel is technically complex due to the numerous design, architectural and budget constraints and purposes imposed on and served by this Project. Selecting a development team that is familiar with and has successfully completed similar projects, and utilizing a design-build process that will integrate architectural requirements and construction costs and constraints is necessary to the successful completion of this Project.

- h. Funding sources: This Project will be funded through the issuance of revenue bonds, contributions from the Development Team, lodging taxes, and other funding mechanisms to be determined prior to finalization of the Project.

ADOPTED by the Metro Council this 8th day of February, 2007.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney
Alison Kean Campbell, Metro Senior Assistant Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 07-3748, A RESOLUTION OF METRO COUNCIL, ACTING AS THE METRO AND MERC CONTRACT REVIEW BOARD, ADOPTING FINDINGS GRANTING AN EXEMPTION TO THE METRO AND MERC CONTRACTING RULES, AUTHORIZING ACCEPTANCE OF PDC'S CONTRACTING PROCESS, AUTHORIZING EXCLUSIVE NEGOTIATIONS WITH THE SELECTED PROJECT TEAM; AND AUTHORIZING USE OF ALTERNATIVE CONTRACTING METHODS FOR DESIGN, CONSTRUCTION, MANAGEMENT, OPERATION AND FINANCING OF THE OCC HEADQUARTERS HOTEL.

Date: January 23, 2007

Prepared by: Nick Popenuk

BACKGROUND

The Metro Council is responsible for the operation of the Metropolitan Exposition and Recreation Commission (MERC), including the Oregon Convention Center (OCC). The stated mission of the OCC is to maximize the economic benefits for the metropolitan region and the state of Oregon, while protecting the public investment in the facility. The consulting firm KPMG issues an annual report measuring the regional economic impact of the OCC. According to the 2006 KPMG report, the cumulative economic effects of the OCC from 1990 to 2005 amount to \$6.0 billion in total convention spending and 92,620 FTE jobs in the Tri-County metropolitan region, as well as \$185 million in tax revenue in the state of Oregon.

Despite the significant economic impact the OCC has on the region, the facility itself is struggling with a projected gap in fund balance. The Oregon Convention Center is forecasted to experience a strategic fund balance gap of over \$1 million in fiscal years 2007-2008 increasing to a fund gap of almost \$4.2 million in fiscal year 2013-2014 under current conditions. Every year the Portland Oregon Visitors Association (POVA) completes an annual Lost Business Report explaining why national conventions opted against coming to Oregon. POVA's 2006 report identifies the lack of a Headquarters Hotel (HQ Hotel) adjacent to the OCC as the most significant obstacle to attracting more convention business to the Oregon Convention Center.

Metro and MERC have considered several alternative policies to solve the OCC funding gap. These alternatives included: maintaining the status quo and continuing to invest Metro and regional dollars to fund the convention center; converting the OCC into a civic center; the development of a privately owned HQ Hotel; and the development of a publicly owned HQ Hotel. The alternative of providing free rent and transportation to the OCC as an inducement to national conventions was also discussed, however, POVA reports that this inducement is already provided to national conventions through allocation of the Visitor Development Fund.

After considering all of these alternatives, the option that provides the most likelihood of solving the OCC funding gap while still promoting and achieving the OCC's mission of maximizing regional economic impact, while also providing public control over the Project and providing public equity in return for public expenditures, is a publicly-owned and privately-operated convention center headquarters hotel model.

PDC COMPETITIVE CONTRACTING PROCESS

After the completion of the Strategic Advisory Group report in Feb. 2003, the Portland Development Commission (“PDC”) adopted the Headquarters Hotel Implementation Strategy (HQHIS) in July of 2003. The HQHIS identified the following objectives for the Headquarters Hotel:

- Maximize impact on area economy
- Increase economic impact of the Oregon Convention Center
- Minimize public investment and risk
- Maximize positive impact on area hotels
- Meet key public objectives - Minority/women-owned/emerging small business (M/W/ESB) contracting and employment, design quality including green/sustainable architecture, Lloyd district redevelopment objectives.

Following the Headquarters Hotel Implementation Strategy, the PDC issued a Request for Qualifications (RFQ) for the development of a convention center headquarters hotel. The RFQ was released in Sept. 2003 and resulted in the selection of seven hotel developers to participate in the Request for Proposals (RFP) in Sept. 2004.

The following four development teams submitted responses to the RFP:

- Garfield Traub/Ashforth Pacific (Westin)
- Faulkner USA (Hyatt)
- Jones Lang LaSalle (Not Determined)
- Hines Interests/Wright Hotels (Renaissance)

The PDC established the Oregon Convention Center Headquarters Hotel Evaluation Committee (the Committee) to objectively and fairly evaluate the four responses received during the RFP process. The Committee was comprised of the following members:

- Jeff Blosser – Oregon Convention Center
- Steve Day – Lloyd Transportation Management Association
- Steve Faulstick – Lloyd Business Improvement District
- George Forbes – Metropolitan Exposition & Recreation Commission
- Eric Johansen – City of Portland, Office of Finance & Management
- Chris Lonigro – Lloyd Community Association/Lloyd Resident
- Brian McCartin – Portland Oregon Visitor’s Association
- Bill Stringer – Metro
- Carl Talton – North/Northeast Business Alliance/Portland Family of Friends
- Scott Youngblood – Tri-County Lodging Association

The RFP required respondents to propose highly qualified and financially capable development teams for the design, financing, construction and operation of a convention center headquarters hotel. The evaluation criteria gave favorable consideration to development teams with significant experience in developments similar in scope and quality to the proposed project and which also demonstrate that they have sufficient financial resources and experience to finance and complete the project in accordance with a fixed schedule.

In Sep. 2005, the Committee made their recommendations regarding the RFP for the Oregon Convention Center Headquarters Hotel. After reviewing each proposal, conducting interviews with each development team and applying the scoring criteria defined in the RFP, the Committee recommended the PDC enter into negotiations with the Garfield Traub/Ashforth Pacific development team (Development Team) to develop the OCC Headquarters Hotel. The Development Team proposal was selected because the team had significant experience in the development of hotel properties and real estate financing. The Development Team also represents a mix of highly regarded local and national firms. The Development Team proposal, presentation and responsiveness were of high quality, and the Committee considered the Westin flag highly desirable. Overall, the Committee felt the Development Team proposal was the highest quality response and most realistic opportunity to develop a Headquarters Hotel near the OCC.

The Portland Development Commission began negotiations with the Garfield Traub/Ashforth Pacific development team, with Metro and MERC participation. During this time, and based on financial analyses of the ownership models, it became apparent to staff working on the project that a publicly owned HQ Hotel model would be more financially feasible than a privately owned model. A privately owned HQ Hotel of sufficient size (600 rooms) was forecasted to require up to \$90 million of public subsidy. This public subsidy would be used to buy down the total project cost, leading to a higher return on investment for the private owner(s). Under a private model, the public would not have an ownership interest in the asset it helped to fund, nor would it have much control over the ownership or management of the asset. Under a publicly owned model, the bulk of the project costs would be covered by bonds backed by the HQ Hotel net operating income (NOI) and other public revenue streams as needed. The total project costs of a publicly owned hotel would most likely be higher than a private model to accommodate large cash reserves for added financial security. However, a publicly owned hotel would be a significant public asset that could generate millions of dollars in annual NOI or could be sold for profit at a later date.

After deciding to concentrate on the public model, the PDC felt the project no longer belonged under their management, as the PDC mission focuses on private development. As the project was shifting to a public ownership model to serve the Oregon Convention Center, closing the OCC operational fund gap, maximizing the OCC economic impact on the region, generating regional employment, increasing local, regional and state tax revenue and acting as a catalyst for redevelopment, MERC and Metro became candidates for project lead and ownership.

PROPOSED METRO ACTION

The proposed Metro Council Resolution No. 07-3748 would grant authorization to accept the results of the PDC's competitive contracting process and authorize an exemption to the Metro public contracting process and to enter into exclusive negotiations with the Development Team, including the use of alternative contracting methods such as a design/build model with the selected developer, architect, and construction contractor. The proposed resolution would not obligate Metro to develop a convention center Headquarters Hotel, or to accept any negotiations that the PDC has begun. Instead, the resolution authorizes Metro and MERC to continue to evaluate the financial feasibility of such a project for Metro and MERC, and to negotiate financially favorable agreements with the Development Team selected via the PDC's public contracting process: the Garfield Traub Development/Ashforth Pacific Inc. team (with the architectural firm Zimmer Gunsul Frasca; the construction firm Turner Construction Inc., the hotel operator/flag Starwood Hotels/Westin; and the underwriting firm Piper Jaffray & Co.). Any agreements negotiated by Metro/MERC with members of the Development Team will be contingent upon approval by the Metro Council, and will be brought before the Council for

formal approval prior to any commitment by Metro. The development of a HQ Hotel will also be contingent on establishing partnerships with other public entities for financial and other contributions to this Project. The Project will also be contingent upon determining a financing model that will protect Metro's interests.

KNOWN OPPOSITION

There is no known opposition to this resolution. Significant doubts remain as to whether a publicly owned and financed HQ Hotel is financially feasible and whether it will eliminate the strategic fund gap and achieve the OCC mission of maximizing economic impact to the region. Both stakeholders who support and oppose the development of a publicly owned and financed HQ Hotel, are in favor of this resolution, as it will authorize agency staff to enter into negotiations with the Development Team. These negotiations will enable the Metro Council, agency staff and key stakeholders to gain a better understanding of project cost and feasibility.

LEGAL ANTECEDENTS

The Metro Council is designated as the local public Contract Review Board ("CRB") for Metro pursuant to ORS 279A.060 and Metro Code 2.04.010(d), and as the CRB for MERC pursuant to Metro Code 2.04.024. The Metro Code section 2.04.053(c) provides for a special procurement contracting process as an exemption to public contracting procedures in accordance with state law in Oregon Revised Statutes Chapters 279A, B, and C; and state law also provides that in granting exemptions for public improvement contracts that the public body shall, when appropriate, use alternate contracting methods such as the "Design-Build" alternative contracting method. ORS 279B.085(5) and ORS 279C.335(5) require that the Metro Council hold a duly noticed and advertised public hearing on proposals to exempt a project from Metro's competitive bidding requirements and to utilize the Design-Build process, and to issue findings that satisfy specific state law requirements on such exemptions. In addition, Metro Code 2.04.026(1) provides that the Metro Council must approve any IGA in which Metro acquires or transfers any interest in real property or assumes any function or duty of another governmental entity.

BUDGET IMPACTS

Because this Resolution only seeks an exemption to the public contracting requirements to accept the Development Team selected by the PDC's public contracting process, and does not seek authorization of any specific agreements, the budget impact of this resolution are only in staff time for future negotiations with the Development Team. Metro will be starting fresh on all negotiations with the Development Team, and all agreements negotiated will be contingent upon approval by the Metro Council, and will be brought before the Council for formal approval prior to any commitment by Metro. Aside from significant staff time in terms of both the Office of Metro Attorney and the Office of the Chief Operating Officer, there are no budget impacts.

ANTICIPATED EFFECTS

Development of a Headquarters Hotel adjacent to the Oregon Convention Center has the potential for a significant positive impact on the region. In order to determine if the Project is financially feasible, Metro must enter into negotiations with the Development Team to ascertain a hard estimate of project costs and sources and uses of funds. Approving Metro Council Resolution No. 07-3748 would allow Metro staff to immediately begin negotiations with the Development Team, avoiding costly project delays. The PDC competitive contracting process took over two years to complete. If Metro Council Resolution No. 07-3748 does not pass, it is entirely possible

that another two years will pass before Metro completes its own competitive contracting process, which may or may not result in selecting the same Development Team. Construction costs have historically risen at or above the rate of inflation. Recently, average daily room rates (ADR) in the Portland hotel market have also been rising, but there is no guarantee that ADR will keep pace with construction costs in the future. Accepting the results of the PDC competitive contracting process would save Metro time and could lead to substantially lower project costs if Metro does decide to proceed with the Project.

RECOMMENDED ACTION

George Forbes, Metropolitan Exposition Recreation Commissioner recommends adoption of this resolution. A letter from George Forbes is attached as Attachment 1.

The Metropolitan Exposition Recreation Commission passed Resolution No. 07-03 on 1/24/07, requesting that the Metro Council grant an exemption to the Metro and MERC contracting rules and accept the Portland Development Commission contracting process and authorize exclusive negotiations with the Portland Development Commission's selected Headquarters Hotel Development Team. MERC Resolution No. 07-03 is attached as Attachment 2.

The Office of the Chief Operating Officer and the Office of the Metro Attorney recommend adoption of this resolution.



METROPOLITAN EXPOSITION RECREATION COMMISSION

**Resolution No. 07-3748
Attachment 1**

January 26, 2007

David Bragdon
Metro Council President
600 NE Grand Avenue
Portland, OR 97232

Dear President Bragdon,

I am writing to urge the Metro Council to approve the resolutions and associated budget amendment regarding research and analysis of a convention center hotel.

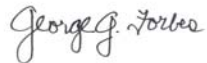
The Oregon Convention Center has continuously delivered on a promise to generate economic benefit to the region by generating \$5.4 billion in economic value since it opened in 1990. Unfortunately, the metropolitan region's ability to remain a viable convention destination and the center's ability to maximize economic benefit is eroding.

We face mounting challenges to bring national convention business to Portland. POVA's Lost Business Report shows that our region loses between 250,000 – 270,000 room nights of prime convention business every year because the convention housing package is substandard for a growing percentage of national associations and convention planners.

This situation is impacting the Oregon Convention Center's ability to perform its economic role. Recent hotel market studies show Portland would gain 17 new conventions annually with a convention hotel, with an estimated economic benefit of \$88 to \$110 million annually. The studies also estimate that we would lose 6 existing conventions each year to other cities with better hotel packages, further weakening the center's economic strength. These market studies suggest we should aggressively analyze a convention center hotel option to determine whether it is financially feasible and supported by the public.

MERC has actively engaged in the Portland Development Commission's project thus far, including involvement with the competitive contracting and negotiating process that has resulted in the selection of a convention hotel development team. On behalf of MERC, I respectfully request the Metro Council to accept the Portland Development Commission's contracting process and approve the associated budget amendment and resolutions.

Sincerely,



George Forbes
Chair
Metropolitan Exposition Recreation Commission

cc: Metro Councilors
MERC Commissioners
Michael Jordan
Dan Cooper
Kathy Taylor
Reed Wagner
Jeff Blosser

METROPOLITAN EXPOSITION RECREATION COMMISSION

Resolution No. 07-03

For the Purpose of Requesting Metro Council to Grant an Exemption to the Metro and MERC Contracting Rules and Accept the Portland Development Commission's Contracting Process and Authorize Exclusive Negotiations with the Portland Development Commission's Selected Headquarters Hotel Development Team.

WHEREAS, in 1989 the Oregon Convention Center Urban Renewal Plan was approved by the Portland City Council, Ordinance No. 161925, Goal 1 of which was to maximize the regional job potential of the Oregon Convention Center ("OCC") through development of a convention center headquarters hotel; and

WHEREAS, in 2003, the OCC produced nearly \$490 million in economic return to the region and supported 7,700 jobs; and

WHEREAS, the OCC is forecasted to experience a strategic fund balance gap of over \$1 million in fiscal years 2007-2008 increasing to a fund gap of almost \$4.2 million in fiscal year 2013-2014 under current conditions; and

WHEREAS, the Portland Oregon Visitors Association ("POVA") has conducted a study of reasons for OCC lost business and has concluded that the largest single reason for such lost business is the lack of an adjacent "headquarters hotel" for convention users able to offer a substantial single location room block for the convention and that the future impact on the OCC and on the regional economy of the lack of such a hotel is substantial; and

WHEREAS, during 2003 through 2006 several independent studies were commissioned regarding the potential economic impact of a convention center Headquarters Hotel on both the convention center and on the regional and statewide economy; including a February 2003 study by the Strategic Advisory Group ("SAG") engaged collaboratively by Metro, MERC, the Portland Development Commission ("PDC"), POVA, and the Tri-County Lodging Association ("TCLA"); a July 2005 study by KPMG commissioned by the OCC; a study by PKF Consulting (PKF") commissioned by PDC in May 2006; and a study by ECONorthwest in June 2006; and

WHEREAS, the SAG study concluded that an appropriately-sized headquarters hotel would be necessary in order for the OCC to maximize its positive economic impact on the Metro region; and the study projected that over thirty (30) years the benefits to the Metro region and the State of Oregon from a convention center headquarters hotel would add millions of additional hotel room nights and millions of dollars in additional spending, and thousands of additional jobs supported each year; and

WHEREAS, the KPMG report estimated that the regional benefit of a convention center Headquarters Hotel would range from \$83.8 to \$111.7 million annually; and that approximately 1,250 to 1,600 full-time jobs within the area's convention industry would be needed to support the new convention business (laundry services, florists, audio/visual providers, and the like); and

WHEREAS, the PKF study recommended that an OCC Headquarters Hotel contain 600 rooms with 41,000 square feet of function space, which would have an impact of preventing an erosion of current OCC convention volume of an estimated 25,000 rooms per night annually by 2013, and that competitive hotels' rates and occupancies would likely be equal to or greater than that achieved without such a hotel, and that a Headquarters' Hotel would provide a catalyst for new business relocation to the hotel's area and would also provide significant economic impact via jobs, taxes, and income; and

WHEREAS, the ECONorthwest study examined the economic impact of a convention center Headquarters Hotel in Portland, and concluded that such a hotel would generate expenditures of almost \$50 million in the Portland region in 2013 (in 2004 dollars), which expenditures would generate a total economic impact of over \$100 million in business sales and \$40 million in labor income, and the equivalent of almost 1500 full-time jobs in the Portland region in 2013; and that the present value in 2006 of future benefits generated by the Headquarters hotel is \$850 million to \$1.4 billion in business sales, \$340 million to \$653 million in labor income, and the equivalent of 278 to 2,058 annual full-time jobs; and

WHEREAS, in July 2003 the PDC approved via Resolution No. 6040 a Headquarters Hotel Implementation Strategy prepared in consultation with Metro, MERC, and other stakeholders including POVA and the TCLA; and

WHEREAS, the Headquarters Hotel Implementation Strategy recommended a two-step process to identify potential developers for the Headquarters Hotel Project (“Project”) including issuance of a Request for Qualifications (“RFQ”) and a subsequent Request for Proposals (“RFP”); and

WHEREAS, in September 2003 the PDC issued and gave public notice of RFQ 03-22 “Request for Qualifications to Develop a Convention Center Headquarters Hotel” (“Hotel RFQ”) to identify qualified developers for a subsequent RFQ solicitation; and

WHEREAS, in September 2004 the PDC issued and gave public notice of RFP 04-09 “Request for Proposals for an Oregon Convention Center Headquarters Hotel,” and issued Addendums ## 1 – 4 in November 2004 through June 2005 (“Hotel RFP”), which RFP invited qualified respondents to make proposals for both private and public financing and ownership of a convention center headquarters hotel, to which there were four respondents; and

WHEREAS, in January 2005 the PDC approved via Resolution No. 6218 a Headquarters Hotel Developer Selection Process which identified specific opportunities for public comment and community involvement and a schedule for deliberations by a designated evaluation committee for the selection of the development team; and

WHEREAS, an OCC Headquarters Hotel Evaluation Committee was formed to review and analyze the four RFP responses that were submitted, which committee was comprised of the MERC Oregon Convention Center manager, the Chairman of the MERC Commission, the Metro Chief Financial Officer, a POVA board member, a City of Portland finance officer, and members of the Lloyd Transportation Management Association, the Lloyd Business Improvement District, the Lloyd Community Association, the TCLA; and

WHEREAS, in September 2005 the OCC Headquarters Hotel Evaluation Committee presented and made publicly available its report containing its recommendations, in which the Committee unanimously recommended the selection of the Garfield Traub Development/ Ashforth Pacific Inc. team (with the architectural firm Zimmer Gunsul Frasca; the construction firm Turner Construction Inc.; and the hotel operator/flag Starwood Hotels/Westin; and the underwriting firm Piper Jaffray & Co) (“Development Team”) as the most responsive proposal submitted in accordance with the evaluation criteria set forth in RFP #04-09; and

WHEREAS, in October 2005 the PDC adopted Resolution No. 6305 which accepted the OCC Headquarters Hotel Evaluation Committee’s recommendation and authorized the PDC Executive Director to initiate exclusive negotiations with the Development Team to develop the OCC Headquarters Hotel; and

WHEREAS, Metro, MERC, and PDC staff have studied the proposals from the RFP respondents, reviewed the analysis of outside consultants, and heard testimony from national meeting planners, and have determined that a publicly-owned, 600-800 room convention center hotel adjacent to the convention center containing public function and ballroom spaces and the ability to offer a 500-room-block for conventions is the model that will meet the goals of the region for bringing national conventions to the OCC and increasing tourism and economic development to Portland, the metropolitan region, and the state; and

WHEREAS, the Evaluation Committee and Metro, MERC, and the PDC have studied the RFP responses and financial models and have concluded that due to the inclusion of certain non-revenue-producing goals associated with a hotel designed to serve the convention center and the region, such as a large room block commitment available to conventioners, convention break-out rooms and banquet halls, payment of prevailing wages, focused inclusion of minority and emerging businesses, environmentally “green” construction standards, and the like, that a private ownership model for a hotel would not be financially feasible without a substantial public subsidy, and that a public ownership model would provide both the requisite public control over the Project and would also be able to provide the non-revenue-producing goals that would serve both the convention center and the regional economy; and

WHEREAS, the PDC, with Metro and MERC involvement, has formed a Technical Advisory Committee (“TAC”), whose membership includes representatives from the local hotel and visitor industry and adjacent neighborhoods and business groups to provide technical input regarding Project design, program, cost and industry benefits and impacts; and

WHEREAS, the PDC owns real property valued at over several million dollars plus an additional contribution of at least \$4 million that PDC is prepared to donate to Metro for the development of a publicly-owned headquarters hotel; and

WHEREAS, Metro’s interest and ability to take part in a Headquarters Hotel will also be contingent upon establishing partnerships with other public entities for financial and other contributions to this Project, and also on the ability to negotiate financially feasible agreements with the developer, operator, manager, architect, and underwriter of the hotel; and the Project will also be contingent upon determining a financing model that will protect Metro’s interests; and

WHEREAS, due to the fact that the PDC has engaged in and completed, with Metro’s and MERC’s involvement, a several-years-long competitive contracting process for the design, construction, management and operation of the OCC Headquarters Hotel resulting in the selection of the Development Team, it would be most efficient in terms of time, construction costs, and public investment for Metro to accept the results of the PDC’s competitive process rather than re-start the process all over again with Metro in the lead rather than the PDC; and

WHEREAS, the Metro Council is designated as the local public Contract Review Board (“CRB”) for Metro pursuant to ORS 279A.060 and Metro Code 2.04.010(d), and as the CRB for MERC pursuant to Metro Code 2.04.024; and

WHEREAS, Metro Code 2.04.053(c) provides for a special procurement contracting process as an exemption to public contracting procedures in accordance with state law in Oregon Revised Statutes Chapters 279A, B, and C; and state law also provides that in granting exemptions for public improvement contracts that the public body shall, when appropriate, use alternate contracting methods that take account of market realities and modern practices and are consistent with the public policy of encouraging competition; and

WHEREAS, the “Design-Build” alternative contracting method allows for the opportunity to integrate value engineering into the design phase, as the construction contractor joins the Project team early with design responsibilities under a team approach, with the potential of reducing contract change orders and the risk of design flaws, shortening project time, and obtaining innovative design solutions through the collaboration of the contractor and design team which would not otherwise be possible if the contractor had not yet been selected; and

WHEREAS, pursuant to ORS 279B.085(5) and ORS 279C.335(5), the Metro Council will hold a duly noticed and advertised public hearing on February 8, 2007 on the proposal to exempt the Project from competitive bidding, to accept the PDC’s contracting process, to enter into exclusive negotiations with the selected project Development Team, and to utilize the Design-Build process; and

WHEREAS, Metro Code 2.04.026(1) provides that the Metro Council must approve any IGA in which Metro acquires or transfers any interest in real property or assumes any function or duty of another governmental entity; and

WHEREAS, MERC concludes that it is the most advantageous, expeditious, and cost effective approach for the Project to accept the results of the PDC’s competitive process and negotiate with the Development Team selected by that competitive process rather than re-start the process all over again with Metro in the lead, and also to utilize the Design-Build alternative contracting method;

BE IT THEREFORE RESOLVED AS FOLLOWS:

1. The Metropolitan Exposition Recreation Commission requests that the Metro Council grant an exemption to the Metro and MERC contracting rules and accept the Portland Development Commission contracting process and authorize exclusive negotiations with the Portland Development Commission’s selected Headquarters Hotel Development Team.

Passed by the Commission on January 24, 2007.

Chair – George Forbes

Secretary-Treasurer – Janice Marquis

Approved as to form:
Daniel B. Cooper, Metro Attorney

By: _____
Nathan A. Schwartz Sykes
Senior Attorney
Office of Metro Attorney

MERC Staff Report

Agenda Item/Issue: Requesting Metro Council to grant an exception to the Metro and MERC contracting rules and accept the Portland Development Commission's contracting process for selection of the Metro Headquarters Hotel Development Team and authorize exclusive negotiations with the selected Headquarters Hotel Development Team

Resolution No.: 07-03

Presented By: Jeff Blosser

Date: January 24, 2007

Background and Analysis: The resolution describes in detail the very complicated, extensive and public process that the Portland Development Commission ("PDC") went through to select the Headquarter Hotel Development Team. The Resolution requests that the Metro Council adopt the process used by the PDC in selecting the Headquarter Hotel Development Team and exempt the process from public contracting procedures pursuant to MERC policies, the Metro Code and Oregon law. MERC requests that Metro do so as this is the most efficient, expedient and cost effective manner for the continuation of the process of developing a Headquarter Hotel. Metro is the appropriate agency to move this project forward with its ownership of the Oregon Convention Center and its ability to bond the project. A Convention Center HQ Hotel is essential to the economic success of the Oregon Convention Center and surrounding area. The HQ Hotel will increase OCC's ability to attract new convention business, generate economic impact for the area and add business and tax contributions. The HQ Hotel is part of MERC's strategic plan and a funding solution for the Oregon Convention Center operations. The lack of a HQ Hotel is the principal reason our clients do not pick Portland as their preferred convention destination. The presence of a HQ Hotel would significantly aid in selling Portland as a preferred destination. Re-starting this project would cause a minimum two-year delay and would increase the construction costs that have been escalating at a rate of 5-6% over the past two years.

Fiscal Impact: None

Recommendation: Staff recommends that the Metropolitan Exposition Recreation Commission adopt Resolution 07-03, For the purpose of granting an exception to the Metro and MERC contracting rules and accept the Portland Development Commission's contracting process for selection of the Metro Headquarters Hotel Development Team and authorize exclusive negotiations with the selected Headquarters Hotel Development Team.