MERC Commission Meeting

August 7, 2013
12:30 pm
AMENDED PACKET

Portland Exposition Center
2060 N Marine Drive
Hall E, Meeting Rooms E101-2



600 NE Grand Ave.
Portland, OR 97232
503-797-1780

www.oregonmetro.gov

Metro | *Exposition Recreation Commission*

Agenda

Meeting: Metro Exposition Recreation Commission Meeting

Date: Wednesday, August 7, 2013

Time: 12:30-2:30 p.m.

Place: Portland Exposition Center Hall E, Meeting Rooms E101-2

CALL TO ORDER

12:30	**1.**	**QUORUM CONFIRMED**	
12:35	**2.**	**COMMISSIONER, COUNCIL LIAISON COMMUNICATIONS**	
	2.1	Commission Liaison Appointments, Page 2	**Judie Hammerstad**
12:40	**3.**	**OPPORTUNITY FOR PUBLIC COMMENT ON NON-AGENDA ITEMS**	
12:45	**4.**	**GENERAL MANAGER COMMUNICATIONS**	**Teri Dresler**
	4.1	Financial Report, Pages 4-15	
12:55	**5.**	**MERC VENUES' BUSINESS REPORTS**	**Scott Cruickshank** **Robyn Williams** **Matthew P. Rotchford**
1:10	**6.**	**EXPO HALLS A,B,C FOLLOW-UP REPORT** **EXPO GREENWALL** **SPRING EVENT**	**Matthew P. Rotchford**
1:20	**7.**	**DISCUSSION: PROPOSED CHANGES TO MERC PERSONNEL POLICIES**, Pages 17-19	**Mary Rowe**
1:40	**8.**	**CONSENT AGENDA**	
	8.1	July 10, 2013 MERC Regular Meeting Record of Actions, Pages 21-25	
1:45	**9.**	**ACTION AGENDA**	
		Resolution 13-19 for the purpose of approving the amended and restated Visitor Facilities Intergovernmental Agreement between Metro, Multnomah county and the City of Portland and recommending approval to Metro Council, Pages 27-60	**Teri Dresler** **Scott Cruickshank**
		Resolution 13-20 for the purpose of approving the Oregon Convention Center Hotel project Term Sheet with Mortenson Development Inc., and recommending approval to Metro Council, Pages 61-77	**Teri Dresler** **Scott Cruickshank**
		Staff Report for Resolutions 13-19 and 13-20, pages 78-84	
		Resolution 13-21 for the purpose of approving changes to the Capital Asset Policies, Pages 85-92	**Tim Collier** **Brian Kennedy**
2:15	**10.**	**EXECUTIVE SESSION – Update on the status of labor negotiations**	**Mary Rowe**
		ADJOURN	
		OPTIONAL TOUR OF EXPO HALLS A, B, C (Be sure to wear walking shoes)	**Matthew P. Rotchford**

MERC Commission Meeting

August 7, 2013
12:30 pm

2.1 Commission Liaison Appointments

600 NE Grand Ave.
Portland, OR 97232-2736
www.oregonmetro.gov

Metro | *Making a great place*

August 7, 2013

TO: MERC Commissioners

Elisa Dozono
Chris Erickson
Terry Goldman
Cynthia Haruyama
Ray Leary
Karis Stoudamire-Phillips

FROM: Judie Hammerstad, Chair

cc: Venues Executive Team

SUBJECT: **For Approval:** 2013/14 MERC Commission Liaison Appointments

Oregon Convention Center	Elisa Dozono Terry Goldman
Portland Center for the Performing Arts	Chris Erickson Judie Hammerstad
Portland Metropolitan Exposition Center	Cynthia Haruyama Karis Stoudamire-Phillips
**MERC Budget Committee **Per Metro Code, this is a formal Committee with mandatory public meetings	Cynthia Haruyama, Chair Terry Goldman Chris Erickson
MERC Officers	Judie Hammerstad, Chair Terry Goldman, Vice Chair Cynthia Haruyama, Secretary-Treasurer
Metro Audit Committee	Chris Erickson
FOTA Program Advisors	Ray Leary Elisa Dozono Karis Stoudamire-Phillips
Hotel Project Liaisons	Judie Hammerstad Elisa Dozono

MERC Commission Meeting

August 7, 2013
12:30 pm

4.1 Financial Report

JUNE 2013

FINANCIAL INFORMATION

Date: July 29, 2013

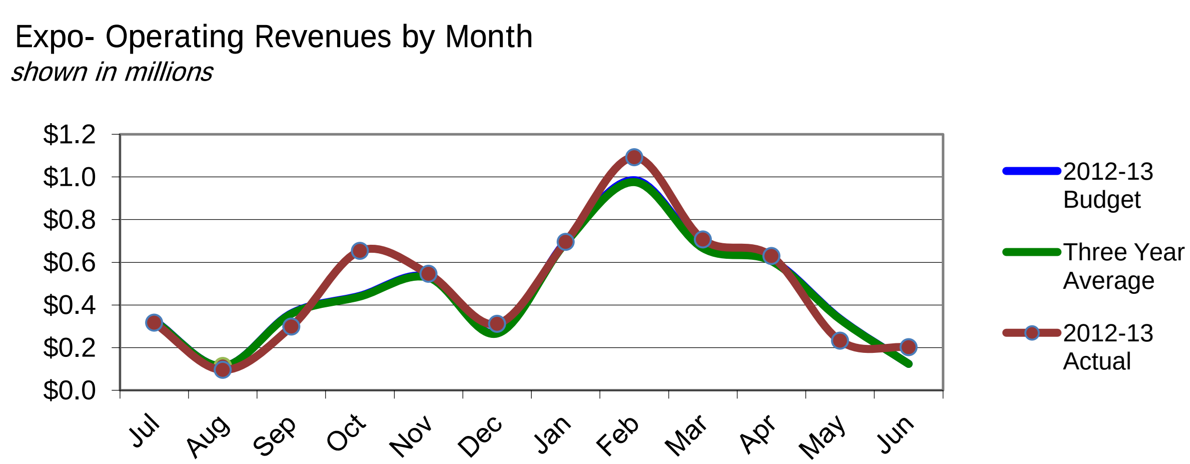
To:

Commissioner Judie Hammerstad, Chair
Commissioner Terry Goldman, Vice Chair
Commissioner Cynthia Haruyama, Secretary/Treasurer
Commissioner Elisa Dozono
Commissioner Chris Erickson
Commissioner Ray Leary
Commissioner Karis Stoudamire-Phillips

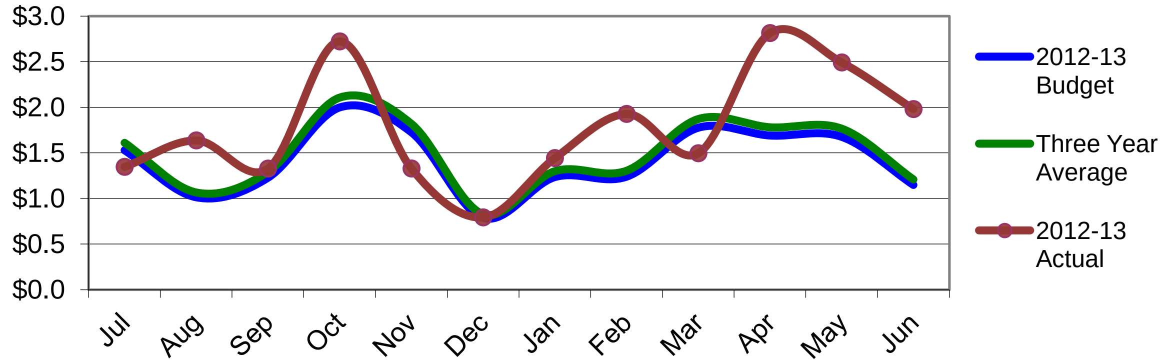
From: Cynthia Hill – Finance Manager

Re: MERC Financial Information June 2013 (preliminary 1st Close)

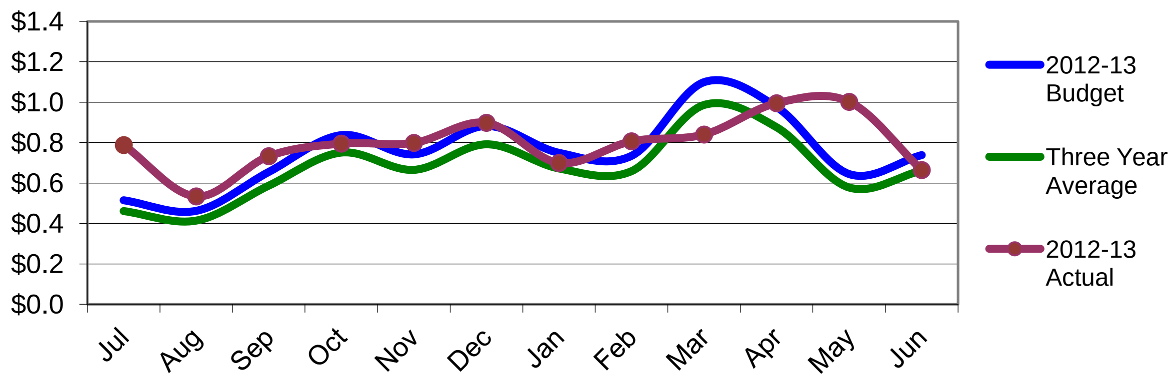
Enclosed please find the monthly financial report for the Metropolitan Exposition Recreation Commission reflecting revenues and expenditures as of June 30, 2013 1st close. The first financial close at year end includes operating revenues and expenditures for the month of June as you would see in any month during the year. While the operating revenues are complete and may have only minor adjustments, this period does not include all of the final year end accruals for expenditures and other non operating revenue and expenditures. Examples of year end accrual entries are the revenue transfers from the Visitor Development Fund (VDF); Bucket #4 OCC Operating Support $2,081,895; Bucket #5 OCC Enhanced Marketing $441,358 and Bucket #8 PCPA Support $630,511. Upon receipt of the VDF transfers we pass through to Travel Portland, the OCC Enhanced Marketing amount of $441,358, and to the Visitor Development Fund, Inc, the VDF 2 amount of $875,000. There will be two additional transfers of Transient Lodging Tax revenue which includes the 4th quarter tax collections. There are many year-end expenditure accruals for materials and services received through June 30th. These examples demonstrate the preliminary status of this report.



OCC- Operating Revenues by Month
shown in millions



PCPA Operating Revenues by Month
shown in millions

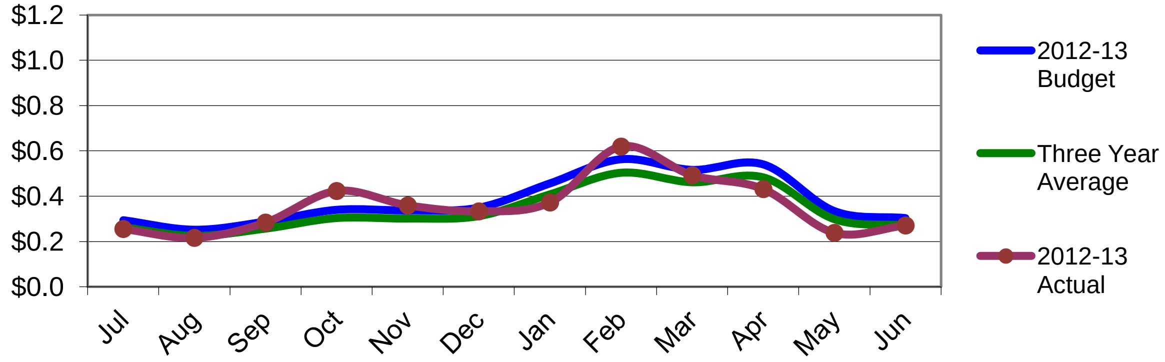


Expo Center's top grossing events in the month of June were the 2013 Vans World Tour ($84 thousand) the Collectors West Gun and Knife Show ($41 thousand); La Fortuna Entertainment LLC Concert ($25 thousand).

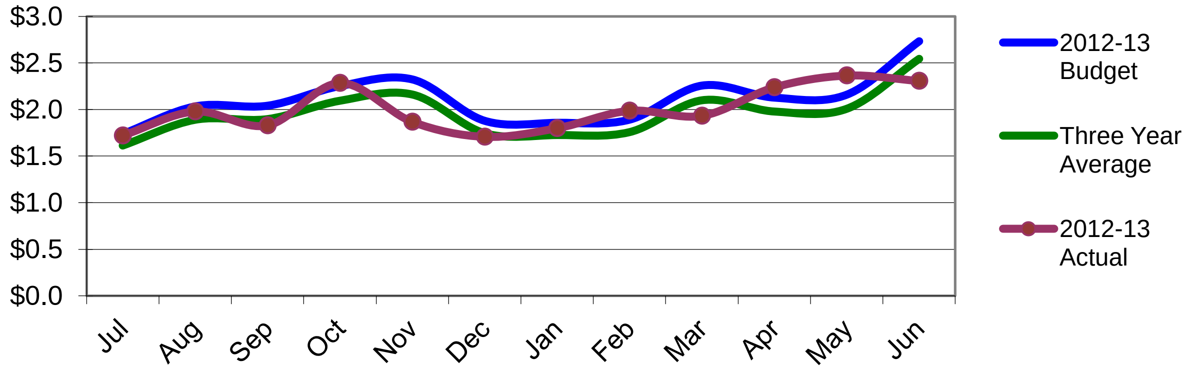
OCC top grossing events in the month of June were IEEE Conference Computer on Vision & Pattern Recognition ($755 thousand); the jQuery Conference ($178 thousand); LeakyCon ($166 thousand) and the Society of Toxicologic Pathology ($124 thousand).

PCPA top grossing events at PCPA included The Addams Family ($114 thousand) Rock of Ages ($54 thousand in June and $146 thousand in the prior month May); Celebrate Balanchine ($53 thousand).

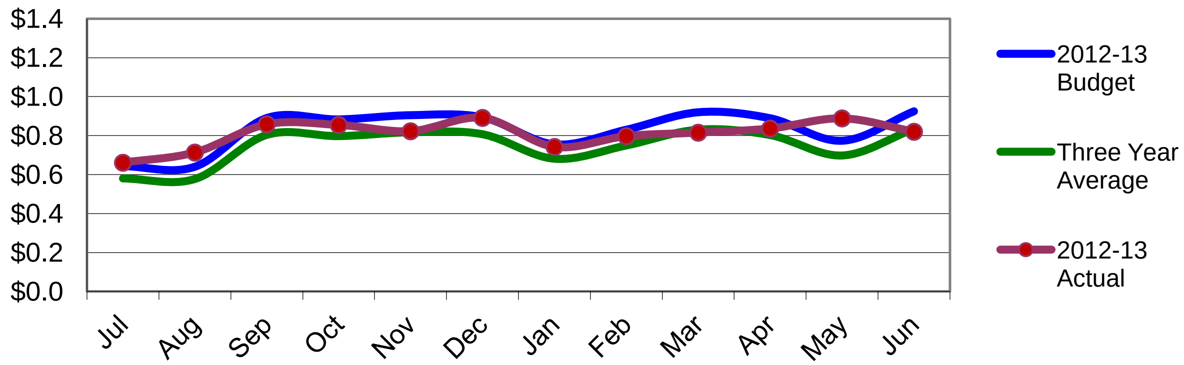
Expo - Operating Expenditures by Month
shown in millions



OCC - Operating Expenditures by Month
shown in millions



PCPA - Operating Expenditures by Month
shown in millions



Operating expenditures are preliminary as of 1st close with outstanding accruals described in the first paragraph. 2nd close, which occurs in August, will reflect a more accurate view of final year-end expenditures, however accounting continues to make entries through final close.

Non Operating Revenues and Expenditures

Transient Lodging Tax (TLT) receipts provide fundamental operating and marketing financial support for OCC and PCPA. The June TLT transfer from the County was $537 thousand. Actuals year to date are greater than prior year by $709 thousand or 8.37%. Two additional transfers of tax collections are expected to be accrued to FY 2012-13.

The City of Portland has delayed invoicing for the Eastside Streetcar Eastside Streetcar local improvement district assessment (LID) levied by the City of Portland on Metro Regional Center and the Oregon Convention Center. The OCC assessment is approximately $2.2 million and is to be paid from an interfund loan from the General Fund repaid by OCC over a ten year period. A budget amendment was approved in June which carried over and re-budgeted all actions approved in the current year to FY 2013-14 to allow for payment of the assessments when received in late July or early August 2013. MERC has chosen to carry over the funding received in FY 2012-13 for the anticipated first year repayment and make two years of payments in FY 2013-14.

MERC Visitor Venues

Events-Performances-Attendance

FY 2012-13 as of June 30, 2013

	Annual 2012		Annual 2013		Net Change from Prior Year	
OCC	**Events**	**Attendance**	**Events**	**Attendance**	**Events**	**Attendance**
Tradeshows/Conventions	80	183,082	95	196,369	15	13,287
Consumer Public Shows	57	395,984	70	329,263	13	(66,721)
Miscellaneous	6	17,637	11	19,106	5	1,469
Miscellaneous -In-House	163	3,725	172	3,263	9	(462)
Meetings	232	80,990	205	60,728	(27)	(20,262)
Catering	103	51,564	101	52,554	(2)	990
Totals	**641**	**732,982**	**654**	**661,283**	**13**	**(71,699)**

	Annual 2012		Annual 2013		Net Change from Prior Year	
Expo Center	**Events**	**Attendance**	**Events**	**Attendance**	**Events**	**Attendance**
Consumer Public Shows	55	370,100	49	378,956	(6)	8,856
OVO by Cirque Du Soleil	*1*	*98,186*	-	-	(1)	(98,186)
Miscellaneous	30	18,847	33	25,282	3	6,435
Cirque Australian Forklift Training	*2*	*336*	-	-	(2)	(336)
Meetings	15	426	16	514	1	88
Catering	1	390	2	2,534	1	2,144
Tradeshows/Conventions	10	18,603	10	22,327	-	3,724
Totals without/Cirque du Soleil	**111**	**408,366**	**110**	**429,613**	**(1)**	**21,247**
Totals with/Cirque du Soleil	**114**	**506,888**	**110**	**429,613**	**(4)**	**(77,275)**

	Annual 2012		Annual 2013		Net Change from Prior Year	
PCPA	**Performances**	**Attendance**	**Performances**	**Attendance**	**Performances**	**Attendance**
Commercial (Non-Broadway)	100	111,026	136	135,341	36	24,315
Broadway	102	226,455	83	152,563	(19)	(73,892)
Resident Company	260	291,097	265	274,214	5	(16,883)
Student	170	85,547	184	96,549	14	11,002
Non-Profit	210	123,092	249	118,043	39	(5,049)
Miscellaneous	36	7,353	35	8,567	(1)	1,214
Totals	**878**	**844,570**	**952**	**785,277**	**74**	**(59,293)**

Metropolitan Exposition-Recreation Commission

MERC Statement of Activity with Annual Budget

All Departments

June 2013

2013-12

FIRST CLOSE

	Current Month Actual June-13	Current Year to Date Actual June-13	Prior Year to Date Actual June-12	% of Prior Year	Annual Budget June-13	% of Annual Budget 100%
Operating						
Revenue	1,248,633	20,853,685	19,553,553	107%	18,729,081	111%
Revenue - Food and Beverage	1,596,768	15,774,904	13,730,090	115%	13,660,301	115%
Total Operating Revenue	**2,845,401**	**36,628,588**	**33,283,643**	**110%**	**32,389,382**	**113%**
Costs - Food and Beverage	1,084,815	12,646,512	11,750,818	108%	11,514,085	110%
Personal Services	1,300,835	16,555,134	17,162,904	96%	17,403,962	95%
Goods & Services	923,257	7,662,404	7,133,353	107%	9,057,018	85%
Marketing Travel Portland	225,004	2,700,048	2,642,520	102%	4,014,278	67%
Total Operating Expenses	**3,533,912**	**39,564,098**	**38,689,594**	**102%**	**41,989,343**	**94%**
Net Operating Results Inc (Dec)	**(688,511)**	**(2,935,510)**	**(5,405,951)**	**54%**	**(9,599,961)**	**31%**
Non Operating	-	(0)	-		-	
Transient, Lodging Tax	537,059	9,181,115	8,471,859	108%	9,985,127	92%
Visitor Development Fund (VDF)	-	-	-	-	3,147,506	0%
Government Support City of Portland	-	798,035	774,040	103%	793,408	101%
Non-Operating Revenue	27,392	141,672	169,348	84%	156,412	91%
Non-Operating Expense	-	-	-	-	2,200,000	0%
	564,451	**10,120,821**	**9,415,246**	**107%**	**11,882,453**	**85%**
Support and Risk Management						
MERC Administration	-	-	-	-	-	-
Metro Support Services	207,510	2,498,424	2,164,856	115%	2,498,424	100%
Metro Risk Management	-	729,301	741,765	98%	729,301	100%
	207,510	**3,227,725**	**2,906,621**	**111%**	**3,227,725**	**100%**
Net Increase (Decrease)	**(331,569)**	**3,957,586**	**1,102,674**	**359%**	**(945,233)**	**-419%**
Transfers						
Transfers to (Expense)	13,425	161,056	88,708	182%	392,056	41%
Transfers from (Revenue)	4,163	568,633	114,822	495%	2,768,633	21%
Debt Service (Expense)	-	1,187,132	1,188,632	100%	1,187,132	100%
Net Transfers	**(9,262)**	**(779,555)**	**(1,162,518)**	**67%**	**1,189,445**	**-66%**
Net Operations	**(340,831)**	**3,178,031**	**(59,844)**	**-5311%**	**244,212**	**1301%**
	-	(0)	0		-	
Capital						
Capital Outlay	219,984	2,518,911	1,519,865	166%	3,299,077	76%
Transient, Lodging Tax	-	-	-	-	-	-
Non-Operating Revenue	-	123,833	134,316	92%	295,000	42%
Intrafund Transfers (Exp/Rev)	-	-	-	-	-	-
Transfers from (Revenue)	-	-	480,000	0%	-	-
Net Capital	**(219,984)**	**(2,395,078)**	**(905,549)**	**264%**	**(3,004,077)**	**80%**
Fund Balance Inc (Dec)	**(560,815)**	**782,953**	**(965,392)**	**-81%**	**(2,759,865)**	**-28%**
	-	(0)	0		-	
Food and Beverage Gross Margin	**511,953**	**3,128,392**	**1,979,272**		**2,146,216**	**146%**
Food and Beverage Gross Margin	**32.1%**	**19.8%**	**14.4%**		**15.7%**	
Excise Tax	**160,743**	**2,015,263**	**1,804,266**			
Transient, Lodging Taxes as percent of revenue	**16%**	**20%**	**20%**		**24%**	

	Current Year to Date Actual	Prior Year to Date Actual	Annual Budget
Fund Balance			
Beginning Fund Balance	26,161,717	26,357,848	26,161,717
Fund Balance Inc (Dec)	782,953	(965,392)	(2,759,865)
Ending Fund Balance	**26,944,670**	**25,392,456**	**23,401,852**
Unrestricted Fund Balance			4,955,143
Operating Contingency			652,486
Stabilization Reserve			620,500
Designated for Renewal & Replacement			12,277,072
New Capital/Business Strategy Reserve			4,554,437
Restricted by Agreement - TLT			142,214
Ending Fund Balance			**23,401,852**
			-

Metropolitan Exposition-Recreation Commission

MERC Statement of Activity with Annual Budget

Portland Exposition Center

June 2013

2013-12

FIRST CLOSE

	Current Month Actual	Current Year to Date Actual	Prior Year to Date Actual	% of Prior Year	Annual Budget	% of Annual Budget
	June-13	June-13	June-12		June-13	100%
Operating						
Revenue	134,903	3,876,352	4,126,169	94%	3,838,186	101%
Revenue - Food and Beverage	67,049	1,904,644	1,981,807	96%	1,811,485	105%
Total Operating Revenue	**201,952**	**5,780,996**	**6,107,975**	**95%**	**5,649,671**	**102%**
Costs - Food and Beverage	102,370	1,668,564	1,777,685	94%	1,569,892	106%
Personal Services	100,171	1,483,695	1,461,042	102%	1,608,478	92%
Goods & Services	68,224	1,142,185	1,290,821	88%	1,392,728	82%
Total Operating Expenses	**270,765**	**4,294,444**	**4,529,548**	**95%**	**4,571,098**	**94%**
Net Operating Results Inc (Dec)	**(68,813)**	**1,486,552**	**1,578,427**	**94%**	**1,078,573**	**138%**
Non Operating						
Non-Operating Revenue	1,125	12,392	18,883	66%	21,290	58%
Non-Operating Expense	-	-	-	-	-	-
	1,125	**12,392**	**18,883**	**66%**	**21,290**	**58%**
Support and Risk Management						
MERC Administration	12,829	153,944	187,337	82%	153,944	100%
Metro Support Services	18,670	224,858	194,837	115%	224,858	100%
Metro Risk Management	-	80,988	85,947	94%	80,988	100%
	31,499	**459,790**	**468,121**	**98%**	**459,790**	**100%**
Net Increase (Decrease)	**(99,187)**	**1,039,153**	**1,129,189**	**92%**	**640,073**	**162%**
Transfers						
Intrafund Transfers	-	-	-	-	-	-
Transfers to	116	1,359	-	-	1,359	0%
Transfers from	375	4,500	7,980	56%	4,500	100%
Debt Service	-	1,187,132	1,188,632	100%	1,187,132	100%
Net Transfers	**259**	**(1,183,991)**	**(1,180,652)**	**100%**	**(1,183,991)**	**100%**
Net Operations	**(98,928)**	**(144,838)**	**(51,463)**	**281%**	**(543,918)**	**27%**
Capital						
Capital Outlay Expense	18,846	468,497	116,322	403%	524,500	89%
Non-Operating Revenue	-	-	4,987	0%	-	-
Intrafund Transfers	-	270,000	-	-	270,000	0%
Net Capital	**(18,846)**	**(198,497)**	**(111,335)**	**178%**	**(254,500)**	**78%**
Fund Balance Inc (Dec)	**(117,774)**	**(343,335)**	**(162,797)**	**211%**	**(798,418)**	**43%**
Food and Beverage Gross Margin	**(35,321)**	**236,080**	**204,122**		**241,593**	**98%**
Food and Beverage Gross Margin %	**-52.7%**	**12.4%**	**10.3%**		**13.3%**	
Excise Tax	**14,511**	**429,442**	**453,167**		**-**	
Fund Balance						
Beginning Fund Balance		4,310,142	4,732,826		4,310,142	
Fund Balance Inc (Dec)		(343,335)	(162,797)		(798,418)	
Ending Fund Balance		**3,966,807**	**4,570,029**		**3,511,724**	
Unrestricted Fund Balance					182,705	
Operating Contingency					242,994	
Stabilization Reserve					186,000	
Designated for Renewal & Replacement					775,000	
New Capital/Business Strategy Reserve					2,125,025	
Ending Fund Balance					**3,511,724**	
		-	-		-	

Metropolitan Exposition-Recreation Commission

MERC Statement of Activity with Annual Budget

Oregon Convention Center

June 2013

2013-12

FIRST CLOSE

Excluding EMP

	Current Month Actual	Current Year to Date Actual	Prior Year to Date Actual	% of Prior Year	Annual Budget	% of Annual Budget
	June-13	June-13	June-12		June-13	100%
Operating						
Revenue	638,770	9,574,135	8,584,148	112%	7,798,834	123%
Revenue - Food and Beverage	1,340,412	11,720,482	9,566,955	123%	9,849,862	119%
Total Operating Revenue	**1,979,182**	**21,294,617**	**18,151,103**	**117%**	**17,648,696**	**121%**
Costs - Food and Beverage	816,790	9,248,199	8,266,546	112%	8,260,981	112%
Personal Services	674,730	8,530,045	8,930,547	96%	9,125,317	93%
Goods & Services	590,734	3,539,603	3,550,049	100%	3,884,221	91%
Marketing Travel Portland	225,004	2,700,048	2,642,520	102%	4,014,278	67%
Total Operating Expenses	**2,307,258**	**24,017,895**	**23,389,662**	**103%**	**25,284,797**	**95%**
Net Operating Results Inc (Dec)	**(328,076)**	**(2,723,279)**	**(5,238,559)**	**52%**	**(7,636,101)**	**36%**
Non Operating						
Transient, Lodging Tax	468,207	8,004,071	7,347,829	109%	8,729,303	92%
Visitor Development Fund (VDF)	-	-	-	-	2,520,676	0%
Non-Operating Revenue	3,582	36,577	50,455	72%	46,678	78%
Non-Operating Expense	-	-	-	-	2,200,000	0%
	471,788	**8,040,648**	**7,398,284**	**109%**	**9,096,657**	**88%**
Support and Risk Management						
MERC Administration	79,823	957,878	1,165,651	82%	957,878	100%
Metro Support Services	116,207	1,399,118	1,212,325	115%	1,399,118	100%
Metro Risk Management	-	408,408	397,366	103%	408,408	100%
	196,030	**2,765,404**	**2,775,342**	**100%**	**2,765,404**	**100%**
Net Increase (Decrease)	**(52,318)**	**2,551,966**	**(615,617)**	**-415%**	**(1,304,848)**	**-196%**
Transfers						
Transfers to (Expense)	706	8,450	-	-	239,450	4%
Transfers from (Revenue)	2,326	28,000	66,180	42%	2,228,000	1%
Net Transfers	**1,620**	**19,550**	**66,180**	**30%**	**1,988,550**	1%
Net Operations	**(50,698)**	**2,571,516**	**(549,437)**	**-568%**	**683,702**	**376%**
				-		
Capital				-		-
Capital Outlay Expense	74,326	1,524,062	950,641	160%	2,052,577	74%
Non-Operating Revenue	-	123,833	1,404	8820%	220,000	56%
Intrafund Transfers (Exp/Rev)	-	90,000	-	-	90,000	100%
Transfers from (Revenue)	-	-	480,000	0%	-	-
Net Capital	**(74,326)**	**(1,310,229)**	**(469,237)**	**279%**	**(1,742,577)**	**75%**
Fund Balance Inc (Dec)	**(125,024)**	**1,261,287**	**(1,018,674)**	**-124%**	**(1,058,875)**	**-119%**
Food and Beverage Gross Margin	**523,622**	**2,472,283**	**1,300,408**		**1,588,881**	**156%**
Food and Beverage Gross Margin %	**39.1%**	**21.1%**	**13.6%**		**16.1%**	
Excise Tax	**146,232**	**1,585,820**	**1,350,849**		**-**	
Transient, Lodging Taxes as percent of revenue	**19%**	**27%**	**29%**		**33%**	
Fund Balance						
Beginning Fund Balance		11,058,549	11,552,031		11,058,549	
Fund Balance Inc (Dec)		1,261,287	(1,018,674)		(1,058,875)	
Fund Balance Inc (Dec) for HQH		128,075	-		(100,000)	
Ending Fund Balance		**12,447,911**	**10,533,357**		**9,899,674**	
Unrestricted Fund Balance					2,350,200	
Operating Contingency					258,839	
Stabilization Reserve					260,000	
Contingency for Renewal & Replacement					-	
Designated for Renewal & Replacement					5,685,779	
New Capital/Business Strategy Reserve					1,334,856	
Restricted by Agreement - TLT					10,000	
Ending Fund Balance					**9,899,674**	

Metropolitan Exposition-Recreation Commission

MERC Statement of Activity with Annual Budget

Portland Center for the Performing Arts

June 2013

2013-12

FIRST CLOSE

	Current Month Actual	Current Year to Date Actual	Prior Year to Date Actual	% of Prior Year	Annual Budget	% of Annual Budget
	June-13	June-13	June-12		June-13	100%
Operating						
Revenue	474,960	7,403,198	6,839,633	108%	7,092,061	104%
Revenue - Food and Beverage	189,307	2,149,778	2,181,329	99%	1,998,954	108%
Total Operating Revenue	**664,267**	**9,552,976**	**9,020,962**	**106%**	**9,091,015**	**105%**
Costs - Food and Beverage	165,655	1,729,749	1,706,587	101%	1,683,212	103%
Personal Services	437,779	5,436,383	5,377,952	101%	5,522,476	98%
Goods & Services	216,437	2,532,951	2,045,534	124%	2,748,093	92%
Total Operating Expenses	**819,871**	**9,699,083**	**9,130,072**	**106%**	**9,953,781**	**97%**
Net Operating Results Inc (Dec)	**(155,604)**	**(146,107)**	**(109,111)**	**134%**	**(862,766)**	**17%**
Non Operating						
Transient, Lodging Tax	68,852	1,177,044	1,124,030	105%	1,255,824	94%
Visitor Development Fund (VDF)	-	-	-	-	626,830	0%
Government Support City of Portland	-	798,035	774,040	103%	793,408	101%
Non-Operating Revenue	22,046	85,381	93,629	91%	84,376	101%
Non-Operating Expense	-	-	-	-	-	-
	90,899	**2,060,460**	**1,991,699**	**103%**	**2,760,438**	**75%**
Support and Risk Management						
MERC Administration	49,890	598,674	728,532	82%	598,674	100%
Metro Support Services	72,633	874,448	757,694	115%	874,448	100%
Metro Risk Management	-	239,905	258,452	93%	239,905	100%
	122,523	**1,713,027**	**1,744,678**	**98%**	**1,713,027**	**100%**
Net Increase (Decrease)	**(187,227)**	**201,326**	**137,910**	**146%**	**184,645**	**109%**
Transfers						
Transfers to (Expense)	441	5,281	10,824	49%	5,281	100%
Transfers from (Revenue)	1,462	17,500	28,440	62%	17,500	100%
Net Transfers	**1,021**	**12,219**	**17,616**	69%	**12,219**	**100%**
Net Operations	**(186,206)**	**213,545**	**155,526**	**137%**	**196,864**	**108%**
Capital						
Capital Outlay Expense	86,361	466,134	452,902	103%	675,000	69%
Non-Operating Revenue	-	-	127,925	0%	75,000	0%
Intrafund Transfers (Exp/Rev)	-	-	15,000	0%	-	-
Net Capital	**(86,361)**	**(466,134)**	**(309,977)**	**150%**	**(600,000)**	**78%**
Fund Balance Inc (Dec)	**(272,568)**	**(252,589)**	**(154,450)**	**164%**	**(403,136)**	**63%**
Food and Beverage Gross Margin	**23,652**	**420,029**	**474,742**		**315,742**	**133%**
Food and Beverage Gross Margin %	**12.5%**	**19.5%**	**21.8%**		**15.8%**	
Taxes as percent of revenue	**9%**	**11%**	**11%**		**12%**	
Fund Balance						
Beginning Fund Balance		8,445,301	8,490,410		8,445,301	
Fund Balance Inc (Dec)		(252,589)	(154,450)		(403,136)	
Ending Fund Balance		**8,192,712**	**8,335,960**		**8,042,165**	
Unrestricted Fund Balance					1,380,355	
Operating Contingency					47,754	
Stabilization Reserve					174,500	
Designated for Renewal & Replacement					5,345,000	
New Capital/Business Strategy Reserve					1,094,556	
Ending Fund Balance					**8,042,165**	

Metropolitan Exposition-Recreation Commission

MERC Statement of Activity with Annual Budget

Convention Center Enhanced Marketing Project

June 2013

2013-12

FIRST CLOSE

	Current Month Actual	Current Year to Date Actual	Prior Year to Date Actual	% of Prior Year	Annual Budget	% of Annual Budget
	June-13	June-13	June-12		June-13	100%
Operating						
Goods & Services	49,786	244,592	-	-	472,667	52%
Meetings Expense	*856*	*1,978*	-	-	*3,800*	52%
Communications Consulting	*3,130*	*21,259*	-	-	*50,000*	43%
Construction Consulting	-	*24,995*	-	-	*35,000*	71%
Financial Consulting	*2,648*	*21,383*	-	-	*72,500*	29%
Legal Consulting	*32,515*	*37,375*	-	-	*105,000*	36%
Management Consulting	*7,000*	*23,000*	-	-	*83,467*	28%
Market Consulting	*3,638*	*114,602*	-	-	*122,900*	93%
Net Operating	**(49,786)**	**(244,592)**	**-**	**-**	**(472,667)**	**52%**
Net Increase (Decrease)	**(49,786)**	**(244,592)**	**-**	-	**(472,667)**	
Transfers						
Transfers to	12,162	145,966	-	-	145,966	100%
Transfers from	-	518,633	-	-	518,633	100%
Net Transfers	**(12,162)**	**372,667**	**-**	-	**372,667**	100%
Net Operations	**(61,948)**	**128,075**	**-**	**-**	**(100,000)**	**-128%**
Fund Balance Inc (Dec)	**(61,948)**	**128,075**	**-**	**-**	**(100,000)**	**-128%**

Metropolitan Exposition-Recreation Commission

MERC Statement of Activity with Annual Budget

MERC Administration

June 2013

2013-12

FIRST CLOSE

	Current Month Actual	Current Year to Date Actual	Prior Year to Date Actual	% of Prior Year	Annual Budget	% of Annual Budget
	June-13	**June-13**	**June-12**		**June-13**	**100%**
Operating						
Revenue	-	-	3,603	0%	-	-
Personal Services	88,156	1,105,011	1,393,363	79%	1,147,691	96%
Goods & Services	(1,924)	203,073	246,949	82%	559,309	36%
Net Operating Results Inc (Dec)	**(86,232)**	**(1,308,084)**	**(1,636,708)**	**80%**	**(1,707,000)**	**77%**
Non Operating						
Non-Operating Revenue	639	7,322	6,380	115%	4,068	180%
Non-Operating Expense	-	-	-	-	-	-
	639	**7,322**	**6,380**	**115%**	**4,068**	**180%**
Support and Risk Management						
MERC Administration	142,541	1,710,496	2,081,520	82%	1,710,496	100%
	142,541	**1,710,496**	**2,081,520**	**82%**	**1,710,496**	**100%**
Net Increase (Decrease)	**56,948**	**409,733**	**451,192**	**91%**	**7,564**	**5417%**
Transfers						
Transfers to (Expense)	-	-	77,884	0%	-	-
Transfers from (Revenue)	-	-	12,222	0%	-	-
Net Transfers	**-**	**-**	**(65,662)**	0%	**-**	-
Net Operations	**56,948**	**409,733**	**385,530**	**106%**	**7,564**	**5417%**
Capital						
Capital Outlay Expense	40,450	60,218	-	-	47,000	128%
Transient, Lodging Tax	-	-	-	-	-	
Non-Operating Revenue	-	-	-	-	-	-
Intrafund Transfers (Exp/Rev)	-	(360,000)	(15,000)	2400%	(360,000)	100%
Net Capital	**(40,450)**	**(420,218)**	**(15,000)**	**2801%**	**(407,000)**	**103%**
Fund Balance Inc (Dec)	**16,498**	**(10,485)**	**370,530**	**-3%**	**(399,436)**	**3%**
Full Time Employees					**20.0**	
Excise Tax	**-**	**-**	**251**		**-**	
Fund Balance						
Beginning Fund Balance		2,347,725	1,582,581		2,347,725	
Fund Balance Inc (Dec)		(10,485)	370,530		(399,436)	
Ending Fund Balance		**2,337,240**	**1,953,111**		**1,948,289**	
Unrestricted Fund Balance					1,041,883	
Operating Contingency					102,899	
Designated for Renewal & Replacement					471,293	
Contingency for Renewal & Replacement					200,000	
Restricted by Agreement - TLT					132,214	
Ending Fund Balance					**1,948,289**	

MERC Commission Meeting

August 7, 2013
12:30 pm

7.0 Discussion of
proposed changes to
MERC Personnel Policies

Following is a list of policies that Metro Human Resources has created or recently updated. These proposed policies supersede those listed in the Metro Employee Handbook (EO #88) and the MERC Personnel Policies Handbook (8/1/07). All other policies in those documents remain in force.

Policy	Existing MERC Policy	Existing Metro Policy	Legal Requirement	Policy Summary	Fiscal Impact	Business Impact
Alternative Duty Leave	§ 16.7(B)	E.O. 88 § 31(D)	ORS 652.250; ORS 404.200 (Search and Rescue Leave) ORS 401.378 (Red Cross Disaster Relief Services Leave) ORS 236.040 (Peace Corps Leave)	• Provides leave and outlines procedures and requirements consistent with Oregon law and current MERC and Metro policies. ○ Peace Corps: 2 years of unpaid leave ○ Disaster relief: up to 15 work days unpaid leave per 12-month period ○ Search and rescue: up to 5 days paid leave	N/A (paid leave provisions are legally required and consistent with current policy)	Promotes legal compliance
Charitable Solicitation	N/A	Metro Code § 2.02.050	N/A	• Limits oversolicitation while allowing flexibility to allow fundraisers that benefit or are closely related to Metro. • Provides guidelines for allowing employees to leave solicitation materials for review (e.g. school fundraisers etc.).	N/A	Establishes consistent Metro-wide policy and procedures
Employee Records	§ 10	E.O. 88 § 36	ORS 652.750	• Expands policy to address medical records • Clarifies procedures for maintaining, viewing and copying files	N/A	Promotes legal compliance

Information Technology – Acceptable Use	§ 12.12	E.O. 69; E.O. 76	N/A	• Describes authorized and prohibited uses of Metro technology, including internet and email. *This policy was previously submitted to the MERC Commission for discussion Sept. 5, 2013 and has since been revised.*	Limits risk	Protects Metro's information assets and clarifies employee conduct expectations
Internships	N/A	N/A	Fair Labor Standards Act	• Describes procedures for creating and recruiting for internships. • Outlines legal requirements for unpaid internships to avoid creating an employment relationship.	Limits risk	Promotes legal compliance and consistency in internship management practices across the agency
Job Sharing	§ 16.0(B)	§ 17	N/A	• Outlines procedures for initiating and dissolving job share arrangements and performance expectations for job share partners. • Eliminates option to alter distribution of benefits; benefits will be prorated based on budgeted work hours (FTE). • Changes level of approval required from COO/GM to Department Director and HR Director.	N/A	Establishes consistent Metro-wide policy and procedures
Modified Duty for Non-Occupational Conditions	N/A	N/A	N/A	• Describes limited circumstances in which modified work is available for injuries and medical conditions that were not incurred on the job. • Consistent with current practices.	N/A	Establishes consistent Metro-wide policy and procedures
Performance Management	§ 8	E.O. 88 § 11	N/A	• Outlines timelines and responsibilities for performance management. • Increases emphasis on planning and on-going feedback.	N/A	Establishes consistent Metro-wide policy and procedures

Pregnancy Transfer and Leave	N/A	E.O. 88 § 28	N/A	• Describes limited circumstances in which modified work and leave are available to accommodate risks related to pregnancy in situations that would not be covered by FMLA, ADA, or other laws and policies. • Consistent with current Metro policy.	Limits risk	Establishes consistent Metro-wide policy and procedures
Resignation and Retirement	§ 15.0	E.O. 88 § 35	N/A	• Outlines procedures and responsibilities in the event of resignation and retirement.	N/A	Establishes consistent Metro-wide policy and procedures
Volunteers	N/A	E.O. 88 § 42	Fair Labor Standards Act	• Outlines general guidelines for Metro volunteer programs and applicable legal restrictions.	N/A	Promotes legal compliance and consistency in volunteer management practices across the agency
Whistleblowing	§ 12.2	N/A	ORS 659A.199 – 659A.236 (Oregon Whistleblower Law) ORS 659A.030(1)(f) (prohibiting retaliation for opposing unlawful conduct)	• Outlines legal protections for employees who report unlawful or unethical conduct or engage in legal proceedings in good faith. • Provides options for notifying Metro of unlawful or unethical conduct.	Limits risk	Promotes legal compliance

MERC Commission Meeting

August 7 , 2013
12:30 pm

8.0 Consent Agenda

Metropolitan Exposition Recreation Commission
Record of MERC Commission Actions

July 10, 2013
Oregon Convention Center, C121 – C122
777 NE ML King Jr. Blvd. Portland OR 97232

Present:	Chris Erickson (Chair), Terry Goldman , Ray Leary, Judie Hammerstad, Cynthia Haruyama
Absent:	Karis Stoudamire-Phillips (Excused), Elisa Dozono (Excused)
	A regular meeting of the Metropolitan Exposition Recreation Commission was called to order by chair Chris Erickson at the Oregon Convention Center at 12:30 pm
1.0	**QUORUM CONFIRMED** A quorum of Commissioners was confirmed.
2.0	**COMMISSIONER COUNCIL LIAISON COMMUNICATIONS** • Commissioner Hammerstad reported on the Joint Work Session with Metro Council about the Convention Center Hotel. She commented it was quite beneficial. • Chair Erickson also commented that the meeting was very informative and great opportunity to educate the public about the project. He offered his appreciation for the great work done by Scott Cruickshank, Teri Dresler and Stephanie Soden.
3.0	**OPPORTUNITY FOR PUBLIC COMMENT ON NON-AGENDA ITEMS** • Jeff Miller commented that Travel Portland is happy to have the Customer Advisory Board in town for meetings.

4.0	**GENERAL MANAGER COMMUNICATIONS**
	• Teri Dresler presented to the Commission
	  • T. Dresler reported on the Joint Work Session with Metro Council on the hotel project. Media (Business Journal, The Oregonian, OPB) gave overall favorable reports on the meeting. T. Dresler is very hopeful and optimistic about the project. Soon the amendments to the VDI will be finalized.
	  • Tentative plan for the project is to bring a resolution to the August MERC Commission Meeting. Metro Council public hearing is scheduled for August 8th and a vote on August 15th. Looking at doing an Opt-In survey to get public opinion within two weeks and an Open House is planned on either July 31 or August 1st 2013 to gather any input that we need to address. County has tentatively scheduled a vote during the last week of August. The City's vote will occur during a similar time frame. VDI and term sheet might be approved before Labor Day.
	  • Chair Erickson inquired about voting content. Teri Dresler responded that Metro Council will vote on amendments to the VDI and term sheet as well as authorizing staff to complete the development agreement with developers. The City and the County will vote to approve VDI language only. They don't need to approve the project technically.

5.0 5.1	**CONSENT AGENDA:** **June 4, 2013 MERC Regular Meeting Record of Actions** • A motion was made by Commissioner Goldman and seconded by Commissioner Leary to approve the Consent Agenda. **VOTING:** Aye: 4 (Erickson, Hammerstad, Leary, Goldman)

	Nay: 0
6.0 6.1	**ACTION AGENDA** **Resolution 13-13 for the purpose of approving the fiscal year 2013-14 MERC Commission slate of officers** Chris Erickson presented to the Commission • A motion was made by Commissioner Hammerstad and seconded by Commissioner Leary to approve Resolution 13-13 as presented. **VOTING:** Aye: 4 (Erickson, Hammerstad, Leary, Goldman) Nay: 0 Motion Passed • Teri Dresler presented a plaque to commemorate Chair Erickson's service as a Chair of MERC Commission.
6.2	**Resolution 13-14 for the purpose of approving an amendment to the Sales Incentive Policy** Scott Cruickshank and Teri Dresler presented to the Commission • Commissioner Hammerstad inquired for an example of how much the incentive benefits employees. • Scott Cruickshank responded that it is typically around $2,000 per year. **Commissioner Haruyama has arrived and Commissioner Goldman was temporarily excused from the meeting.** A motion was made by Commissioner Leary and seconded by Commissioner Hammerstad to approve Resolution 13-14 as presented. **VOTING:** Aye: 4 (Erickson, Hammerstad, Leary, Haruyama) Nay: 0 Motion Passed
6.3	**Resolution 13-15 for the purpose of approving the sale of certain real property to Union Pacific Railroad Company** Scott Cruickshank and Hope Whitney of OMA presented to the Commission • Commissioner Leary asked for an explanation of the value of protecting the easement. Scott Cruickshank responded that area of the property is probably the last area OCC could expand on . The piece of property inquired about is at the bottom of the hill and creates a buffer between Union Pacific's proposed track and the base of the hill. This is a very small piece of property and is basically unusable. This transaction releases the easement entirely. • A motion was made by Commissioner Hammerstad and seconded by Commissioner Haruyama to approve Resolution 13-15 as presented. **VOTING:** Aye: 4 (Erickson, Hammerstad, Leary, Haruyama) Nay: 0 Motion Passed

6.4	**Resolution 13-16 for the purpose of selecting Billings and Cronn Company for the Antoinette Hatfield Hall, "Exterior Insulation Finishing System Replacement Project – Phase II" and authorizing the General Manager to execute a contract with Billings and Cronn Company** Robyn Williams presented to the Commission • Commissioner Leary asked for clarification of the fact that the amount of $175,000 was budgeted but we are looking at a cost of $156,000 thus the additional amount serves as a contingency as changes come up for additional costs. • Robyn Williams responded affirmatively. • Commissioner Haruyama inquired if Phase I was for identification of this issue. • Josh Limpscomb responded that PCPA had contracted with an architectural firm that specializes in exterior surfaces a couple of years ago to do an investigation to identify problematic areas of the facility. They helped with phasing the work and repairs as needed. Last summer a smaller project for Brunish Hall, which had the most leakage and was considered as Phase I, was completed. This resolution is considered Phase II. Phase III would be larger scale project but probably will not include as many large leaks. • Leary commented that the insurance costs will affect other MWESB bids in future projects. • Chair Erickson inquired what the requirement for insurance needs is. • Nathan Sykes responded that you can't gauge the minimum insurance requirement. It depends on who your insurance company is and scope of the project. A motion was made by Commissioner Hammerstad and seconded by Commissioner Leary to approve Resolution 13-16 as presented. **VOTING:** Aye: 4 (Erickson, Dozono, Stoudamire-Phillips, Haruyama) Nay: 0 Motion Passed
6.5	**Resolution 13-17 for the purpose of selecting Anderson Roofing Company, Inc. for the Portland Expo Center- Hall D Loading Dock Roof Replacement and Hall C spot repair and aluminum "silver coating"** Matthew P. Rotchford presented to the Commission • Commissioner Haruyama inquired whether the timing is going to be deferred for replacement of the bleachers and carpeting or if they would be rolled into 2014. • Matt Rotchford responded that he is proposing doing half of the projects now and deferring the other half to next year. • Commissioner Haruyama inquired if projects already budgeted for 2014 will also get pushed out? • Matt Rotchford responded it is a possibility. • Commissioner Haruyama inquired about the long-term financial viability for Expo. Deferring maintenance projects again with no solution in sight seems to be a bad idea. • Teri Dresler responded that there is discussion with Metro's COO, Martha Bennett, about looking at the Metro Tourism Opportunity Competitive Account(MTOCA) that comes from the general fund and currently is exclusive to support of OCC. The proposal to Metro Council would be to broaden the language for this account to include Expo. The challenge is that this is a very obscure budget item and only two Councilors are familiar with it thus it will take time to educate folks about it. Those dollars

	are funding the hotel project effort. Splitting those dollars between two facilities this fiscal year will not be a total solution. The broader scope of analyzing the business model and looking at a long term solution is our biggest challenge. • Commissioner Haruyama inquired if we need to revisit the CRC issue. • Teri Dresler responded that the master plan will need to be revisited however, the CRC issue was discussed when the master plan was created. The broader discussion will need to include the CRC issue. • Commissioner Leary inquired if $361,000 was the original budget amount? • Matt Rotchford answered it is not. The original amount budgeted for both projects was $265,000. • Commissioner Leary inquired if there is going to be an economic impact with the lack of fulfillment of the bleachers. • Matt Rotchford responded that overall there should be no immediate fiscal impact. • Teri Dresler commented that there is a new program director, Sharon Meross, in the Construction Management office and she will look at better cost estimating in advance of projects – not only for venues but also for the entire Metro agency. A motion was made by Commissioner Leary and seconded by Commissioner Hammerstad to approve Resolution 13-17 as presented. **VOTING:** Aye: 4 (Erickson, Dozono, Stoudamire-Phillips, Hammerstad) Nay: 0 Motion Passed **Commissioner Goldman returned to the meeting.** **Resolution 13-18 for the purpose of ratifying IATSE 28 contract** Betsy Tripi (HR Analyst) and Jason Blackwell (Operations Manager, PCPA) presented to the Commission. A motion was made by Commissioner Goldman and seconded by Commissioner Hammerstad to approve Resolution 13-18 as presented. **VOTING:** Aye: 5 (Erickson, Dozono, Stoudamire-Phillips, Hammerstad, Goldman) Nay: 0 Motion Passed
6.6	
7.0	**PCPA WEBSITE PRESENTATION** Robyn Williams introduced Sockeye representatives, Laurel Burton (Project and Resource Manager), and Maria Janosko (Senior Designer) for their presentation. Chair Erickson inquired if the website is mobile friendly. Maria Janosko responded affirmatively. It is completely mobile friendly, not only for mobile devices but also for iPad. Commissioner Haruyama inquired the name of the new website. Maria Janosko responded it is Portland5.com. Commissioner Leary and Goldman complimented on the great work. Chair Erickson suggested that the final version include a resident company page that would allow a company such as Oregon Ballet Theatre to save significant cost. Maria G. responded that the platform of the website

	makes it possible to do so.
	MEETING ADJOURNED AT 2:05 PM

MERC Commission Meeting

August 7, 2013
12:30 pm

9.0 Action Agenda

METROPOLITAN EXPOSITION RECREATION COMMISSION

Resolution No. 13-19

For the purpose of approving the Visitor Facilities Intergovernmental Agreement.

WHEREAS, the Visitor Facilities Intergovernmental Agreement (VF IGA) was originally entered into in 2001 between the City of Portland, Multnomah County and Metro;

WHEREAS, the VF IGA, among other things, (a) authorized collection of a transient lodging tax surcharge and a vehicle rental tax surcharge and (b) provided for distribution of such taxes collected to a variety of uses supporting visitor development and tourism facilities and activities in the Portland-Multnomah County area;

WHEREAS, the Oregon Convention Center (OCC) currently receives operating support funding from the Visitor Facility Trust Account, pursuant to the terms of the VF IGA;

WHEREAS, the Portland Center for Performing Arts also currently receives operating support funding from the Visitor Facility Trust Account, pursuant to the terms of the VF IGA;

WHEREAS, in March 2013, Metro staff began negotiating with City and County staff to prepare a thorough set of amendments to the existing VF IGA, the general purpose of which was to (a) reflect updated priorities and needs of the region's visitor facilities and public/private tourism promotion programs and (b) include provisions to accommodate \$60 to \$70 million in revenue bond funding for a future Oregon Convention Center Hotel; and

WHEREAS, the Metropolitan Exposition Recreation Commission believes it is in OCC's best interest that the VF IGA be amended and restated as set forth in the attached Exhibit A.

BE IT THEREFORE RESOLVED, that the Metropolitan Exposition Recreation Commission:

> Approves of the amended and restated Visitor Facilities Intergovernmental Agreement and recommends to the Metro Council that it execute such agreement in a form substantially similar to the one attached hereto as Exhibit A.

Passed by the Commission on August 7, 2013.

Approved as to form: Alison R. Kean, Metro Attorney	______________________________ Chair
By:______________________________ Nathan A. Schwartz Sykes, Senior Attorney	______________________________ Secretary/Treasurer

EXHIBIT A TO RESOLUTION 13-19

VISITOR FACILITIES INTERGOVERNMENTAL AGREEMENT

This amended and restated intergovernmental agreement (the "Agreement" or "VFIGA") is made among the City of Portland (the "City"), Multnomah County (the "County") and Metro (each individually, a "Party" and collectively, the "Parties"), and shall be in effect from the latest date of signature.

RECITALS

A. The purpose of this Agreement is to support regional visitor facilities and visitor industry development in the Portland-Multnomah County area. The Parties have entered into this Agreement and related agreements to support regional tourism and spectator facilities, the visitor and hospitality industry, and to maximize the economic development benefits associated with visitor facilities, programs and services for the Portland-Multnomah County area. The Agreement and the Visitor Facilities Trust Account ("VFTA") provide additional support to complement programs, investments and contributions made by all Parties for the health of our community and in support of visitor development.

B. The Parties entered into the Visitor Facilities Intergovernmental Agreement, dated January 31, 2001 (the "2001 Agreement"), to implement the understandings and agreements contained in that certain Memorandum of Understanding dated September 14, 1999. This Agreement supersedes and fully replaces the 2001 Agreement.

C. On or about April 26, 2001, the City, County and Metro entered into the Visitor Development Fund Services Agreement ("VDFSA") with Visitor Development Fund, Inc., whose 15 member board includes two representatives from each of the City, County, and Metro, two members appointed by "Travel Portland" and nine members representing the hotel and car rental business sectors. The Parties intend to update and amend the VDFSA to conform with the amendments to this Agreement.

D. On or about May 15, 2000, the City and Metro entered into the Amended Agreement Regarding Consolidation of Regional Convention, Trade, Spectator and Performing Arts Facilities Owned and Operated by the City of Portland and Metro (commonly called the Consolidation Agreement). Metro and the City expect to amend the Consolidation Agreement to conform with the amendments to this Agreement and to update other provisions of the Consolidation Agreement as needed.

E. The Parties have previously entered into, and may amend to conform to the Agreement, the following agreements in order to carry out the Agreement: (i) intergovernmental agreement(s) between Metro and Tri Met regarding the provision of public transit passes for OCC visitors and (ii) intergovernmental agreement(s) between the City and County regarding collection of the transient lodgings tax.

F. ORS 190.010 authorizes the Parties to enter into intergovernmental agreements to carry out their activities and functions.

G. All Parties are authorized to promote the visitor industry and economic development within their jurisdictions and to fund or operate facilities that attract visitors and support the arts in the Portland-Multnomah County area.

H. The Oregon Convention Center ("OCC") is owned and operated by Metro. The Portland Center for the Performing Arts ("PCPA") is owned by the City and operated by Metro. JELD-WEN Field (the "Stadium") and the "Rose Quarter Facilities" are owned by the City. In addition, Metro, the City, and the County own and operate a variety of other facilities and provide a variety of programs and services that support the purposes of this Agreement.

I. All Parties have an interest in the maintenance and improvement of these regional visitor facilities and in the development of the visitor industry in the Portland-Multnomah County area. The Parties recognize that visitor development and the spectator facility system is intertwined and the operation of that system is critical to the continued production of revenue for the purposes defined herein. In order for the improvements provided in this Agreement to function in an economically viable manner, all of the items included in this Agreement require funding. The loss of funding for any item may threaten the viability of all of the other improvements, programs and services.

J. The County has the authority to impose and levy a surcharge rate of 2.5% on the gross amounts of value paid to or received by the owners or operators of hotels, motels, and other lodging facilities for lodging of less than one month duration from occupants to support the purposes of this Agreement (the "VFTA TLT Surcharge").

K. The County has the authority to impose and levy a surcharge rate of 2.5% on the motor vehicle rental fee charged by a commercial company on vehicle rentals of 30 days or less to support the purposes of this Agreement (the "VFTA VRT Surcharge").

L. As provided in ORS Chapter 287A.310, the County is authorized to pledge the VFTA TLT Surcharge and the VFTA VRT Surcharge for bonds and other borrowings, including the City Bonds. The County intends to expand this authority to include the OCC Hotel Project Bonds that Metro anticipates issuing to support the development of an OCC Hotel Project.

M. The County has the authority to impose and levy a surcharge rate of 3% on the gross amounts of value paid to or received by the owners or operators of hotels, motels, and other lodging facilities for lodging of less than one month duration from occupants (the "Excise Tax Fund TLT" or "ETF TLT") for support of specified facilities and programs including the OCC, PCPA and the Regional Arts and Cultural Council.

N. Metro receives a portion of the Excise Tax Fund TLT for OCC operating support that is governed by a separate intergovernmental agreement between the County and Metro, entered into on April 1, 2000 (the "ETF IGA"). Under the terms of the ETF IGA, one-third of the ETF TLT allocation for OCC operating support is to be dedicated to OCC marketing efforts. Metro reaffirms its commitment to make every possible effort to expend at least one third of the Excise Tax Fund TLT it receives from the County for OCC operating support on OCC marketing efforts.

O. The City has the authority to impose and levy transient lodging taxes, for (i) general City purposes and (ii) the promotion of convention business and tourism, on the gross amounts of value paid to or received by the owners or operators of hotels, motels, and other lodging facilities for lodging of less than one month duration from occupants (the "City 5% TLT" and "City 1% TLT", respectively).

P. The City has issued City Bonds, and Metro intends to issue OCC Hotel Project Bonds, on the condition that the County imposes and maintains the VFTA TLT Surcharge and/or the VFTA VRT Surcharge for the life of the Bonds.

Q. The County is willing to impose and maintain the tax surcharges on transient lodging and/or vehicle rentals described in Recitals J and K above as long as necessary to pay or defease the Bonds issued under this Agreement. At such time as any of these surcharges are no longer necessary to pay or defease bonds issued under this Agreement, the Board of County Commissioners, at its sole discretion, may choose to terminate or modify the surcharges.

R. Since the 2001 Agreement was approved, the VFTA and the 2001 Agreement have successfully supported regional efforts to bring visitors and conventions to the Portland-Multnomah County region, support the operations of and improvements to regional visitor and spectator facilities including the OCC, PCPA and the Stadium, and increase visitor development and economic development opportunities in the region through both direct and indirect support for facilities, programs and services.

S. In 2011, the City refunded the OCC Completion Bonds and the PCPA Bonds to take advantage of improved market conditions, resulting in debt service savings to the VFTA of approximately $875,000 annually through Fiscal Year 2029-30.

T. In addition, since the 2001 Agreement was approved, a number of changes have occurred, or are proposed to occur, to business operations and debt obligations, resulting in changes to financing opportunities and efficiencies, revised programmatic services, and modified roles and responsibilities of the Parties. These changes are reflected in the clarification and expansion of the funding priorities contained in this Agreement.

U. The Parties share a common understanding that (i) the OCC has a fundamental competitive disadvantage due to its lack of an adjacent convention center hotel, and (ii) public investment is necessary to the development of a privately owned, financed, constructed and operated hotel adjacent to the OCC to serve national convention clients and provide a quality hotel of the type and scale, including the necessary meeting and ballroom facilities, to bring additional national convention business to the OCC.

V. Metro intends to negotiate an OCC Hotel Project Development Agreement, including a commitment of public funds, which will result in development of a convention center hotel and improve the competitiveness of the OCC. In other related agreements, Metro will endeavor to negotiate key terms that address OCC competiveness, such as a minimum room block for a length of time consistent with the anticipated OCC Hotel Project Bonds, while at the same time taking into consideration the interests of and impacts on existing hotels and service providers. Metro believes that the overall hotel market will grow and strengthen due to the new and additional conventions at the OCC

W. In addition to private funds in excess of $115 million and the commitment of site-specific transient lodging taxes generated by the OCC Hotel Project, which is described in this Agreement, development of the OCC Hotel Project is expected to be supported by public contributions including a $4 million grant from Metro, a $4 million loan from the Portland Development Commission and $10 million from State of Oregon lottery funds.

X. To clearly indicate support for an appropriate level of public investment in a privately-owned convention center hotel, the Parties have included in this Agreement, provisions for the use of non-VFTA Site-Specific Transient Lodging Tax Revenues ("SSTLTR") and the VFTA for bond financing of a portion of the cost of constructing such hotel. Given that negotiations on the development terms are not complete, specified actions necessary to fully implement this Agreement are provisional and tied to the outcome of the completion by Metro of an OCC Hotel Project Development Agreement.

Y. A portion of the development of the OCC Hotel Project will be financed via revenue bonds issued by Metro (the "OCC Hotel Project Bonds"), and Metro is willing to provide a limited financial pledge of support for the OCC Hotel Project Bonds on the condition that the County continues to impose and maintain the VFTA TLT Surcharge and Excise Tax Fund TLT and the City continues to impose and maintain the City 5% TLT and City 1% TLT for the life of the OCC Hotel Project Bonds.

Z. The Parties intend to utilize the stability and resource capacity of the VFTA to obtain favorable terms for the OCC Hotel Project Bonds, which will benefit from the strength and duration of the VFTA system, and create the most efficient bond financing mechanism for public investment in the OCC Hotel Project. The Parties have included in this Agreement mechanisms intended to assure the continued health and strength of the VFTA system as a whole.

AA. The Parties agree to redirect the non-VFTA SSTLTR generated by the OCC Hotel Project into the VFTA and that the amount and repayment structure of the OCC Hotel Project Bonds will be based upon the SSTLTR as set forth herein.

BB. The Parties agree that, based on the current projections for the OCC Hotel Project, the entire VFTA system benefits from the inclusion of the non-VFTA SSTLTR in the VFTA because total revenues are increased and SSTLTR above the amount necessary for OCC Hotel Project Bond repayment, if any, will accrue to the VFTA.

CC. The Parties agree that the VFTA system will benefit from more frequent and consistent financial review, and to achieve this outcome, have included in this Agreement the creation of a Financial Review Team with specified duties and tasks.

DD. The Parties agree that the VFTA system will benefit from the development and ongoing maintenance of a Visitor Development Strategic Plan, and to achieve that outcome, have included in this Agreement a commitment to create and maintain such a plan.

EE. The Parties agree that periodic review of this Agreement by the Parties is valuable to maintain its support of regional visitor facilities and visitor industry development in the Portland-Multnomah County area, and have included in this Agreement a commitment to discuss the terms of this Agreement periodically.

AGREEMENT

1. DEFINITIONS

"2001 Agreement" is defined in Recital B.

"Additional OCC Operating Support" is defined in Section 3.3.5.1.

"Administrative Fee" means the annual fee paid to the County as the Trustee and for administering the VFTA. The fee is equal to 0.7% of the gross annual revenues deposited in the VFTA from all sources.

"Agreement" or "VFIGA" means this 2013 amended and restated Visitor Facilities Intergovernmental Agreement.

"Beneficiaries" is defined in Section 3.2.

"Board" or "Visitor Development Fund, Inc. Board" means the duly appointed Board of Directors for VDFI, acting in accordance with the VDFSA and the organization's bylaws in exercising their responsibilities, including but not limited to decision-making and allocation of funds described in Sections 3.3.5 and 3.3.9.

"Bonds" mean, collectively, the Stadium Bonds, the Convention Center Completion Bonds, the PCPA Bonds, and the OCC Hotel Project Bonds, if such OCC Hotel Project Bonds are issued in the future consistent with Section 6.2.

"Bond Redemption Reserve" or "BRR" is defined in Section 3.3.13.

"City CAO" means the Chief Administrative Officer of the City of Portland.

"City 1% TLT" means the 1% transient lodging tax that the City is authorized to collect for the promotion of convention business and tourism under Portland City Charter Section 7-113.2 and Portland City Code Chapter 6.04, and which is a non-VFTA tax.

"City 5% TLT" means the 5% transient lodging tax that the City is authorized to collect for general purposes under Portland City Charter Section 7-113.1 and Portland City Code Chapter 6.04, and which is a non-VFTA tax.

"City Bonds" means, collectively, the Stadium Bonds, the Convention Center Completion Bonds, and the PCPA Bonds.

"Convention Center Completion Project" means the expansion of the Oregon Convention Center facilities to include approximately 105,000 square feet of exhibit space, a 35,000 square foot ballroom, a total of 40 meeting rooms, 35,000 square feet of lobby space, a 825 space parking garage and 10 loading docks.

"County CFO" means the Chief Financial Officer of Multnomah County.

"CPI" means the Consumer Price Index, Urban, All Consumers, in the Portland-Salem, OR-WA area, or any successor index, as issued by the U.S. Department of Labor, Bureau of Labor Statistics.

"Dispute Resolution Committee" or "DRC" is defined in Section 8.1.1.

"Early Termination Date" is defined in Section 9.1.

"East County Cities" means Gresham, Troutdale, Fairview and Wood Village.

"Escalated" is defined in Section 3.4.

"ETF IGA" is defined in Recital N.

"Excise Tax Fund TLT" or "ETF TLT" means the 3% transient lodging surcharge that the County collects under the authority of Multnomah County Code 11.401(D) and is utilized to support specified facilities and programs including the OCC, PCPA and the Regional Arts and Cultural Council, and which is a non-VFTA tax.

"Financial Review Team" or "FRT" is described in Section 7.2.

"Fiscal Year" or "FY" is defined as the twelve month period beginning July 1 and continuing through June 30.

"Metro COO" means the Chief Operating Officer of Metro.

"Net Revenues" mean the collections (including delinquent interest and penalties) from (1) the VFTA TLT Surcharge; (2) the VFTA VRT Surcharge; (3) the SSTLTR; and (4) earnings on amounts in the VFTA, less the Administrative Fee. Net Revenues does not include any amounts required to pay refunds of surcharge taxes, including interest, or other charges required by state law.

"OCC" means the Oregon Convention Center located in Portland, Oregon.

"OCC Annual Budget" is defined in Section 3.3.5.1.

"OCC Bonds" or "Convention Center Completion Bonds" means the City's Limited Tax Revenue Bonds, 2001 Series B and Limited Tax Revenue Refunding Bonds, 2011 Series

A and any bonds issued to refund those bonds, including refunding of such refunding bonds.

"OCC Capital Improvement Expenses" means the costs associated with renewal and replacement of existing assets, as well as investments in new capital projects, that enhance the marketability of the OCC and maintain its quality and competitiveness.

"OCC Expenses" is defined in Section 3.3.5.1.

"OCC Hotel Project" means the proposed hotel to be located adjacent to the Oregon Convention Center, which will (i) function as the lead hotel for national marketing and convention purposes, (ii) include the necessary meeting and ballroom facilities, and (iii) provide a dedicated room block agreement for 500 rooms needed to bring additional national convention business to the OCC.

"OCC Hotel Project Bonds" means the revenue bonds or other debt obligations that may be issued by Metro consistent with Section 6.2 to fund a portion of the construction of the OCC Hotel Project, and any bonds issued to refund those bonds.

"OCC Hotel Project Development Agreement" means a contractual agreement between Metro and a developer for the development of a convention center hotel. Other related agreements between Metro and a hotel developer and/or hotel operator will address terms of the hotel operations (e.g. parking, room blocks and room rate impacts on the market).

"OCC Operating Expenses" means all costs and expenses of operating the OCC during a given Fiscal Year, consistent with the purposes of this Agreement or in accordance with an OCC Annual Budget.

"OCC Operating Revenues" means, for any given Fiscal Year, the gross cash receipts received by the OCC with respect to operations of the OCC.

"OCC Operating Support" is defined in Section 3.3.5.1.

"OCC Revenues" is defined in Section 3.3.5.1.

"Party" or "Parties" means the City of Portland, Multnomah County and Metro.

"PCPA" means the Portland Center for the Performing Arts, which includes the Arlene Schnitzer Concert Hall, the Ira Keller Auditorium and the Antoinette Hatfield Hall.

"PCPA Bonds" mean the City's Full Faith and Credit Loan Agreement (PCPA Refunding) dated December 15, 2011, and any bonds issued to refund those bonds, including any refunding of such refunding bonds.

"Restricted Reserve" or "RR" is defined as Section 3.3.12.

"Rose Quarter Facilities" means the Veterans Memorial Coliseum and the Rose Quarter properties owned by the City of Portland, by and through the Office of Management and Finance.

"Spectator Facilities Fund Revenues" is defined in Section 5.3.1.

"SSTLTR" or "Site-Specific Transient Lodging Tax Revenues" means the transient lodging taxes collected from the users of the OCC Hotel Project based on the City 1% TLT, City 5% TLT, the Excise Tax Fund TLT, which are all non-VFTA taxes, and the VFTA TLT Surcharge.

"Stadium" means JELD-WEN Field (formerly known as PGE Park and Civic Stadium), the improvements of which were originally funded by the Stadium Bonds.

"Stadium Bonds" means the City's Limited Tax Revenue Bonds, 2001 Series D issued by the City to fund the Stadium improvements, and any bonds issued to refund those bonds, including any refunding of such refunding bonds.

"Strategic Plan" or "Visitor Development Strategic Plan" is defined in Section 7.3.

"Termination Date" is defined in Section 9.2.

"TLT Net Revenues" means the Net Revenues so long as City Bonds are outstanding. Upon maturity or full defeasance of all City Bonds, TLT Net Revenues means the Net Revenues less the VFTA VRT Surcharge.

"Travel Portland" means the Oregon non-profit corporation organized for the primary purpose of promotion, solicitation, procurement and service of convention business and tourism for the Multnomah County area. Travel Portland was formerly known as Portland Oregon Visitors Association.

"Trustee" means the County CFO, or his designee.

"VDF" or "Visitor Development Fund" is defined in Section 3.3.9.

"VDF1" is defined in Section 3.3.9.1.

"VDF2" is defined in Section 3.3.9.2.

"VDFI" or "Visitor Development Fund, Inc." means the non-profit corporation formed to budget for and administer the expenditure of certain VFTA allocations as described in the Visitor Development Fund Services Agreement.

"VDFSA" or "Visitor Development Fund Services Agreement" is defined in Recital C.

"VFTA" or "Visitors Facilities Trust Account" means the County tax account that (i) receives the VFTA TLT Surcharge and the VFTA VRT Surcharge collections, (ii) will be modified to receive the non-VFTA SSTLTR, and (iii) disburses Net Revenues and TLT

Net Revenues and other allocated disbursements as provided in this Agreement. The VFTA allocations are set forth in Section 3.3 and are sometimes referred to as the "bucket system".

"VFTA TLT Surcharge" is defined in Section 2.1 and is a VFTA tax.

"VFTA VRT Surcharge" is defined in Section 2.2 and is a VFTA tax.

"VFTA Fund Forecast" is defined in Section 4.3.3.

"Year One" means Fiscal Year 2013-14.

2. FUNDING AGREEMENTS

2.1. Multnomah County Code 11.401(E) imposes a surcharge of 2.5% on the gross amounts of value paid to or received by the owners or operators of hotels, motels, and other lodging facilities for lodging of less than one month duration from occupants (the "VFTA TLT Surcharge"). The County will deposit the tax collections from the VFTA TLT Surcharge in the VFTA as provided in this Agreement.

2.2. Multnomah County Code 11.301(C) imposes a surcharge of 2.5% on the motor vehicle rental fee charged by commercial companies on vehicle rentals of 30 days or less (the "VFTA VRT Surcharge"). The County will deposit the tax collections from the VFTA VRT Surcharge in the VFTA as provided in this Agreement.

2.3. The County, as set forth in Section 4.1.3, will amend Multnomah County Code, as needed, to conform to the terms of this Agreement and transfer the SSTLTR.

2.4. The City will transfer SSTLTR as described in Section 5.4.

3. VISITOR FACILITIES TRUST ACCOUNT

3.1. To implement this Agreement, the County has established a Visitor Facilities Trust Account (VFTA) that is held separate from all other County funds. The County is the Trustee and will deposit into the VFTA (i) the revenues described in Sections 2.1 through 2.4 immediately upon receipt, and (ii) the earnings on the amounts held in the VFTA and delinquent interest and penalties that are collected, periodically. The County will disburse funds from the VFTA only as provided in the Agreement.

3.2. The Beneficiaries of the VFTA are:

3.2.1. The City of Portland,

3.2.2. The owners of the Bonds,

3.2.3. Metro,

3.2.4. The County, and

3.2.5. The Visitor Development Fund, Inc.

3.3. The Parties agree that each Fiscal Year, beginning in Year One and continuing until all Bonds are paid or defeased, the Trustee, after paying the Administrative Fee, refunds of surcharge taxes, including interest, and other charges required by state law, will apply funds in the VFTA solely for the purposes and in the order of priority described in Sections 3.3.1 through 3.3.13 and in accordance with the payment provisions of Section 4.2. VFTA allocations will not be distributed pro rata. Reimbursements are subject to the provisions of Section 4.2.6.

For debt service payments on the Bonds, the order of priority is described in Sections 3.3.1 through 3.3.4.

To fund programs, services, operations, capital improvements, and marketing that support the purposes of this Agreement, the order of priority is described in Sections 3.3.5 through 3.3.11. Unless otherwise stated, allocations in these Sections are as of Year One. Specified allocations are subject to being Escalated as defined in Section 3.4.

For the purposes of creating and maintaining reserves, the order of priority in funding a Restricted Reserve (RR) and Bond Redemption Reserve (BRR) is described in Sections 3.3.12 and 3.3.13.

3.3.1. OCC Bonds. First, to the City the amount necessary to pay scheduled debt service on the Convention Center Completion Bonds (including any mandatory sinking fund or redemption payments), so long as OCC Bonds remain outstanding, and any amounts required to reimburse the City for debt service it was required to pay from other sources in previous fiscal years in which insufficient funds were available in the VFTA to pay debt service when due on the OCC Bonds.

3.3.2. PCPA Bonds. Second, to the City the amount necessary to pay scheduled debt service on the PCPA Bonds (including any mandatory sinking fund or redemption payments), so long as PCPA Bonds remain outstanding, and any amounts required to reimburse the City for debt service it was required to pay from other sources in previous fiscal years in which insufficient funds were available in the VFTA to pay debt service when due on the PCPA Bonds.

3.3.3. Stadium Bonds. Third, to the City the amount certified by the City as necessary after application of Spectator Facilities Fund Revenues, as established in Section 5.3.1, to pay scheduled debt service on the Stadium Bonds (including any mandatory sinking fund or redemption payments), so long as Stadium Bonds remain outstanding, and any amounts required to reimburse the City for debt service it was required to pay from sources other than Spectator Fund Revenues in previous years in which insufficient funds were available in the VFTA to pay debt service when due on the Stadium Bonds.

3.3.4. OCC Hotel Project Bonds. Fourth, to Metro, the amount necessary to pay scheduled debt service on OCC Hotel Project Bonds (including any mandatory sinking fund or redemption payments), if such bonds are issued as described in Section 6.2,so long as OCC Hotel Project Bonds remain outstanding.

3.3.5. OCC Operating Support. Fifth, to Metro an amount not to exceed One Million, Two Hundred Fifty Thousand Dollars ($1,250,000), Escalated, for OCC Operating Support to maintain the OCC's competitiveness. An amount for Additional OCC Operating Support may also be requested by Metro annually. The amount of the OCC Operating Support and Additional OCC Operating Support, if any, will be established and reviewed as provided below.

3.3.5.1. No later than ninety (90) days prior to the start of each Fiscal Year, the Metro COO shall prepare and transmit to the Board a proposed preliminary budget (the "OCC Annual Budget"), which may be modified during Metro's budget process. The proposed preliminary OCC Annual Budget shall set forth in reasonable detail (i) anticipated OCC Operating Revenues and anticipated OCC Excise Tax Revenues for that Fiscal Year (collectively, "OCC Revenues"), (ii) anticipated OCC Operating Expenses and any proposed OCC Capital Improvement Expenses (collectively, "OCC Expenses"), and (iii) a request for VFTA funds for OCC Operating Support for the difference between the OCC Revenues and OCC Expenses up to One Million, Two Hundred Fifty Thousand Dollars ($1,250,000), Escalated. If the difference between the OCC Revenues and OCC Expenses for that Fiscal Year exceeds One Million, Two Hundred Fifty Thousand Dollars ($1,250,000), Escalated, a concurrent request for "Additional OCC Operating Support" can be submitted and considered consistent with Sections 3.3.5.2 and 3.3.5.6.

3.3.5.2. A request for Additional OCC Operating Support will be provided by Metro to the Financial Review Team at least ten (10) days prior to being submitted to the Board. The FRT shall review and analyze the request and provide advice to the Board as described in Task 2A of Attachment A.

3.3.5.3. At the time the proposed OCC Annual Budget is transmitted to the Board, the Metro COO will notify the City and County of the proposed OCC Operating Support amount and the requested Additional OCC Operating Support amount, if any. Unless the City, County or the Visitor Development Fund, Inc. Board give notice of objection to the proposed OCC Operating Support amount within 60 days of the Metro notice, the Metro Council may thereafter adopt the proposed OCC Annual Budget that includes an OCC Operating Support, up to the amount proposed by the Metro COO. If either the City, acting through its Mayor, the County acting through its Chair, or the Visitor Development Fund, Inc. Board, acting through a vote of its authorized membership, objects to the proposed OCC Operating Support amount, the matter will be referred to the Dispute Resolution Committee and the dispute resolution process described in Section 8.

3.3.5.4. If the proposed OCC Operating Support is approved in whole or in part by the Dispute Resolution Committee, the objection will be removed and the Metro Council may adopt a budget that includes the OCC Operating Support up to the amount approved by the Dispute Resolution Committee.

3.3.5.5. If the Dispute Resolution Committee does not approve any OCC Operating Support, then no VFTA funds shall be allocated.

3.3.5.6. A request of Additional OCC Operating Support will be subject to specific action by the Board, acting though a vote of its authorized membership, to approve, deny or reduce the allocation. The standards for the Board's decision shall be whether approval of Additional OCC Operating Support in the specified amount will (i) fulfill the purposes of this Agreement and (ii) allow for other obligation of this Agreement to be met. The decision of the Board in this Section 3.3.5.6 is subject to the dispute resolution process described in Section 8.

3.3.5.7. If the process described in Sections 3.3.5.1 through 3.3.5.6 has been followed, and an amount for OCC Operating Support and Additional OCC Operating Support, if any, has been approved, upon adoption by the Metro Council of an annual budget that includes OCC Operating Support and Additional OCC Operating Support, the Metro COO may transmit the adopted budget to the County, who will pay the authorized amount for OCC Operating Support and Additional OCC Operating Support, if any, from the VFTA, as provided in this Agreement.

3.3.5.8. At the end of any Fiscal Year in which the OCC Operating Support and Additional OCC Operating Support, if any, is not fully expended to meet obligations of the OCC Annual Budget, the remaining funds shall be deposited by Metro in an OCC reserve fund dedicated for future capital or operational needs.

3.3.5.9. Not withstanding Section 3.3.5, the amount for OCC Operating Support authorized for FY 2013-14 shall be One Million, Four Hundred Thirty-Nine Thousand and Eight Hundred Dollars ($1,439,800). The process described in Sections 3.3.5.1 through 3.3.5.6 shall not apply in FY 2013-14.

3.3.6. <u>County Visitor Facilities and Operations Support</u>. Sixth, to the County, except as described in Sections 3.3.6.1 through 3.3.6.3, the amount of Five Hundred Thousand Dollars ($500,000), Escalated, to fund operations and capital improvements supporting the purposes of this Agreement.

3.3.6.1. For FY 2013-14, the amount shall be Two Hundred Fifty Thousand Dollars ($250,000).

3.3.6.2. Beginning in FY 2017-18 and continuing through FY 2020-21, the amount shall reset to Seven Hundred Fifty Thousand Dollars ($750,000). The starting date of this increase shall be subject to review and confirmation by the Financial Review Team based on the sufficiency of VFTA revenues to cover the obligations of the Agreement, as described in Task 2B of Attachment A. The increased annual allocation shall be Escalated beginning the year in which the increase is confirmed by the Financial Review Team.

3.3.6.3. Beginning in FY 2021-22, the amount shall reset to One Million Dollars ($1,000,000). The starting date of this increase shall be subject to review and confirmation by the Financial Review Team based on the sufficiency of VFTA revenues to cover the obligations of the Agreement, as described in Task 2B of Attachment A. The increased annual allocation shall be Escalated beginning the year in which the increase is confirmed by the Financial Review Team.

3.3.7. <u>Enhanced OCC Marketing Support</u>. Seventh, to Metro an amount for enhanced convention center marketing as follows:

3.3.7.1. For FY 2013-14, and annually until Metro issues OCC Hotel Project Bonds and an OCC Hotel Project has been in operation for eighteen (18) consecutive months, the amount of Four Hundred Fifty Thousand Dollars ($450,000), Escalated.

3.3.7.2. Beginning with the third Fiscal Year after the OCC Hotel Project has been in operation for eighteen (18) consecutive months, and only in the event Metro issues OCC Hotel Project Bonds as described in Section 6.2, the allocation for Enhanced OCC Marketing Support shall be reduced to the amount of One Hundred Seventy-Five Thousand Dollars ($175,000), Escalated, for as long as the OCC Hotel Project Bonds remain outstanding.

3.3.8. <u>Convention Visitor Public Transit Passes</u>. Eighth, to the entity contractually obligated to pay TriMet, the amount actually paid, up to Three Hundred Ninety Thousand Dollars ($390,000), Escalated, for convention visitor public transit passes, and any amount required to reimburse that entity for costs up to Three Hundred Ninety Thousand Dollars ($390,000), Escalated, per Fiscal Year that the entity was required to pay to TriMet in previous years in which insufficient funds were available in the VFTA to pay to that entity the amount allowed in this Section 3.3.8.

3.3.9. <u>Visitor Development Fund</u>. Ninth, to VDFI, to be deposited in the "<u>Visitor Development Fund</u>" (or "<u>VDF</u>") for convention and tourism marketing purposes, separately into two subaccounts to be used as follows:

3.3.9.1. Subaccount Visitor Development Fund One ("VDF1"), the amount of Six Hundred Forty-Five Thousand Dollars ($645,000), Escalated.

3.3.9.2. Subaccount Visitor Development Fund Two ("VDF2"), the amount of Eight Hundred Seventy-Five Thousand Dollars ($875,000), to be deposited annually through FY 2029-30. The VDF2 allocation shall not be Escalated. Any unobligated VDF2 funds above $250,000 annually shall be refunded to the County and deposited to the RR or BRR, as described in Sections 3.3.12 and 3.3.13.

3.3.10. PCPA Operations Support. Tenth, to Metro, for so long as Metro operates PCPA, the amount of Six Hundred Forty-Five Thousand Dollars ($645,000), Escalated.

3.3.11. Rose Quarter Facilities and City Tourism Support. Eleventh, to the City, the amount of Five Hundred Thousand Dollars ($500,000), Escalated, to fund Rose Quarter Facilities operations and capital improvements, and activities supporting the purposes of this Agreement.

3.3.11.1. Notwithstanding Section 3.3.11, for FY 2013-14, the amount of Two Hundred Fifty Thousand Dollars ($250,000).

3.3.12. Restricted Reserve. Twelfth, to a "Restricted Reserve" (or "RR"), which funds shall be reserved for use in making disbursements in future years if Net Revenues and TLT Net Revenues are insufficient to pay all disbursements required for Sections 3.3.1 through 3.3.11. The minimum amount to be established and maintained in the RR shall be reviewed annually by the Financial Review Team, as described in Task 3A of Attachment A, and shall be equal to 1.5 times the maximum annual payments forecast to be expended for the required allocations in Sections 3.3.5 through 3.3.11 during the next five Fiscal Years in the VFTA Fund Forecast.

3.3.13. Bond Redemption Reserve. Thirteenth, any Net Revenues or TLT Net Revenues in excess of the amount required to be deposited in the RR will be deposited into a "Bond Redemption Reserve" (or "BRR"), and shall be used exclusively to redeem Bonds prior to their stated maturity date and at their earliest optional redemption date. Funds on deposit in the BRR will be used to call Bonds in the same priority order as shown in Sections 3.3.1 through 3.3.4, or as otherwise recommended by the Financial Review Team as described in Task 3B of Attachment A.

3.4. Allocations Subject to Being Escalated. "Escalated" means an annual increase to a stated amount based on the change in the CPI between the second half of the prior calendar year compared to the second half of the year immediately preceding the prior calendar year. For example, for Fiscal Year 2014-2015 (July 1, 2014 – June 30, 2015), each of the allocations will be multiplied by a fraction, the numerator of which is the CPI for the second half of 2013 (July 1 – December 31, 2013) and the denominator of which is the CPI for the second half of 2012 (July 1 – December 31, 2012). Escalation for all allocation amounts in Sections 3.3.5 through 3.3.11 begins in Year One and continues annually thereafter unless otherwise stated. The Trustee shall calculate the Escalated amount for each Escalated allocation in Sections 3.3.5 through 3.3.11 at least one-hundred (100) days prior to the start of each Fiscal Year.

3.5. A periodic review of the VFTA cash flows and the VFTA Fund Forecast shall be performed by the Financial Review Team as described in Task 1 of Attachment A.

4. COUNTY OBLIGATIONS

4.1. Dedication of Net Revenues, TLT Net Revenues, and SSTLTR.

4.1.1. The County acknowledges that the City has issued and Metro intends to issue Bonds in reliance upon and secured in part by the Net Revenues and TLT Net Revenues.

4.1.2. The County commits to deposit into the VFTA (i) the tax collections from the VFTA TLT Surcharge and the VFTA VRT Surcharge and (ii) the SSTLTR, once these are tax collections are redirected by the City and County to the VFTA.

4.1.3. Within ninety (90) days of execution of this Agreement, the County will adopt an ordinance amending Multnomah County Code Chapter 11 consistent with this Agreement. However, the amendments to enable SSTLTR from the Excise Tax Fund TLT of the OCC Hotel Project to be redirected to the VFTA and to allow the VFTA to receive the non-VFTA SSTLTR shall be contingent upon Metro signing an OCC Hotel Project Development Agreement consistent with Section 6.2.

4.1.4. The County pledges, on behalf of the City, the Net Revenues for the benefit of the Beneficiaries and the owners of the City Bonds. The pledge is valid and binding from April 1, 2000, and will remain in effect until the City Bonds are fully paid. The Net Revenues pledged are immediately subject to the lien of the pledge and that lien is, and will remain, superior to other claims and liens. The County's obligations under this Section 4.1.4 are limited solely to the Net Revenues and this Agreement is not "bonded indebtedness" within the meaning of Section 10, Article XI of the Oregon Constitution or as described in ORS 287A.105.

4.1.5. The County pledges, on behalf of Metro, the TLT Net Revenues for the benefit of the Beneficiaries and the owners of the OCC Hotel Project Bonds. The pledge is valid and binding from the date Metro signs an OCC Hotel Project Development Agreement, and will remain in effect until the OCC Hotel Project Bonds are fully paid. The TLT Net Revenues pledged are immediately subject to the lien of the pledge and that lien is, and will remain, superior to other claims and liens. The County's obligations under this Section 4.1.5 are limited solely to the TLT Net Revenues and this Agreement is not "bonded indebtedness" within the meaning of Section 10, Article XI of the Oregon Constitution or as described in ORS 287A.105.

4.1.6. The City may assign the County's pledge of the Net Revenues for the benefit of the owners of the City Bonds, and Metro may assign the County's pledge of the TLT Net Revenues for the benefit of the owners of the OCC Hotel Project Bonds.

4.1.7. The County may make further subordinate pledges of the 14.5% base vehicle rental taxes collected under Multnomah County Code 11.301(B). Until the Bonds are paid or defeased, the County will not grant any additional liens on the Net Revenues or TLT Net Revenues.

4.1.8. Pursuant to the authority of ORS 287A.325, the County hereby agrees that it will:

4.1.8.1. Maintain the VFTA TLT Surcharge and the VFTA VRT Surcharge in effect until all City Bonds have been paid or the County has transferred sufficient funds to the City to defease all the City Bonds.

4.1.8.2. Maintain the VFTA TLT Surcharge and the Excise Tax Fund TLT in effect until all OCC Hotel Project Bonds have been paid or the County has transferred sufficient funds to Metro to defease the OCC Hotel Project Bonds.

4.2. Payment from the VFTA.

4.2.1. The County has established and will maintain a VFTA that complies with the terms of this Agreement.

4.2.2. After paying the Administrative Fee, refunds of surcharge taxes, including interest, and other charges required by state law, the Trustee will apply funds in the VFTA solely for the purposes and in the order of priority described in Sections 3.3.1 through 3.3.13.

4.2.3. The County will make payments (i) to the City for the City Bonds according to the established bond payment schedule and to Metro for the OCC Hotel Project Bonds, if such bonds are issued, according to the established bond payment schedule, (ii) to Metro quarterly, and (iii) to all other Beneficiaries at the end of each Fiscal Year in the amounts described in Sections 3.3.5 through 3.3.11.

4.2.4. The County will deposit into the reserves the amount required by Sections 3.3.12 and 3.3.13.

4.2.5. For each allocation amount in Section 3.3, if there are insufficient funds flowing into the VFTA to fully fund all allocations, the allocations will be funded from the Restricted Reserve in the same priority order stated in Section 3.3.

4.2.6. Reimbursements from the VFTA will occur as follows:

4.2.6.1. If there are insufficient funds in the VFTA in a Fiscal Year to pay the debt service allocations in Section 3.3.1 through 3.3.3, the City will be reimbursed in subsequent Fiscal Years after the allocations in Sections 3.3.1 through 3.3.4 are paid for the current Fiscal Year and before allocations in Sections 3.3.5 through 3.3.11 are disbursed for the current Fiscal Year.

4.2.6.2. If there are insufficient funds in the VFTA in a Fiscal Year to pay the allocation in Section 3.3.8, the entity will be reimbursed in subsequent Fiscal Years after the allocations in Sections 3.3.1 through 3.3.4 are paid for the current Fiscal Year and after any City reimbursement as described in Section 4.2.6.1 is paid but before allocations in Sections 3.3.5 through 3.3.11 are disbursed for the current Fiscal Year.

4.2.6.3. As provided in Section 6.2.4, if Metro is required to reimburse the VFTA for a shortfall in SSTLTR, refunds to Metro from a subsequent SSTLTR reconciliation accounting credit balance shall be made based on confirmation by the Financial Review Team as described in Task 5 of Attachment A.

4.2.6.4. No other allocation in the Agreement shall be eligible for reimbursement.

4.2.6.5. Reimbursement amounts will be paid with interest. Interest on amounts to be paid under this Section 4.2.6 shall be at the State of Oregon Local Government Investment Pool rate, determined as of the time of the reimbursement, for the time period beginning on the first day of the Fiscal Year following the date in which the payment requiring reimbursement was outstanding and continuing until the reimbursement payment date.

4.3. The powers and duties of County as the Trustee are as follows:

4.3.1. The County will maintain records regarding aggregate tax receipts and the calculation of the VFTA revenues and make those records available to the Beneficiaries upon request.

4.3.2. The County will make an annual accounting of the VFTA and make that accounting available for review by the City Auditor, the County Auditor and the Metro Auditor.

4.3.3. The County will prepare an annual forecast of projected income and expenses for the VFTA through the life of the Agreement (the "VFTA Fund Forecast") and make that forecast available for review by the Financial Review Team and to the Beneficiaries upon request.

4.3.4. The County will exercise the rights and powers vested in it by this Agreement, and use the same degree of care and skill as a prudent person would exercise or use under the circumstances.

4.3.5. The County may rely upon any certificate from the City or Metro reasonably believed by the County to be genuine and correct, and reasonably believed by the County to have been signed or sent by the City or Metro authorized representative.

4.3.6. The County will not be answerable for other than its negligence or willful misconduct in the performance of its powers and duties under this Agreement.

4.3.7. This Agreement does not require the County to expend or risk its owns funds (other than the Net Revenues or TLT Net Revenues) or otherwise incur any financial liability in the performance of any of its duties, or in the exercise of its rights or powers, if the County has reasonable grounds for believing that repayment of such funds, or in the alternative, indemnity satisfactory to it against such expense, risk or liability, is not reasonably assured to it.

4.3.8. Any moneys held as part of the VFTA will be invested or reinvested by the County in legally authorized investments and administered according to the County's investment policy. All proceeds of such investments will be deposited into and become part of the VFTA.

4.4. The County will not take any action, or fail to take any action, that would result in any of the tax exempt Bonds becoming taxable.

5. CITY OBLIGATIONS

5.1. The City has issued limited tax revenue bonds, secured by the City's full faith and credit and amortized over a period not to exceed 30 years from the original date of the 2001 Agreement (January 31, 2001), as follows:

5.1.1. The Convention Center Completion Bonds, dated February 13, 2001, in the amount of $99,998,888.25 and as subsequently refunded, to fund the Convention Center Completion Project, including the costs of issuance;

5.1.2. The PCPA Bonds, dated May 15, 2001, in the amount of $2,100,000 and as subsequently refunded, to fund capital improvements to PCPA, including costs of issuance; and

5.1.3. The Stadium Bonds, dated May 15, 2001, in the amount of $35,000,000 to fund improvements to the Stadium, including costs of issuance. The City may issue bonds or other indebtedness to fund Stadium improvements in addition to the Stadium Bonds, however, such bonds shall not be repaid from the VFTA.

5.2. The City issued the City Bonds conditioned on the VFTA TLT Surcharge and the VFTA VRT Surcharge, the creation of the VFTA, and the County's dedication of the tax collections from the VFTA TLT Surcharge and the VFTA VRT Surcharge to the VFTA.

5.3. So long as Stadium Bonds are outstanding:

5.3.1. The City will provide for the payment of a portion of the debt service on the Stadium Bonds from resources of the City's Spectator Facilities Fund ("<u>Spectator Facilities Fund Revenues</u>"). The original allocation of Stadium Bond debt service was based on an annual license fee payment expected to be received by the City from a prior operator of the Stadium. The prior operator is no longer associated with the Stadium and the City no longer collects the annual license fee payment in the amounts anticipated in the original allocation. The Parties have agreed that the City's share of debt service on the Stadium Bonds is equal to the FY 2002-03 payment of $944,320.00, increasing by 4.00 percent per year to a payment of $1,397,824.28 for FY 2012-13. Beginning in FY 2013-14, the City's share of debt service on Stadium Bonds will continue to increase by 4.00 percent per year unless the Stadium Bonds are refinanced to produce debt service savings. If the Stadium Bonds are refinanced, the City's share of Stadium Bond debt service will be determined as described in Section 5.3.2.

5.3.2. If the Stadium bonds are refinanced:

5.3.2.1. The remaining nominal debt service will be allocated in a manner that provides a total minimum of $3,000,000 in debt service savings to the City's Spectator Facilities Fund Revenues, with the balance of debt service savings allocated to the VFTA. If less than $3,000,000 total nominal debt service savings is produced, the entire amount of the savings will be allocated to the benefit of the City's Spectator Facilities Fund Revenues, but in no case will the allocation of nominal debt service paid by the VFTA be increased above the annual amounts originally anticipated prior to refunding. The Parties may elect to realize debt service savings upfront or in some manner other than uniformly over the remaining life of the refunding bonds.

5.3.2.2. Notwithstanding the conditions described in Section 5.3.2.1, and prior to the City's commitment to execute Stadium bonds to refinance the outstanding Stadium Bonds, the Financial Review Team shall review and verify the final debt service on the Stadium Bond refunding as described in Task 4A of Attachment A.

5.3.3. The City will calculate and provide directly to the Board the amount of any VFTA TLT Surcharge the City estimates to have been collected within East County Cities in the prior Fiscal Year that was applied to pay debt service on the Stadium Bonds. This amount will be used for visitor development programs, services or projects that benefit the East County Cities.

5.4. If Metro has signed an OCC Hotel Project Development Agreement consistent with Section 6.2 and the County has amended the Multnomah County Code consistent with Section 4.1.3, then, beginning the first Fiscal Year SSTLTR is generated by the OCC Hotel Project, the City will transfer funds equal to the SSTLTR attributable to the City 5% TLT and collected pursuant to Portland City Code Chapter 6.04 to the County to deposit in the VFTA, and continuing for the duration that the OCC Hotel Project Bonds remain outstanding.

5.5. The City will not take any action, or fail to take any action, that would result in any of the tax exempt Bonds becoming taxable. The City will indemnify the Parties for any costs incurred by them from City action, or failure to take action, that makes the OCC Bonds or the PCPA Bonds taxable.

6. METRO OBLIGATIONS.

6.1. Metro will not take any action, or fail to take any action, that would result in the OCC Bonds or PCPA Bonds becoming taxable. Metro will indemnify the Parties for any costs incurred by the Parties from Metro action, or failure to take action, that makes the OCC Bonds or the PCPA Bonds taxable.

6.2. Metro intends to enter into an OCC Hotel Project Development Agreement and to issue OCC Hotel Project Bonds as follows:

6.2.1. In support of the OCC Hotel Project, and after the OCC Hotel Project Development Agreement is signed, Metro will make a limited financial pledge of support for the OCC Hotel Project Bonds, which will be limited tax revenue bonds in an amount expected to provide not more than $70,000,000 to fund a portion of the proposed OCC Hotel Project.

6.2.2. If Metro signs an OCC Hotel Project Development Agreement by December 31, 2018, and issues OCC Hotel Project Bonds, the OCC Hotel Project Bonds will be secured in part or in whole by TLT Net Revenues and will be amortized over a period not to exceed 30 years.

6.2.3. Prior to final pricing of the OCC Hotel Project Bonds, Metro shall submit the bond debt service to the Financial Review Team for review and verification as described in Task 4B of Attachment A.

6.2.4. Review and reconciliation of the SSTLTR and OCC Hotel Project Bond payments shall occur as described in Task 5 of Attachment A and as follows:

6.2.4.1. Within the first 180 days of every five Fiscal Years beginning in the sixth Fiscal Year following the opening of the OCC Hotel Project, and continuing for as long as the OCC Hotel Project Bonds are outstanding, the Financial Review Team shall undertake a reconciliation accounting review and analysis of the SSTLTR paid by the OCC Hotel Project. The Trustee may also initiate FRT review of the SSTLTR at any time the Restricted Reserve balance falls to, or is expected to fall to, 25%

or less of the minimum required in Section 3.3.11, or when the Restricted Reserve balance has declined for three consecutive Fiscal Years.

6.2.4.2. As a result of such review and reconciliation accounting, and if no funds are available in the Restricted Reserve, the FRT may determine that a Metro reimbursement payment to the VFTA is required. As described in Task 5 of Attachment A, the FRT shall determine the amount of any required reimbursement payment as long as it is no greater than the cumulative accounting debit balance. Metro shall make such reimbursement payment in equal annual installment payments over the ensuing three Fiscal Years, with such payments being made to the VFTA by the end of the second quarter of each Fiscal Year. Metro's obligation to make reimbursement payments under this section shall cease if at any time that the OCC Hotel Project Bonds are outstanding, any portion of the SSTLTR is no longer deposited in the VFTA.

6.2.4.3. If a Metro reimbursement payment is required, and to the extent the installment payments have been paid, the cumulative accounting credit balance resulting from a future reconciliation calculation will be used to make a refund payment to Metro from the VFTA consistent with Section 4.2.6.3. Such refund payments will be paid to Metro by the end of the second quarter of the Fiscal Year following the reconciliation.

6.3. So long as OCC Hotel Project Bonds are outstanding, Metro shall, at least twelve (12) months prior to the call date of the OCC Hotel Project Bonds, consider opportunities for refunding the bonds and shall consider the advice of the FRT, as described in Task 6A of Attachment A, on OCC Hotel Project Bond refunding.

6.4. If any portion of the OCC Hotel Project Bonds is issued as tax-exempt bonds, Metro will not take any action, or fail to take any action, that would result in any of the tax-exempt portion of the OCC Hotel Project Bonds becoming taxable. Metro will indemnify the City, the County and the VFTA for any costs that result from a Metro action, or failure to take any action, that makes the OCC Hotel Project Bonds taxable. However, this language will not apply in the event that actions undertaken by Metro resulting in a change in tax status of the OCC Hotel Project Bonds results in net financial benefits to the VFTA as confirmed by the FRT in their analysis described in Task 6B of Attachment A.

7. JOINT OBLIGATIONS OF CITY, COUNTY AND METRO

7.1. Reporting on use of VFTA funds. Within ninety (90) days of the end of each Fiscal Year, upon request of the Board or any Party to this Agreement, each Party requested shall furnish to the Board and the other Parties, a summary statement of the Party's use of VFTA funds in the previous Fiscal Year.

7.2. Financial Review Team. The Parties agree that establishing a "Financial Review Team" (or "FRT") with specified tasks will enhance the VFTA system through more frequent and consistent financial review. The Parties agree to assign financial experts from each Party to perform certain financial review responsibilities on an ongoing and as needed basis in order to more actively monitor and manage VFTA resources, and to encourage accountable and efficient application of those resources. The composition of the FRT and its specified tasks and authorities are as follows:

7.2.1. The FRT shall be composed of the City CAO, the County CFO, and the Metro COO, or their respective assigned designees. The Trustee shall convene the FRT as needed and may invite the Executive Vice President - Finance & Administration for Travel Portland to participate with the FRT in an advising capacity.

7.2.2. Attachment A to this Agreement specifies the tasks to be performed by the FRT including the intended action(s) to be taken, the timing and/or frequency for each task, and the deliverable(s) for each task. The level of authority delegated to the FRT is also specified for each task either in Attachment A or in this Agreement. A decision by the FRT shall require a consensus agreement by all members on any specified action; however, each FRT member may provide advice to their respective elected official (i.e. City Mayor, County Chair or Metro President). If action is required and consensus is not achieved in a timely manner, any FRT member may refer the matter to the dispute resolution process describe in Section 8.1

7.2.3. The role of the FRT is to provide financial analysis, advice and recommendations to the Parties. The FRT does not have the authority to change or amend any term of the Agreement. The FRT and its members individually may recommend amendments to this Agreement to the Parties, which amendments shall only be implemented upon agreement of the Parties.

7.3. <u>Visitor Development Strategic Plan.</u> The Parties agree to work together to prepare a Visitor Development Strategic Plan ("Strategic Plan") to provide general direction for the future use of VFTA funds in support of tourism and the convention industry to maximize the economic benefits for the Portland-Multnomah County area. The Parties agree to include the other Beneficiaries to this Agreement in the development of a Strategic Plan. The development of the Strategic Plan will begin in January of the third year following the opening of the OCC Hotel Project or January 2020, whichever comes first. Nothing in this section prevents an earlier start to the development of the Strategic Plan if the Parties, through the City Mayor, the County Chair, and the Metro Council President, agree to begin the process earlier. Once a Strategic Plan is developed, the Parties will use their best efforts to update the Strategic Plan at least every five years for as long as this Agreement is in effect.

7.4. The Parties agree to convene to review this Agreement periodically. Beginning on July 1, 2018, any Party may request the Parties convene to consider amendments to this Agreement. If a request to consider amendments is made, the Parties shall agree to convene and, in a timely manner, shall assign adequate staff resources, establish a schedule for negotiations and participate in the negotiations in good faith.

7.5. The Parties shall provide written notice to VDFI sixty (60) days in advance of amending this Agreement. The notice shall include an explanation, with reasonable particularity, of the proposed modification or amendment and, if available, a copy of the proposed modification or amendment.

8. DISPUTE RESOLUTION

8.1. If a dispute arises under this Agreement among the Parties, any Party, or the Board as described in Sections 3.3.5.3 and 3.3.5.6, may initiate the following dispute resolution process:

8.1.1. The initiating Party, or Board, will give written notice consistent with Section 10.2 to (a) the City Mayor, (b) the County Chair, (c) the Metro Council President and (d) the Board. The City Mayor, the County Chair and the Metro Council President, or their designees, will be the "Dispute Resolution Committee" (or "DRC"). The notice will identify the dispute for which the dispute process is initiated.

8.1.2. The Board will be a party to and allowed to participate in the dispute resolution process, although it will not have a voting member on the DRC.

8.1.3. Within 15 days of the notice, each Party and the Board may submit a written statement to the DRC stating the party's position on the dispute.

8.1.4. Within 60 days of the notice, the DRC will decide on a resolution of the dispute and notify the Parties and Board of the resolution. Decisions of the DRC will be by majority vote. The Party that initiated the dispute shall be entitled to vote on the matter and shall not be deemed conflicted out of the decision.

8.1.5. Decisions of the DRC are final. However, the DRC has no authority to approve an amendment to this Agreement.

9. TERMINATION AND REMEDIES

9.1. The County's obligation to provide Net Revenues for the City Bonds shall terminate when all City Bonds are fully paid or defeased, and will end (i) no later than June 1, 2021, for the PCPA Bonds, (ii) no later than June 1, 2023, for the Stadium Bonds, and (iii) no later than June 1, 2030, for the OCC Bonds. If Metro does not issue OCC Hotel Project Bonds, as described in Section 6.2, this Agreement will terminate when all the City Bonds are paid or defeased (the "Early Termination Date"), and the Agreement may be extended beyond the Early Termination Date by agreement of the Parties.

9.2. The County's obligation to provide TLT Net Revenues is tied to the OCC Hotel Project Bonds, which are expected to be outstanding beyond June 1, 2030. If Metro issues OCC Hotel Project Bonds consistent with Section 6.2, neither this Agreement nor the imposition of the VFTA TLT will terminate until all of the OCC Hotel Project Bonds are paid or defeased (the "Termination Date"), and the Agreement may be extended beyond the Termination Date by agreement of the Parties.

9.3. Notwithstanding Sections 9.1 and 9.2, all taxes subject to this Agreement that are imposed but not collected by the County on the Early Termination Date will be Net Revenues, and on the Termination Date will be TLT Net Revenues.

9.4. Before the Early Termination Date or Termination Date, this Agreement may only be terminated by the agreement in writing of all Parties.

9.5. So long as any of the City Bonds are outstanding and this Agreement is in effect, the obligations of the County to (i) collect the taxes imposed by Multnomah County Code 11.301(C) and 11.401(E), and (ii) maintain the Net Revenues and transfer them to the City to pay the City Bonds, as provided in this Agreement, may not be terminated for any reason, including a breach by any Party of its obligations under this Agreement or any amendment to this Agreement.

9.6. So long as the OCC Hotel Project Bonds are outstanding, and this Agreement is in effect, the obligations of the County to (i) collect the taxes imposed by Multnomah County Code 11.401(E), and (ii) maintain the TLT Net Revenues and transfer them to Metro to pay the OCC Hotel Project Bonds, as provided in this Agreement, may not be terminated for any reason, including a breach by any Party of its obligations under this Agreement or any amendment to this Agreement.

9.7. Upon reaching the Early Termination Date of this Agreement, the County may terminate or modify the tax surcharge imposed by Multnomah County Code 11.301(C).

9.8. Upon reaching the Termination Date of this Agreement, the County may terminate or modify the tax surcharge imposed by Multnomah County Code 11.401(E).

10. GENERAL PROVISIONS

10.1. Maintenance of Records. All Parties will maintain records of payments made and funds received under this Agreement and such records are subject to audit and inspection by the other Parties.

10.2. Notice. A notice or communication under this Agreement by a Party to another Party shall be sufficiently given or delivered if sent with all applicable postage or delivery charges prepaid by: (a) personal delivery; (b) sending a confirmed email copy (either by automatic electronic confirmation or by affidavit of the sender) directed to the email address of the Party set forth below; (c) registered or certified U.S. mail, return receipt requested; or (d) delivery service or "overnight delivery" service that provides a written confirmation of delivery, each addressed to a Party as follows

If to the City: City of Portland
Office of the Mayor
1221 S.W. Fourth Avenue, Room 340
Portland, Oregon 97204
Email: mayorcharliehales@portlandoregon.gov
Phone No.: 503-823-4120

and	
	City of Portland Office of Management and Finance 1120 S.W. Fifth Avenue, Room 1204 Portland, Oregon 97204 Attn: Chief Administrative Officer Email: jack.graham@portlandoregon.gov Phone No.: 503-823-5288
with copies to:	Spectator Facilities & Development Manager 1120 S.W. Fifth Avenue, Room 1204 Portland, Oregon 97204 Attn: Spectator Facilities & Development Manager Email: SpectatorFacilities@portlandoregon.gov Phone No.: 503-823-6958
and	
	Office of the City Attorney City of Portland, Oregon 1221 S.W. Fourth Avenue, 4th Floor Portland, Oregon 97204 Attn: City Attorney Email: Jim.VanDyke@portlandoregon.gov Phone No.: 503-823-4047
If to the County:	Multnomah County Office of the County Chair 501 N.E. Hawthorne Blvd., Suite 600 Portland, Oregon 97214 Email: mult.chair@multco.us Phone No.: 503-988-3308
and	
	Multnomah County Finance and Risk Management Division 501 N.E. Hawthorne Blvd. Portland, Oregon 97214 Attn: Chief Financial Officer Email: mark.campbell@multco.us Phone No.: 503-988-6229
with copies to:	County Attorney 501 N.E. Hawthorne Blvd. Portland, Oregon 97214 Attn: Jacquie Weber Email: jacquie.a.weber@multco.us Phone No.: 503-988-3138

If to Metro: Metro
Office of the Council President
600 N.E. Grand Avenue.
Portland, Oregon 97232
Email: tom.hughes@oregonmetro.gov
Phone No.: 503-797-1700

and

Metro
600 N.E. Grand Avenue.
Portland, Oregon 97232
Attn: Chief Operating Officer
Email: Martha.Bennett@oregonmetro.gov
Phone No.: 503-797-1700

with copies to: Office of Metro Attorney
Metro
600 N.E. Grand Avenue
Portland, Oregon 97232
Attn: General Counsel
Email: Alison.Kean.Campbell@oregonmetro.gov
Phone No.: 503-797-1511

Notice to the Board shall be sent to:
Travel Portland
1000 SW Broadway, Suite 2300
Portland, Oregon 97205
Attention: President -CEO
Email: grants@VisitorsDevelopmentFund.com
Phone No: (503) 275-9797

Each Party may, by notice to the other Party, specify a different address or confirmation number for subsequent notice purposes. Notices may be sent by counsel for a Party. Notice shall be deemed effective on the earlier of actual delivery or refusal of a Party to accept delivery, provided that notices delivered by email shall not be deemed effective unless simultaneously transmitted by another means allowed under this Section 10.2. For a notice to be effective, the copied persons must also be given notice.

10.3. Successors and Assigns. This Agreement will bind each Party, its successors, assigns and legal representatives. No Party, under any condition, may voluntarily assign or transfer it obligations to any third party. Any attempted assignment or transfer will be void.

10.4. Adherence to Law. The Parties will adhere to all applicable federal and state laws in all activities under this Agreement.

10.5. Waivers. No waiver made by a Party with respect to performance, or the manner or time of performance, of any obligation of another Party or any condition under this

Agreement will be considered a waiver of any other rights of the Party making the waiver or a waiver by any other Party. No waiver by a Party of any provision of this Agreement will be of any force or effect unless in writing and no waiver shall be construed to be a continuing waiver.

10.6. Time of the Essence. Time is of the essence of this Agreement.

10.7. Choice of Law and Forum. This Agreement will be construed in accordance with the laws of the State of Oregon and any action brought under this Agreement will be brought in Multnomah County, Oregon.

10.8. Modification. This Agreement may only be modified by a writing signed by each of the Parties. No modification to any provision of this Agreement may be implied from any course of performance, any acquiescence by any Party, any failure of any Party to object to another Party's performance or failure to perform, or any failure or delay by any Party to enforce its rights.

10.9. Headings. Any titles of the sections of this Agreement are inserted for convenience of reference only and will be disregarded in construing or interpreting its provisions.

10.10. Counterparts; Electronic Transaction. This Agreement may be executed in counterparts, each treated as an original, and the counterparts will constitute one document. The Parties agree that they may conduct this transaction, including any amendments or extension, by electronic means including the use of electronic signatures and facsimiles.

10.11. Severability. If any term or provision of this Agreement or its application to any Party or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement and the application of such term or provision to such Party or circumstance other than those as to which it is held invalid or unenforceable shall not be affected, and each term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

10.12. Construction and Interpretation. To the extent consistent with the context, words in the singular shall include the plural, words in the masculine gender shall include the feminine gender and the neuter, and vice versa. All provisions of this Agreement have been negotiated at arms length, and this Agreement shall not be construed for or against any Party by reason of the authorship or alleged authorship of any provision of this Agreement.

10.13. Implementation. The Parties agree to take all actions and execute all documents necessary to effect the terms of this Agreement.

[Signature page follows]

CITY OF PORTLAND

Approved as to form

James Van Dyke City Attorney	Charlie Hales Date Mayor

MULTNOMAH COUNTY

Approved as to form

Jenny Madkour County Counsel	Jeff Cogen Date County Chair

METRO

Approved as to form

Alison Kean Campbell Metro Attorney	Tom Hughes Date Metro Council President

VISITOR FACILITIES INTERGOVERNMENTAL AGREEMENT
ATTACHMENT A

Financial Review Team Tasks and Responsibilities

The purpose of the Financial Review Team or FRT is defined in Section 7.2 of the Visitor Facilities Intergovernmental Agreement ("VFIGA"). The composition of the Financial Review Team and its convening are described in Section 7.2.1 of the VFIGA. Decision making for the FRT is described in Section 7.2.2. All section references in this Attachment are to the VFIGA and defined terms in this Attachment have the same meaning as in the VFIGA.

Task 1 – Periodic Review of VFTA cash flows and VFTA Fund Forecast

FRT Action: As provided in Sections 3.5, review VFTA cash flow and VFTA Fund Forecast for sufficiency and capacity to fund all VFIGA obligations and priorities.

Information to be reviewed may include but are not limited to:

- Historical and projected funding adequacy
- Reserve/Fund Balance levels and projections
- Prepayment and/or refunding possibilities for Bonds and examination of which Bonds would yield the most value to the VFTA system if prepayment or refunding were implemented
- Comparison of actual VFTA and SSTLTR receipts to projections
- VFTA funding requirements as compared to actual VFTA funding needs and priorities
- Factors affecting, or projected to affect, the local and national economy, particularly those that influence the VFTA system revenues

Timing/Frequency: At least annually and no later than 90 days prior to the start of each Fiscal Year. Reviews may occur more frequently if requested by any Party to the VFIGA.

FRT Deliverables: The Financial Review Team representative from each Party shall provide a summary to each Party's members of the VDFI Board. The Financial Review Team may also provide periodic reporting to other relevant VFTA participants as needed. The FRT may also provide advice to the City Mayor, the County Chair and the Metro Council President on desired and appropriate adjustments to the VFTA that may require amendment to the VFIGA.

Task 2 – Recommendations on Adequacy of VFTA Funding and Initiation of Certain Actions

<u>Task 2A: VFTA Forecast Review for Additional OCC Operating Support requests per Sections 3.3.5.2 and 3.3.5.6.</u>

FRT Actions: Review VFTA Fund Forecast and analyze expected adequacy of VFTA funds to fulfill the allocations in 3.3.1 through 3.3.11 and the reserve accounts in 3.3.12 and 3.3.13. Review the adequacy of SSTLTR collections to meet OCC Hotel Project Bond payments in 3.3.4. Provide advice to VDFI Board prior to their consideration of a request for Additional OCC Operating Support per Section 3.3.5.2 or approving such request per Section 3.3.5.6. In their review, the FRT may take into consideration the review information included in Task 1 and the adequacy of the VFTA reserves as described in Section 3.3.12 and 3.3.13, any OCC capital or operating reserve funds carried by Metro and the results of the most recent reconciliation review and analysis describe in Task 5.

Timing/Frequency: If Metro intends to make a request for Additional OCC Support, at least 100 days prior the beginning of each Fiscal Year, as described in Sections 3.3.5.1 and 3.3.5.2.

FRT Deliverable: Report to the VDFI Board and each Party's members of the VDFI Board, which shall accompany the Additional OCC Operating Support request, describing the anticipated sufficiency of VFTA revenues and reserves to cover all obligations of the Agreement.

Task 2B: Confirm Adequacy of VFTA to Cover Step Increases for County Allocation per Section 3.3.6.3 and 3.3.6.4

FRT Action: Review of VFTA Fund Forecast and determine expected adequacy of VFTA funds to support increases of County allocation per Section 3.3.6 along with other VFTA allocations. The FRT shall use the review information included in Task 1 and may include the results from the most recent SSTLTR reconciliation review as described in Task 4B in this determination, provided that a debit balance will not be the sole reason to reject or delay the step increases.

Timing/Frequency: At least 90 days in advance of Fiscal Years identified in Section 3.3.6.3 and 3.3.6.4 and as needed in subsequent Fiscal Years if increases are not confirmed at an earlier allowed date.

FRT Deliverables: Confirmation, by email to the Trustee, to increase or not increase the County allocation.

Task 3 – Review Restricted Reserve Amount and Determine Bond Redemption

Task 3A: Review Restricted Reserve Amount per Section 3.3.12

FRT Action: Review of VFTA Fund Forecast and calculation of amount required to be maintained in the Restricted Reserve to meet the requirements of Section 3.3.12.

Timing/Frequency: Annually along with Task 1 review.

Deliverables: Direction to the County Trustee regarding the amount required to be maintained in the Restricted Reserve.

Task 3B: Recommend Bond Redemption Priorities per Section 3.3.13

FRT Action: Review funds available in Bond Redemption Reserve and bond call opportunities against priority order of bond allocations in Sections 3.3.1 through 3.3.4 to recommend bond redemption priority.

Timing/Frequency: Annually along with Task 1 review.

Deliverables: Recommendation to the County Trustee regarding the priority order for bond redemption consistent with Section 3.3.13.

Task 4 – Review and Verify Bond Debt Service

Task 4A: Review and Verify Final Stadium Bond Refunding Debt Service

FRT Action: As provided in Section 5.3.2.2, review final proposed debt service on Stadium Bond Refunding to ensure consistency with Section 5.3.2.1.

Timing/Frequency: Once, immediately prior to final pricing of Stadium Bonds

FRT Deliverable: Verification of Stadium Bond debt service schedule consistency with Section 5.3.2.1, which verification shall be provided by email, to the City CAO, or his designee and the Trustee.

Task 4B: Verify OCC Hotel Project Bond Debt Service

FRT Action: As provided in Section 6.2.3, compare final proposed debt service on OCC Hotel Project Bonds to OCC Hotel Project SSTLTR and to VFTA cash flow projections, review communications regarding tax-exempt status, and confirm adequacy of projected SSTLTR to cover annual bond payments for consistency with the terms in Section 6.2.

Timing/Frequency: Once, immediately prior to final pricing of OCC Hotel Project Bonds

FRT Deliverable: Verification of OCC Hotel Project Bond debt service schedule consistency with Section 6.2, which verification shall be provided by email, to the Metro COO, or his designee and the Trustee.

Task 5 –Perform Reconciliation Review and Analysis of SSTLTR and Determine Metro Reimbursements and Refunds

FRT Actions:

A) Consistent with Section 6.2.4, review and analyze the SSTLTR paid by the OCC Hotel Project as follows:

1. The Trustee shall prepare a reconciliation accounting of (1) the collected SSTLTR, including the difference between the amount stated in Sections 3.3.7.1 and the amount stated in Section 3.3.7.2, as Escalated, for Enhanced OCC Marketing Support, and (2) the amount of principal and interest (debt service) on OCC Hotel Project Bonds paid to Metro from VFTA funds during that corresponding time period.
2. The FRT will compare the amount of SSTLTR that was paid by or attributed to the OCC Hotel Project to the payments for the OCC Hotel Project Bonds under Section 3.3.4. If the total of the SSTLTR is larger than the total of the bond payments, an accounting "credit" will be recorded for the time period being analyzed. If the total of the bond payments is larger than the total of the SSTLTR, an accounting "debit" will be recorded for the time period being analyzed.
3. The credits and debits will be summed to determine if the cumulative accounting balance is positive (a "credit balance") or negative (a "debit balance"). The cumulative accounting balance will be carried forward into subsequent reconciliation reviews.

B) Consistent with Section 6.2.4, determine if a Metro reimbursement payment is due and the amount, if any, that should be paid by Metro to the VFTA, or if a refund to Metro is due, as follows:

1. As described in Section 6.2.4.2, if the cumulative accounting balance is a debit balance, and if no funds are available within the VFTA Restricted Reserve, the FRT may determine that Metro be required to remit to the County for deposit in the VFTA a reimbursement payment up to the amount of the debit balance. The FRT can set the reimbursement payment to an amount less than the debit balance and can choose to delay payment until a subsequent reconciliation review is completed. Any debit balance that may be remaining after a Metro reimbursement payment is determined shall be carried forward into subsequent reconciliation reviews.
2. The FRT shall determine if a reimbursement payment is required by Metro by considering appropriate financial factors, including but not limited to: the fluctuations in SSTLTR collections over the life of the OCC Hotel Project Bonds taking into consideration historic trends and current economic indicators, the amount of the negative balance, and the VFTA Fund Forecast.
3. As described in Section 6.2.4.3, the FRT shall determine if Metro is owed a refund payment. If, after refunding to Metro all reimbursement payments made by Metro in prior Fiscal Years, an accounting credit balance still remains, the credit balance will be carried forward into subsequent reconciliation reviews.

Timing/Frequency: As described in Section 6.2.4.1.

FRT Deliverables: 1) Reconciliation report to Metro COO. 2) Direction to the Trustee and Metro COO on Metro's required reimbursement of the VFTA or refunds to Metro from the VFTA.

Task 6 – Advise on OCC Hotel Project Bond Refunding and Tax Status

Task 6A: Advise on OCC Hotel Project Bond Refunding per Section 6.3

FRT Actions: As described in Section 6.3, review and analyze opportunities to refund OCC Hotel Project Bonds. Factors to consider in this analysis include but are not limited to: the financial benefits for the VFTA and Parties of refunding; the expected adequacy of SSTLTR to support OCC Hotel Project Bond refunding without contributions from non-VFTA revenues; and any request from Metro to use a reconciliation credit balance to defease the then outstanding OCC Hotel Project Bonds.

Timing/Frequency: Per Section 6.3.

Deliverables: Advice and guidance to the Metro COO regarding OCC Hotel Project Bond debt service coverage excluding non-VFTA revenues, and any proposed OCC Hotel Project Bond refunding structure.

Task 6B: Determine Net Financial Result of Change in Tax Status of OCC Hotel Project Bonds, per Section 6.4

FRT Actions: As described in Section 6.4, review any action undertaken by Metro that results in a change in tax status of the OCC Hotel Project Bonds to determine if the results are a net financial benefit to the VFTA.

Timing/Frequency: Within 30 days of a change in the tax status of the OCC Hotel Project Bonds.

Deliverables: Report to the City Mayor, County Chair and Metro Council President on the net financial impact to the VFTA of a change in tax status of the OCC Hotel Project Bonds.

Confidential Information:

For the purposes of the OCC Hotel Project funding strategy included in the VFIGA, the Parties must be provided information about the SSTLTR on an ongoing basis in order to perform their responsibilities under the Agreement. Metro will obtain a waiver to Portland City Code 6.04.130.D from the OCC Hotel Project operator, including agreement to periodic updates of such waiver, to allow sharing of the SSTLTR information with the Financial Review Team, who shall sign a confidentiality agreement.

METROPOLITAN EXPOSITION RECREATION COMMISSION

Resolution No. 13-20

For the purpose of approving the Oregon Convention Center Hotel project Term Sheet with Mortenson Development Inc.

WHEREAS, in October of 2011, the Metropolitan Exposition Recreation Commission (MERC) and the Oregon Convention Center (OCC) Advisory Committee requested that the Metro Council consider developing a convention center hotel;

WHEREAS, on May 11, 2012, Metro issued a Request for Proposals for the development of an convention center hotel, seeking a private development team to build a privately-owned and operated 4-star convention hotel adjacent to the OCC;

WHEREAS, on September 13, 2012, the Metro Council adopted Resolution 12-4365, authorizing staff to begin predevelopment negotiations with Mortenson Development Company/Hyatt Hotels (Mortenson/Hyatt); and

WHEREAS, staff negotiations with Mortenson/Hyatt have resulted in a non-binding, preliminary business deal term sheet, the general terms of which are set forth in the attached Exhibit A (OCC Hotel Term Sheet).

BE IT THEREFORE RESOLVED, that the Metropolitan Exposition Recreation Commission:

> Approves of the non-binding business terms set forth in the OCC Hotel Term Sheet attached hereto as Exhibit A and recommends to the Metro Council that it pursue a final development and financing agreement with Mortonson/Hyatt containing the terms set forth therein.

Passed by the Commission on August 7, 2013.

Approved as to form:
Alison R. Kean, Metro Attorney

____
Chair

By:______________________________
Nathan A. Schwartz Sykes, Senior Attorney

____
Secretary/Treasurer

Exhibit A to Resolution 13-20

OREGON CONVENTION CENTER HOTEL
DEVELOPMENT AND FINANCING AGREEMENT LETTER OF INTENT

________________________, 2013 (the "Effective Date")

BETWEEN: Metro ("Metro")
600 NE Grand Avenue
Portland, Oregon 97232

AND: Mortenson Development, Inc. ("Developer")
M. A. Mortenson Company
700 Meadow Lane North
Minneapolis, MN 55422-4899

In May 2012, Metro issued a Request for Proposals for a development team to build, own and operate a private convention center hotel (the "Hotel"). The Parties understand that the primary purpose for Metro engaging in the Hotel project is to generate additional economic benefit to the region and the State by enhancing the marketability of the Oregon Convention Center.

In September 2012, the Metro Council selected the Mortenson Development, Inc. team to develop the Hotel adjacent to the Oregon Convention Center in Portland, Oregon. In late October 2012, Metro and the Developer (together, the "Parties") completed predevelopment activities resulting in the Development and Financing Agreement Term Sheet attached as Exhibit A ("Term Sheet") for review and approval by the Metro Council and Mortenson Development, Inc.

Metro and Developer intend to enter into a Development and Financing Agreement for the development of a privately-owned convention center Hotel, upon terms and conditions satisfactory to the Parties. The intent of the Term Sheet is to set forth the mutual understandings, intentions and approach of the Parties to plan, finance and develop the proposed Hotel to support the economic development mission of the Oregon Convention Center. The Parties anticipate negotiating and executing a formal, binding Development and Financing Agreement incorporating the general terms set forth in the Term Sheet on a date as soon as feasible within the term of the Term Sheet. Once a formal, binding Development and Financing Agreement has been executed, the Parties will have obligations with respect to the development and financing of the Hotel. The Parties desire to complete predevelopment and due diligence activities with the goal of constructing and opening the Hotel in 2016.

The term of the Term Sheet is 6 months from the Effective Date of this Letter of Intent. The Parties may extend the term upon mutual agreement, which shall not be unreasonably withheld provided the Parties are working in good faith and will be able to perform their expected duties and responsibilities under the Development and Financing Agreement, and will notify each other of substantive changes. If at any time either Party determines that it is unable to proceed, such party shall promptly notify the other, who may then elect to discontinue negotiations or proceed under revised terms.

Both Parties understand that this Term Sheet is non-binding and is intended to define the project approach and general business terms for the Development and Financing Agreement negotiation process. Both Parties commit to work in good-faith.

M.A. Mortenson Company

____

Tom Lander, Vice President and General Manager

Metro

____

Martha Bennett, Metro Chief Operating Officer

EXHIBIT A
OREGON CONVENTION CENTER HOTEL

DEVELOPMENT AND FINANCING AGREEMENT TERM SHEET

This Development and Financing Agreement Term Sheet summarizes the proposed terms under which Mortenson Development, Inc. ("Developer") and Metro ("Metro") intend to plan, finance and develop a privately owned Convention Center Hotel (the "Hotel") to be owned and operated by Hyatt Hotel Corporation ("Manager").

DESCRIPTION OF DEVELOPMENT TEAM	
Developer	Mortenson Development, Inc. will serve as the project developer, assuming all responsibility for the design, entitlement, financing and construction of the Hotel. The Developer is expected to enter into a Development and Financing Agreement with Metro.
Owner	The initial project owner is expected to be a special purpose entity (SPE) to be created for purposes of this project. The Developer will act as managing member or managing partner of the SPE. The SPE will assume the Developer's outstanding rights and responsibilities of the Development and Financing Agreement with Metro. Upon completion of construction, the SPE will be sold to Hyatt Hotels Corporation which shall cause the Hotel to be operated under the Hyatt Regency brand. A subsequent sale of the Hotel by Hyatt Hotels Corporation shall be encumbered with a Hyatt Regency franchise agreement or management contract, or shall be caused to be re-flagged an upper-upscale hotel brand of similar quality to Hyatt Regency. Owner shall notify Metro of a proposed sale and/or change in the Hotel flag. Metro will approve any change in Hotel flag as a condition to the change, with such approval not unreasonably withheld.
Manager	Hyatt Hotels Corporation will manage and operate the Hotel.
Contractor	Mortenson Construction will serve as the general contractor for the project.
Design/Build	The Hotel will be built under a design/build approach, with Mortenson Construction providing cost and completion guarantees.
Architect	Elness Swenson Graham Architects will serve as the lead design firm, with Ankrom Moisan Associated Architects as the local design partner.

Other Consultants	Piper Jaffray & Co. –finance investment banking Jones Lang LaSalle Hotels – market and feasibility studies
Public Partners	Metro, as owner of the Oregon Convention Center, is the lead public participant in the project. Three other public organizations will be required to take actions to facilitate the Hotel: (a) Portland Development Commission (PDC) (b) City of Portland (c) Multnomah County
PROJECT DESCRIPTION	
Hotel Location	The Developer prefers the Hotel be developed on portions of Block 47 and 48, Holladay's Addition, Portland, as depicted in <u>Attachment A</u>. The property is currently owned by (or under the control of) StarTerra, LLC and is expected to be sold to the SPE at closing. The site is 1.85 acres and provides excellent proximity to the Oregon Convention Center and Light Rail along NE Holladay Street. PDC owns a 15,000 square foot parcel on Block 47, Holladay's Addition, Portland, as depicted in Attachment C. This parcel is adjacent to the StarTerra site and will be considered as part of the Hotel design phase. An alternative site available for Hotel development is PDC's property known as Block 43 and 26, Holladay's Addition, Portland, as depicted in Attachment B. Mortenson shall coordinate with PDC on planning efforts for the adjacent, 15,000 square foot parcel on Block 47 currently owned by PDC.
Hotel Description	The Hotel will serve as the flagship convention hotel serving the Oregon Convention Center due to its size and proximity. The Hotel is currently expected to consist of the following facilities and amenities: (1) 600 rentable guest rooms; (2) 35,000 square feet of meeting and ballroom space; (3) a three meal upscale restaurant; (4) a lobby bar; (5) a coffee bar; (6) an indoor pool and whirlpool; (7) an exercise room; (8) a business center; (9) a gift shop; and (10) other additional facilities and amenities agreed upon by the parties, consistent with the high quality

	Hyatt Regency brand.
Hotel Name	For purposes of this Term Sheet and subsequent negotiations, the Hotel will be referred to as the "Convention Center Hotel."
Parking Management	Structured parking shall be provided for the Hotel either under the Hotel or on Block 49 and shall be managed by StarTerra, LLC.
Operating Standards	The Hotel will be built and operated in conformance with the design, construction and operating standards for the Hyatt Regency brand, in place as of the effective date of the Development and Financing Agreement, and as approved by Hyatt Hotels Corporation.
LEED [Silver] Standards	The parties desire the Hotel to be certified LEED Silver or higher for New Construction by U.S. Green Building Council. Developer intends to construct the Hotel in a manner that would qualify it as LEED Silver or higher.
Operating Agreement with Manager	The Owner will enter into an Operating Agreement with Hyatt Hotels Corporation, with the expectation that Hyatt will operate and manage the Hotel.
UNION LABOR	
Construction **Operations**	As a union signatory contractor, Mortenson routinely builds its projects utilizing union subcontractors and with union labor. Mortenson fully intends to do so for the Hotel project. Hyatt Hotels Corporation, has entered into a labor peace agreement with Unite Here, Local 9, dated October 31, 2012.
NON-BINDING COMMITMENTS AND ROLES OF THE PARTIES	
Development	Developer will serve as project developer and Mortenson Construction will be the construction contractor. Developer will: (a) Manage the predevelopment and construction process, including design/build, financing, permitting and construction management of the Hotel. (b) Provide a guarantee for construction costs and completion to facilitate project financing. (c) Serve as the lead entity in negotiations with the public participants, participating in joint team meetings, negotiating meetings and public

	meetings upon request. (d) Ensure that the project complies with terms and provisions conditions of the Development and Financing Agreements. (e) Provide Metro with copies of design product, budgets, statement of sources and uses of funds, financing commitments, operating pro formas, and other relevant information as mutually agreed upon throughout the Hotel project process.

Hotel Ownership and Operations	Hyatt Hotels Corporation expects to: (a) Participate in the predevelopment process and provide project management oversight to ensure that the project is designed, constructed and equipped to meet the Hyatt Regency brand; (b) Negotiate and enter into a Room Block Agreement with Metro; (c) Acquire the Hotel from SPE upon completion of construction and issuance of a Certificate of Completion by the City; (d) Manage and operate the Hotel to the standards of a Hyatt Regency product upon completion of construction under contract with the ownership entity.
Public Parties	Metro expects to: (a) Serve as the lead public participant and public oversight agent through completion of the Hotel with any ongoing involvement to be addressed in the Room Block Agreement; (b) Coordinate necessary approvals for funding from PDC, City and Council. Negotiate and enter into development and financing agreements, including intergovernmental agreements, Visitor Development Initiative amendments, etc. (c) Negotiate and enter into a Room Block Agreement with Hyatt Hotels Corporation to address required convention room block needs and concerns regarding potential room rate impacts on the market. (d) Negotiate and prepare appropriate intergovernmental agreements to implement the project, including transient lodging tax (TLT) related agreements.

	PDC's expected participation includes: (a) Involvement in the project pre-development process, providing technical assistance as requested. (b) Providing direct financing as described below and potentially selling property for the project, either on Block 46 or Blocks 43/26 as indicated in Attachment B or a portion of Block 47, shown in Attachment C.
CAPITAL STRUCTURE	
Private Financing	Construction Period: Mortenson Development, Inc. will structure approximately $119.5 million in private investment through a combination of private equity and private debt accessed through institutional financing sources such as money center banks or life insurance companies. Post Construction: Hyatt Hotels Corporation will deliver a forward take-out commitment to purchase the Hotel upon completion.
Public Financing	Metro will: (a) Provide direct financing available for use in the construction of the Hotel in the form of a performance grant for an amount up to $4 million, contingent upon negotiation of the Development and Financing Agreement. (b) Amend the Visitor Facilities Trust Account (VFTA) Intergovernmental Agreement, upon approval from the City of Portland and Multnomah County and Metro Council, to create a funding mechanism within the VFTA to support the issuance of revenue bonds for the Hotel, based on the equivalent of 11.5% of the site-specific transient lodging tax (TLT) expected to be generated by the operations of the Hyatt Regency Hotel. (c) Issue, or cause to be issued, a revenue bond in the approximate amount of $60 million ("Metro Revenue Bond") supported by the revenue stream generated from TLT through the Visitor Facilities Trust Account, with proceeds utilized for the construction of the Hotel.

	Metro expects that PDC's participation includes: (a) Direct financing in the form of a loan in an amount up to $4 million, contingent upon budget authority and Board approval of appropriate financing agreements. Metro has received confirmation that the State's participation will be: (a) Direct financing in the form of a grant in an amount of $10 million, contingent upon Board approval of appropriate financing agreements. ***Note: Public and private financing terms are subject to further negotiation consistent with the intent of this Term Sheet based on the details of the overall financing plan for the Hotel and PDC's terms for its financial participation, and are subject to review and approval by the appropriate public bodies.***
Project Budget	The project is anticipated to have a total budget, inclusive of all hard and soft costs of $197.5 million. See Attachment D for a detailed, preliminary project budget.
Financing Sources Summary	See Attachment E.
SCHEDULE	
Project Schedule ***The Project Schedule is based on the assumption that Metro, City and County shall have approved amendments to the Visitor Facilities Intergovernmental Agreement (VFIGA) by September 30, 2013***	Pre-Development Phase: Start Finish (a) Financing Plan June 1, 2013 July 30, 2013 (b) Amendments to VFIGA Approved August 15, 2013 September 30, 2013 (c) Development Agreements and Iterative Design October 1, 2013 July 1, 2014 (d) Entitlements and Permitting October 1, 2013 July 1, 2014 (e) Closing September 1, 2014 Construction Phase: September 1, 2014 September 1, 2016

Project Schedule (cont.)	Hotel Opening: September 1, 2016
Performance Goal	The Parties commit to work diligently to achieve the project schedule, with a goal of Hotel Opening in 2016.
MISCELLANEOUS	
Room Block Agreement	As a condition to Metro issuance of the Metro Revenue Bond, Metro and Owner/Hyatt Hotel Corporation shall have executed a Room Block Agreement to be negotiated among such parties which addresses and defines the terms required by Metro and Owner relating to city-wide events, event room blocks of 500 rooms and a mutually agreed upon timeframe, and event block rates, as applicable.
Business and Work Force Equity - ESB/MBE/WBE Programs	Developer will ensure that the development, design, and construction of the Hotel comply with PDC's priorities for Emerging, Minority, and Women-Owned Businesses as set forth in RFP 13-2115 and as available at **www.pdc.us.**
Prevailing Wages and other Labor Requirements	Developer will ensure that all contractors, subcontractors and consultants fully comply with the State of Oregon's BOLI statues and regulations and any other applicable regulations.
First Opportunity Target Area Hiring	Owner will use its best efforts to comply with Metro's First Opportunity Target Area Hiring policy and as available at **www.oregonmetro.gov**.
Public Records	As allowed under Oregon law, Metro intends to use best efforts to maintain confidential documents related to the Hotel development proposal throughout the negotiation process. Upon completion of negotiations and during the final public approval process (at which time the Metro Council would approve issuing an intent to award a contract to Developer), Metro expects to make general project documents, not otherwise exempt from disclosure under Oregon law, available for public review.
Exclusivity	Metro and Mortenson anticipate to negotiate exclusively throughout the term of this Term Sheet.
Contacts	The appropriate representatives and addresses may be used throughout the negotiation process: M.A. Mortenson Company Tom Lander, Vice President and General Manager Nate Gundrum, Senior Development Manager 700 Meadow Lane North

	Minneapolis, MN 55422-4899 Metro Attention: Teri Dresler, Visitor Venue General Manager Attention: Cheryl Twete, Senior Development Advisor 600 NE Grand Avenue Portland, Oregon 97232
List of Attachments	A – Developer's Preferred Hotel Site Location B – PDC-owned Site Available for Hotel C – PDC-owned Site Adjacent to StarTerra Property D – Preliminary Total Project Budget E – Financing Sources

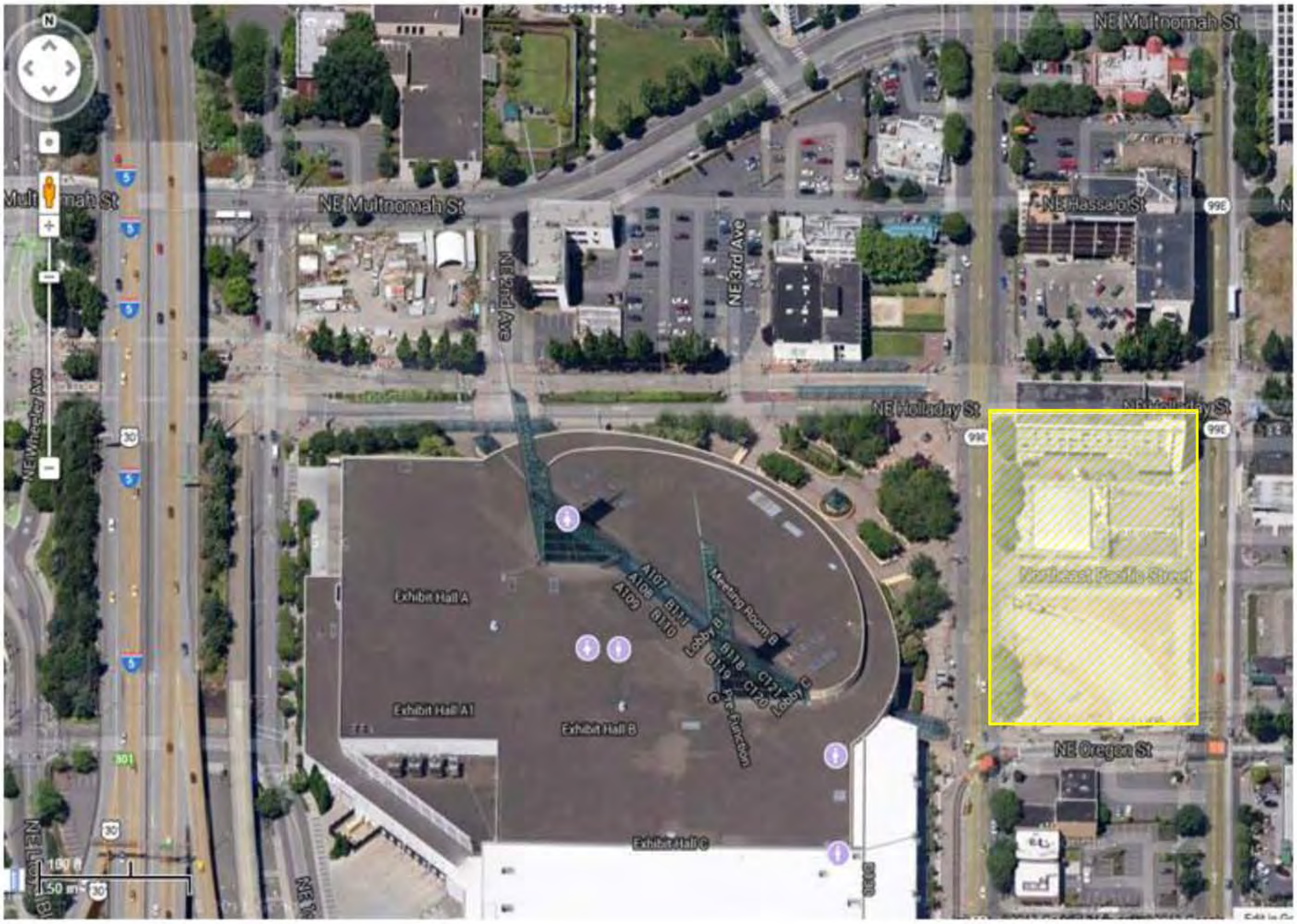
* * * * *

ATTACHMENT A

DEVELOPER'S PREFERRED HOTEL SITE LOCATION

ATTACHMENT B

PDC-OWNED SITE AVAILABLE FOR HOTEL



ATTACHMENT C

PDC-OWNED SITE ADJACENT TO STARTERRA PROPERTY

ATTACHMENT D

PRELIMINARY TOTAL PROJECT BUDGET

Uses of Funds			
Land	$	7,300,000	Land acquisition, etc.
Construction	$	125,000,000	Foundations, structure, enclosure, building systems, finishes, site work, utilities, etc.
FF&E/OS&E	$	25,200,000	Furniture, fixtures, operating supplies, food service equipment, technology, etc.
Development	$	30,600,000	Environmental site assessment, geotechnical investigation, consulting, survey, legal, sanitary sewer impact fee, storm sewer impact fee, transportation impact fee, park and recreation impact fee, water bureau impact fee, school impact fee, development fee, building permit/plan review fee, project contingency, pre-opening expenses, etc.
Financing	$	9,400,000	Construction period interest, loan origination, closing costs, title, disbursement, inspection, etc.
Total	**$**	**197,500,000**	

ATTACHMENT E

FINANCING SOURCES

Sources of Funds		
Private Investment	$	119,500,000
Metro Revenue Bond	$	60,000,000
State Grant	$	10,000,000
Metro Grant	$	4,000,000
PDC Loan	$	4,000,000
Total	**$**	**197,500,000**

MERC Staff Report

Agenda Item/Issue: For the purpose of approving the amended and restated Visitor Facilties Intergovernmental Agreement between Metro, Multnomah County, and the City of Portland, and approval of the Oregon Convention Center Hotel project Term Sheet with Mortenson Development Inc., and recommend to the Metro Council approval of both resolutions.

Resolution No.: 13-19
13-20

Presented By: Teri Dresler & Scott Cruickshank

Date: August 7, 2013

Background and Analysis:

In October of 2011, the Metropolitan Exposition Recreation Commission (MERC) and the Oregon Convention Center (OCC) Advisory Committee requested that Metro Council consider developing a convention center hotel, citing ongoing concerns that the lack of an adjacent convention center hotel continues to be a primary reason the OCC increasingly loses national convention market share to its competitors.

On January 17, 2012, Council convened a joint work session with MERC in which a presentation of the OCC's fiscal year 2010-11 economic impacts concluded that the lack of an adjacent convention center hotel was a significant challenge to the facility's ability to maintain its national convention market share. The two bodies agreed that, as stewards of the public facility, measures to maximize regional economic impact by solidifying its national convention business should be identified and implemented by staff.

On January 26, 2012, Council approved Resolution 12–4327, which directed staff to proceed with an Oregon Convention Center Enhanced Marketing Initiative work program, including Phase I Assessment of pursuing a privately owned, financed, constructed and operated hotel adjacent to the convention center to serve national convention clients, and report back to Council by April 30, 2012.

On April 26, 2012, Council was briefed by staff on Phase I Assessment conclusions which outlined the following completed assignments:

- Documented hotel room block deficiency surrounding the OCC
- Defined desired convention center hotel program
- Convened jurisdictional partners to work together to enhance the regional economic impact of the OCC by increasing the number of national conventions at OCC
- Executed a Statement of Principles – a joint declaration of the public goals for the OCC Hotel project

The Statement of Principles, executed by Multnomah County Chair Jeff Cogen, then Portland Mayor Sam Adams, Portland Development Commission (PDC) Executive Director Patrick Quinton and Metro President Tom Hughes, reflected a common understanding of 1) the OCC's fundamental competitive disadvantage with other comparable-sized facilities and 2) the regional and statewide economic benefits of OCC. It also recognized that public investment would likely be necessary to achieve a convention-quality hotel of the type and scale necessary to "move the needle" in terms of driving additional national convention business to the OCC.

Based on the satisfactory completion of Phase I Assessment, at its April 26, 2012 meeting, Council approved Resolution 12-4346 and authorized implementation of Phase II, directing staff to issue a Request for Proposals (RFP) for the development of an Oregon Convention Center (OCC) Hotel consistent with the goals and public resources identified in the Statement of Principles.

On April 30, 2012, the Portland Development Commission approved Resolution #6942 endorsing Metro's RFP process and authorizing the Executive Director to enter into negotiations with the selected developer, should a feasible development team be selected as a result.

The RFP was issued on May 11, 2012, seeking a private development team to build a privately owned and operated 4-star convention hotel adjacent to the convention center and including a 500-room room block, among other City and Metro construction and operational requirements. Two proposals were received and a public/private RFP evaluation team was convened to carefully assess and forward recommendations to the Council.

On September 13, 2012, staff returned to the Council with recommendations for development team selection and Council adopted Resolution 12-4365, selecting Mortenson Development Company/Hyatt Hotels (Mortenson/Hyatt) as the development team and authorizing staff to begin predevelopment negotiations following the successful completion of a Labor Peace Agreement between Hyatt Hotels and UNITE HERE labor union. Upon confirmation that such agreement had been reached between the two parties, Metro commenced predevelopment negotiations with Mortenson/Hyatt on October 31, 2012.

In the ensuing months, staff worked with the development team on a financing model with the goal of limiting public investment and risk, and an OCC Hotel Term Sheet detailing the essential elements of the project.

On December 4, 2012, Council received a briefing on the status of the predevelopment negotiations and the public bonding tools under consideration to assist in financing construction of the hotel.

Since that time, additional tools and models were explored and developed for Council consideration. Finance and legal staff at Metro, Multnomah County and the City of Portland have also been working on a parallel track creating a set of amendments to the existing Visitor Facilities Trust Fund Intergovernmental Agreement (VF IGA) to facilitate the use of site-specific transient lodging taxes to support the costs associated with construction of the hotel. A summary of both efforts, including the draft OCC Hotel Term Sheet, was presented at a joint Council/MERC work session on July 9, 2013.

<u>Action Items Before Commission</u>

The Commission is being asked to consider and act upon two items:

Resolution 13-19 which approves the Visitor Facilities Intergovernmental Agreement

Resolution 13-20 which approves the OCC Hotel Project Term Sheet with Mortenson Development Company.

Visitor Facilities Intergovernmental Agreement (VF IGA)

Since March 2013, staff has actively engaged in negotiations with City and County staff to prepare a thorough set of amendments to the existing Visitor Facilities Intergovernmental Agreement (VF IGA). See Exhibit A to Resolution 13-19 for the amended and restated VF IGA. A Summary of the VF IGA is Attachment 1 to this Staff Report.

The VF IGA was originally approved in 2001 by the City of Portland, Multnomah County and Metro. The VF IGA: 1) authorized collection of a 2.5% transient lodging tax (TLT) surcharge and a 2.5% vehicle rental tax surcharge; 2) established the Visitor Facilities Trust Account (VFTA); 3) provided for distribution of the taxes collected to a variety of uses supporting visitor development and tourism facilities and activities; and 4) called for the creation of the Visitor Development Fund Inc. (VDFI). The VDFI Board is a public/private board comprised of elected officials from Metro, the County, and City, along with representatives from the hospitality industry. Its purpose is to direct the use of certain allocations established by the VF IGA.

The proposed VF IGA amendments before Council reflect updated and new priorities and needs of the governments managing the region's visitor facilities and public/private tourism promotion programs. The amendments include provisions to accommodate a future OCC Hotel Project, including redirection of certain site-specific TLT into the overall VFTA, and an allocation of funding to support hotel revenue bond debt service payments to Metro. Other amendments address: 1) additional new or revised priorities intended to support the tourism and hospitality industry; 2) new management approaches for annual financial reviews, creation of reserves for on-going allocations and early bond repayment; and 3) the creation of a future strategic plan for the industry and visitor facilities. Staff conducted stress tests to ensure that adequate funding would be available for all of the proposed priorities, even under severe and catastrophic economic conditions. It is expected that the City and County will act upon the amendments in September 2013.

Staff believes that the proposed VF IGA amendments represent fair and reasonable updates and revisions for the public and private partners involved in the tourism and convention industry. Metro's priorities in the VF IGA negotiation process were to ensure that: 1) the OCC has long-term and appropriate levels of operating and marketing funding; 2) a viable funding mechanism is created to support Metro's issuance of the OCC Hotel revenue bonds; and 3) efforts on behalf of City and County partners related to the hospitality and tourism industry are supported.

Metro staff and financial advisors, in consultation with City and County financial staff, have also analyzed and defined general OCC Hotel bond underwriting assumptions. The fundamental assumptions employed as part of the VF IGA effort as well as for the OCC Hotel Term Sheet (described below) are that the OCC Hotel bond amount is capped at $70 million and bond repayment is consistent with the projected OCC Hotel site-specific revenues, debt service coverage ratio of 1.05, with approximately a 30-year term (similar to the OCC Expansion Bonds term). The final interest rates and other terms will be based upon these factors and bond market conditions at the time of issuance.

The amendment creates a viable path for the proposed OCC Hotel by enabling the equivalent of 11.5% of the 12.5% visitor-paid, site-specific TLT to be generated by the OCC Hotel to be redirected to the VFTA and used to reimburse Metro for revenue bond debt service payments. The proposal originally submitted by Mortenson/Hyatt was to utilize OCC Hotel site-specific TLT to support private financing of the hotel; however, due to complex state and federal regulations, consultants advise that the most efficient manner is to structure the publicly-issued revenue bonds supported by the VF IGA.

Staff recommends approval of Resolution 13-19 authorizing approval and execution of the amended and restated VF IGA. Upon consideration and approval of the VF IGA by Council and City and County partners, the document will be executed and implemented immediately. Without approval and execution of the VF IGA amendments, Metro will not be able to agree to or perform the responsibilities identified in the OCC Hotel Project Term Sheet. The 2013 VF IGA provides important updated funding and management approaches for the tourism and hospitality industry and staff acknowledges the hard work and efforts of the jurisdictional partners.

OCC Hotel Term Sheet

The OCC Hotel Term Sheet represents a preliminary business deal term agreement with Mortenson/Hyatt. It consists of a description of the project and its programming, projected costs and funding sources, project schedule, site and design attributes of the proposed OCC Hotel and roles and responsibilities of the key team members, including the Portland Development Commission. This document, while not legally binding, is a significant milestone for the OCC Hotel project and reflects a joint understanding of how the project will move forward. It builds on the momentum of the State of Oregon's recent approval of a $10 million grant for the project, which demonstrated a strong commitment to and understanding of the importance of the tourism industry in Oregon.

A general description of the project is as follows:

- 600 (approximately) room Hyatt Regency
- 500 room block commitment
- 36,000 square feet of meeting and ballroom facilities
- On-site restaurant/bar facilities and food and beverage catering services
- Quality amenities of the Hyatt Regency brand
- Commitment to public policy priorities – LEED Silver or higher, City of Portland's Business and Workforce Equity and MWESB policies, and Metro's First Opportunity Target Area (FOTA) program

The OCC Hotel Term Sheet is Exhibit A to Resolution 13-20. If approved by Council, it will serve as the basis for continued negotiations of a full development agreement, room block agreement, revenue bond documentations and other project agreements. Staff expects to return to Council for final development approvals in Fall/Winter 2013.

Obtaining approval of both the VF IGA and the OCC Hotel Term Sheet is necessary for predevelopment planning to proceed. Without VF IGA approvals, Metro would not have the financing tools it requires to commit to issuing revenue bonds. As agreed to in 2012, Metro serves as the lead partner for the OCC Hotel Project and the City and County are not parties to the OCC Hotel Term Sheet. Metro anticipates providing $4 million of grant funding to the project and is coordinating with the City of Portland Development Commission on its proposed $4 million of urban renewal financing for the project as well as urban design planning for the site.

The project schedule is another critical element. To take advantage of interest rates and construction costs that remain historically low, Metro and Mortenson Development propose to move forward with the following next steps and decision points:

Staff negotiates development/financing agreement	Fall 2013
Metro Council/PDC final approvals	Winter 2013
Construction begins	Summer 2014
Construction completed	Summer 2016

Hotel Opens	Fall 2016

At this stage of the potential project, there is a group of local hoteliers who have indicated their opposition to this project, similar to the opposition voiced during the 2007-09 publicly-owned hotel effort. There could be concerns from some members of the public who may question whether public investment in private development projects is appropriate. Staff will report on the outcome of the August 1, 2013 Public Open House and comments received. During the next several months of the project, Metro will track issues raised by interested stakeholders and address appropriately. An open and transparent public communication and outreach strategy will be essential to the success of the project.

Fiscal Impact: Budgeted FY 2013-14 funds are expected to be adequate for the project pre-development and development phase.

Approval by all three jurisdictions of the VF IGA will initiate the amended language which does have implications for OCC and PCPA in terms of funding priority and in the case of OCC, places additional requirements on the annual budget deficit funding request. As you are aware, the amendments to the VF IGA have been tested against anticipated performance of the new convention center hotel and potential economic downturns as experienced in the past 12 years. Staff is confident that the amended language and the implications for OCC and PCPA funding will not threaten the budgets of those venues.

These resolutions seek authority to enter into the VF IGA and proceed with further development negotiations, but does not seek authorization of any specific project agreements, nor does it obligate MERC or Metro to commit any funding to the project.

Exhibits and Attachments to Resolutions 13-19 and 13-20:

Exhibit A to Resolution 13-19: the amended and restated VF IGA

Exhibit A to Resolution 13-20: OCC Hotel Term Sheet

Attachment 1 to this Staff Report: Summary of the VF IGA

Recommendation: Staff recommends that the Metropolitan Exposition-Recreation Commission approve Resolution 13-19, for the purpose of approving the amended and restated Visitor Facilties Intergovernmental Agreement between Metro, Multnomah County, and the City of Portland, and approval of Resolution 13-20, Oregon Convention Center Hotel project Term Sheet with Mortenson Development Inc., and recommend to the Metro Council approval of both resolutions.

Attachment 1

Proposed Amended Visitor Facilities Intergovernmental Agreement

Background and description of amendments under consideration – August 1, 2013

The Visitor Facilities Intergovernmental Agreement (VFIGA) was originally approved in 2001 by the City of Portland, Multnomah County and Metro to: 1) establish a 2.5% Transient Lodging Tax surcharge and a 2.5% Vehicle Rental Tax surcharge; 2) establish the Visitor Facilities Trust Account (VFTA); 3) allocate and distribute the tax surcharges collected to a variety of uses supporting visitor development and tourism facilities and activities; and 4) create the Visitor Development Fund Inc. (VDFI). The VDFI Board is a public/private board composed of elected officials from Metro, the County, and the City along with representatives from the hospitality industry and directs the use of certain allocations established by the VFIGA.

In March 2013, City of Portland, Multnomah County and Metro staff re-engaged in a process, begun in 2012, to update the 2001 VFIGA. The proposed amendment package, if approved by the City Council, County Board and Metro Council, will be the first amendment to the Agreement in its 12-year history. The main goals of the VFIGA amendments are:

1. To reflect updated and new priorities of the partners and clarify existing intent and priorities.
2. To provide a mechanism to redirect site-specific Transient Lodging Taxes (SSTLTR) collected at the OCC Hotel Project into the VFTA to support the OCC Hotel Project Bonds.
3. To provide a mechanism for debt service payments on revenue bonds which will be issued by Metro to support the development of the OCC Hotel Project.
4. To provide for long-term stability of the VFTA system and its funding priorities by updating revenue and expenditure projections and creating processes for ongoing financial review.
5. To revise the document structure to provide clearer organization and ease of reading.

The proposed amendments include the following:

1. Recitals – provide more history and clarity regarding purpose and intent
2. Restructure organization of document – consolidate language and reduce redundancy to more clearly describe funding priorities and obligations of parties
3. Create mechanisms to redirect the site-specific City 5% TLT (General Fund), the site-specific 3% Excise Tax Fund TLT, and the equivalent of the site-specific City 1% TLT (Tourism Promotion) into the VFTA.
4. Create mechanism for debt service payments on Metro issued Hotel Project Bonds using equivalent of site-specific Transient Lodging Tax Revenues (SSTLTR) within VFTA, with excess SSTLTRs above debt service payments accruing to the benefit of the VFTA.
5. Revise allocation priorities to reflect 2013 needs and opportunities (see VFTA priorities below).
6. Create process for periodic financial review of VFTA finances by City/County/Metro financial leads including mechanisms for reviewing Hotel Project Bond payment terms, reviewing financial performance of VFTA and providing analysis, as needed, to the VDFI Board.
7. Create reserve requirements to ensure allocations are covered if revenues decline; create a new reserve for early bond redemptions.
8. Agreement to work on a future Visitor Development Strategic Plan.
9. Maintain basic legal provisions regarding dispute resolution, termination and remedies.

VFTA Priorities

Allocations 1 – 4 Debt Service for Bonds

1. Convention Center Completion Bonds – no change; refinanced by City in 2011, generating ~$875K/year to VFTA from savings
2. PCPA Bonds – no change; refinanced by City in 2011, generating some savings to VFTA
3. Stadium Bonds – change to facilitate refinancing and savings to City and VFTA
4 Hotel Project Bonds– new; for debt repayment on approximately $60-$70 million revenue bonds sized as supported by projected SSTLTRs generated by the proposed OCC Hotel Project.

Allocations 5 – 11 Support for Operations, Programs, Services, Capital Improvements and Marketing

5. OCC Operating Support – modified; to support Oregon Convention Center to maintain the OCC's competitiveness; changes formula and approval approach for OCC Operating Support allocation up to $1.25M/year escalated, which is automatically approved unless objections are raised, and allows for Additional OCC Operating Support request for funding beyond the initial request, subject to review by Financial Review Team and approval from the VDFI Board.
6. Multnomah County – new; to provide funding to enhance the visitor experience; at $500K/year escalated ($250K in FY2013-14); step increases up to $1M/year escalated subject to review by Financial Review Team of expected adequacy of VFTA revenues to fund all obligations.
7. Enhanced Convention Center Marketing – modified formula, but funding remains equivalent; amount allocated is reduced to reflect projected equivalent of the site-specific City 1% TLT from the OCC Hotel Project which will continue to flow to Travel Portland per City Charter; at $450K escalated until third fiscal year after the OCC Hotel Project in operation for more than 18 months; then $175K escalated.
8. Convention Visitor Public Transit Passes – modified; change to direct funding to VDF for convention delegate transit passes due to elimination of Fareless Square; up to $390K escalated.
9. Visitor Development Fund – modified; provides funds to the VDFI Board to use for convention and tourism promotion purposes, hosting meeting planners, grants to conventions, etc.; at current $645K escalated, plus an additional fixed $875K/year for remainder of OCC Bond term.
10. PCPA – no change; maintained at current $645K escalated.
11. City of Portland – new; to provide operating and capital improvement funding for Rose Quarter Facilities; at $500k/year escalated ($250K in FY2013-14).

Allocations 12-13 Reserves

12. Restricted Reserve – new; to be sized to cover 1.5x the expected maximum annual amount for allocations 5-11 in the event that VFTA revenues fall short
13. Bond Redemption Reserve – modified concept; to be used to redeem bonds prior to their stated maturity date.

METROPOLITAN EXPOSITION RECREATION COMMISSION

Resolution No. 13-21

For the purpose of adopting changes to the MERC Capital Asset Management Policy.

WHEREAS, the Metropolitan Exposition Recreation Commission (MERC) is authorized to adopt policies regarding the operation of MERC facilities pursuant to Metro Code Section 6.01.040(a), and;

WHEREAS, MERC periodically updates the MERC Capital Asset Management Policy in accordance with agency wide policies.

BE IT THEREFORE RESOLVED, that the Metropolitan Exposition Recreation Commission:

> Approves the changes to the Capital Asset Management Policy in a form substantially similar to the attached Exhibit A.

Passed by the Commission on August 7, 2013.

Approved as to form: Alison R. Kean, Metro Attorney	______________________________ Chair
By:______________________________ Nathan A. Schwartz Sykes, Senior Attorney	______________________________ Secretary/Treasurer

Capital Asset Management Policy

Section 1: Purpose

1.1 The Capital Asset Management Policies establish the framework for Metro's overall capital asset planning and management. They provide guidance for current practices and a framework for evaluation of proposals for future projects. These policies also seek to improve Metro's financial stability by providing a consistent approach to fiscal strategy. Metro's adopted financial policies show the credit rating industry and prospective investors (bond buyers) the agency's commitment to sound financial management and fiscal integrity. Adherence to adopted policies ensures the integrity and clarity of the financial planning process and can lead to improvement in bond ratings and lower cost of capital.

1.2 The capital asset planning process applies to projects of $50,000 or more and having a useful life of at least five years. These projects include capital maintenance tasks that increase the life of the asset on assets with values of $50,000 or more. In addition, the planning process includes information technology items over $50,000 that may have a useful life of less than five years.

1.3 Metro's Capital Asset Management Policy shall be governed by the following principles:

1.3.1 Metro shall operate and maintain its physical assets in a manner that protects the public investment and ensures achievement of their maximum useful life. Ensuring the maximum useful life for public assets is a primary agency responsibility. Establishing clear policies and procedures for monitoring, maintaining, repairing and replacing essential components of facilities is central to good management practices.

1.3.2 Metro shall prepare, adopt and update at least annually a five-year Capital Improvement Plan (CIP). The Plan will identify and set priorities for all major capital assets to be acquired or constructed by Metro.

1.3.3 Metro shall establish a Renewal and Replacement Reserve account for each operating fund responsible for major capital assets. Renewal and Replacement includes any activity that serves to extend the useful life or increase the efficiency of an existing asset, while retaining its original use. Ensuring that the public receives the maximum benefit for its investments in major facilities and equipment requires an ongoing financial commitment.

1.3.4 Capital and renewal and replacement projects shall support Metro's MWESB procurement goals, including the Sheltered Market and FOTA program and the goals of Metro's Diversity Action Plan.

1.3.5 To the extent possible, improvement projects and major equipment purchases will be funded on a pay-as-you-go basis from existing or foreseeable revenue sources. Fund Balances above established reserve requirements may be used for one-time expenditures such as capital equipment or financing of capital improvements. Debt financing should be utilized only for new projects or complete replacement of major capital assets.

1.3.6 Capital and renewal and replacement projects should support implementation of Metro's Sustainability Plan.

1.3.7 Projects shall be analyzed in light of environmental, regulatory, economic, historical and cultural perspectives, as well as the capacity of the infrastructure and the availability of resources for ongoing maintenance needs.

1.3.8 All approved capital projects shall be consistent with relevant goals and strategic plans as adopted by departments, the Metropolitan Exposition-Recreation Commission ("MERC"), or the Metro Council.

1.3.9 A financial feasibility analysis shall be performed before any capital project, regardless of cost, is submitted to the Metro Council, MERC Commission, Chief Operating Officer, or General Manager of Visitor Venues for approval. The financial feasibility analysis shall include an analysis of the financial impact on the operating fund balance, return on investment, the availability and feasibility of funding sources, and cost estimates for the capital project. The analysis shall also identify the financial impact of the following requirements:

- 1.3.9.1 Any public art funding requirements imposed by the Metro Code, the facility's owner, or any other applicable law;
- 1.3.9.2 All required licenses, permits, certificates, design approval documents, and similar documents required by any authority; and
- 1.3.9.3 Any contractual or legal requirements that apply to the proposed capital project.

1.3.10 In the capital project planning and review process, the Metro Council, MERC Commission, Chief Operating Officer, and General Manager shall be guided by the following financing principles:

- 1.3.10.1 Funds shall be expended only on capital projects that meet identified strategic priorities.
- 1.3.10.2 Funds shall be expended only on capital projects for which an analysis of funding options has been conducted. This analysis shall include evaluation of all funding options (donations, revenue generation by the project, intrafund transfers, proposed borrowing), and an analysis of the capital project's strategic priority, useful life, revenue sources, and repayment options.
- 1.3.10.3 Funds shall be expended only on new projects that include identified and protected funding sources for a renewal and replacement reserve to ensure that the value of the capital asset can be maintained.
- 1.3.10.4 Funds shall be expended only on projects for which a funding source for operational requirements has been identified.
- 1.3.10.5 Metro's Adopted Budget should include undesignated contingency funds to permit MERC and other departments with capital project responsibilities to respond to unexpected events or opportunities.

Section 2: Definitions

2.1 Capital asset – An item permanent in nature with future service capacity and used in operations, having an initial useful life of over one year, tangible or intangible, and held for purposes other than investment or resale with a cost (or fair market value if donated) equal to or greater than the capitalization threshold established for the asset category included later in this policy.

2.2 Capital maintenance – Expenditures for repair and maintenance services not provided directly by Metro personnel. These costs are relatively minor alterations, ordinary and routine repair or effort necessary to preserve or repair an asset due to normal wear and tear so that it achieves its initial planned useful life. While not capitalized, significant capital maintenance projects (those with costs equal to or greater than $50,000) must be included in the CIP and obtain Council authorization.

2.3 Total cost accounting – An analysis that includes the total initial acquisition cost of an asset as well as all operating costs for the expected useful life of the asset.

2.4 Renewal and replacement – Construction, reconstruction or major renovation on capital assets. Renewal and replacement does not include relatively minor alteration, ordinary repair or maintenance necessary to preserve or repair an asset.

2.5 Return on investment (ROI) – A calculation of the financial gains or benefits that can be expected from a project. ROI is represented as a ratio of the expected financial gains (benefits) of a project divided by its total costs.

Section 3: New Capital Projects

3.1 All new capital projects over $50,000 must be approved as part of the annual budget process. New project requests must comply with any other applicable Metro program or process requirements, including all Construction Project Management Office requirements and Metro's Green Building Policy.

3.2 New projects over $50,000 identified during the course of the fiscal year require approval as follows:

- 3.2.1 If the project does not require additional budgetary authority, the project may be approved by the Chief Operating Officer, or their designee;
- 3.2.2 If the project requires additional budgetary authority, the project must be approved by the Metro Council.
- 3.2.3 For Capital projects with a total anticipated cost of less than $100,000 at the MERC venues, the General Manager of Visitor Venues may approve the project if sufficient budgetary authority is available.
- 3.2.4 Any capital project at the MERC venues with a total anticipated cost of $100,000 or more also requires approval by the MERC Commission.

3.3 Emergency capital projects may be approved as follows:

- 3.3.1 The Chief Operating Office or their designee may approve capital projects with a total anticipated cost of $50,000 or more.
- 3.3.2 The MERC Commission delegates to the General Manager or their designee the authority to approve capital projects with a total anticipated cost of $100,000 or more.
- 3.3.3 In the event an emergency capital project is approved, that approval shall be reported as follows:
  - 3.3.3.1 The Chief Operating Officer shall report the approval to the Metro Council.
  - 3.3.3.2 The General Manager shall report the approval to the MERC Commission at the next regular Commission Meeting.

Section 4: Renewal and Replacement

4.1 The intent of Renewal and Replacement reserves is to ensure that sufficient resources are available for capital maintenance or replacement so that Metro's capital assets meet or exceed their estimated useful life. The Renewal and Replacement Reserve for each operating fund with major capital assets should initially be established based on the value of the asset and consideration of known best asset management practices.

4.2 General Guidelines – Renewal and replacement reserves and projects should be managed according to the following guidelines:

4.2.1 Renewal and replacement reserves are not intended to fund major capital assets such as building replacements or significant structural upgrades.

4.2.2 Renewal and replacement reserves are not intended to fund routine maintenance activities. Routine maintenance should be included in facility operating budgets. If routine maintenance costs for an asset are increasing, renewal and replacement projects may be moved forward in the schedule if the project can be shown to reduce operating and/or maintenance costs.

4.2.3 Facility managers should perform annual facility assessments to review renewal and replacement schedules.

4.2.4 All renewal and replacement projects should incorporate sustainability features that support Metro's sustainability goals, support adopted policies such as the Green Building Policy and Sustainable Procurement Policy and be evaluated on a total cost accounting basis relative to less sustainable options.

4.2.5 New capital projects should be added to renewal and replacement lists upon completion. Asset replacement costs shall initially be based on original asset costs. In future revisions, replacement costs shall be based on acquiring a new asset of equal utility. Increased sustainability features such as efficiency improvements or design changes (e.g. green roof vs. traditional roof design) are not increases in asset utility. Increased estimated replacement costs based on new or improved sustainability features shall be considered in the budget process.

4.2.6 On an annual basis, the Finance and Regulatory Services Director shall determine the minimum asset value for projects to be included in renewal and replacement reserves.

4.2.7 For General Fund assets, the renewal and replacement reserves should be managed to ensure sufficient funding is available to complete all projects for the next 10 years. Enterprise fund renewal and replacement accounts should be managed to ensure that annual contributions are sufficient to fund renewal and replacement projects on an ongoing basis.

4.3 Budget Process – During the annual budget process, Department Directors shall submit a list of proposed renewal and replacement projects as part of the annual budget process. The renewal and replacement project lists shall include:

4.3.1 Cost estimates for all renewal and replacement projects (including projects carried forward from the prior year) that can be reasonably expected to be completed in the following fiscal year.

4.3.2 Cost estimates for design and/or engineering work necessary to develop the scope and cost of construction project estimates for future renewal and replacement projects.

4.3.3 Any projects with cost estimates above previous replacement cost estimates based on the inclusion of sustainability features in the project design that increase the initial cost of the project.

4.4 Renewal and replacement projects shall be included in aggregate in the Capital Improvement Plan for the Proposed Budget for Council Review.

4.5 Capital Asset Advisory Committee

4.5.1 The Capital Asset Advisory Committee is responsible for providing recommendations to the Director of Finance and Regulatory Services and the Financial Planning Division on the ongoing management of the renewal and replacement reserves for each major fund. The Advisory Committee shall be composed of the following positions (or Designee):

- Capital Budget Coordinator, Finance and Regulatory Services (Chair)
- Finance Manager, Oregon Zoo
- Finance Manager, MERC Venues
- Finance Manager, Parks and Environmental Services (PES)/Sustainability Center
- Program Director, Parks and Property Stewardship (PES)
- Program Director, Solid Waste Operations (PES)
- Program Director, Natural Areas Program (Sustainability Center)
- Deputy Director, Oregon Zoo Operations
- cPMO Manager, Agency Construction Projects
- Director, Information Services Department

4.5.2 The Committee's responsibilities shall include:

4.5.2.1 Reviewing project lists, changes to project lists and requests for unfunded sustainability improvements to existing projects not already approved by a Budget Committee or other formal advisory group.

4.5.2.2 Providing a recommended renewal and replacement list to the Finance and Regulatory Services Director for inclusion in the Proposed Budget.

4.5.2.3 Providing an annual recommendation to the Finance and Regulatory Services Director for the minimum asset value for the following year.

4.5.2.4 Reviewing the Capital Asset Management Policies annually.

Section 5: Capital Improvement Plan (CIP)

5.1 Metro will prepare, adopt and update at least annually a five-year Capital Improvement Plan (CIP). The plan will identify and set priorities for all major capital assets to be acquired or constructed by Metro. The first year of the adopted CIP shall be included in the Proposed Budget. The CIP includes all Capital and Renewal and Replacement projects with a budget of $100,000 or more.

5.2 Updates to the CIP may be made at any point during the fiscal year. Updates are required under the following circumstances:

5.2.1 New projects (over $100,000) that are identified during the fiscal year and need to be initiated prior to the next fiscal year;

5.2.2 Actual or anticipated expenses for projects included in the current year adopted budget increase more than 20% above the original project budget if the original budget amount is less than or equal to $1,000,000 or 10% if the original budget amount is greater than $1,000,000 ;

5.2.3 Actual or anticipated expenses for projects included in the current year adopted budget require an increase in budget appropriation, regardless of the amount of increase above the original project budget.

Section 6: Sustainability

6.1 All project proposals for new capital projects and renewal and replacement projects shall describe how the project supports Metro's Sustainability Plan in its efforts to reduce the environmental impact of Metro operations. When assessing capital or renewal and replacement projects for funding or prioritization, the following sustainability criteria should be applied:

6.1.1 Use total cost of ownership to create project budget projections that consider the costs of operating the asset for its entire useful life, not just the initial costs.

6.1.2 Utilize the prioritization criteria in Metro's Sustainability Plan:

6.1.2.1 Strong impacts on Metro's sustainability goals (greenhouse gas emissions, toxics, waste, water quality and habitat)

6.1.2.2 Provide a strong foundation for future sustainable operations work

6.1.2.3 Leverage other investments (internal or external)

6.1.2.4 Present a strong return on investment (ROI)

6.1.2.5 Reduce operations and maintenance costs over time

6.1.2.6 Provide strong public visibility and/or public education opportunity

6.1.2.7 Support the region's economy

6.1.3 Support the requirements and preferred qualifications of Metro's Green Building and Sustainable Procurement administrative procedures.

6.1.4 Prioritize projects that, through their implementation, support Metro's MWESB procurement goals, including the Sheltered Market and FOTA programs and related goals of Metro's Diversity Action Plan.

6.1.5 Consider economic benefits or return on investment (i.e. simple payback) on projects that have a financial benefit to Metro over the life of the investment.

6.2 Capital and renewal and replacement projects should be incorporated into the site-specific work plans developed for each facility that indicate how the Sustainability Plan will be implemented.

Section 7: Reporting

7.1 Capital project budget and actual reporting and status reports shall be provided as follows:

7.1.1 Departments shall report to the Chief Operating Officer or designee quarterly;

7.1.2 The General Manager shall report to the MERC Commission quarterly;

7.1.3 The Director of Finance and Regulatory Services shall report to the Metro Council twice annually.

MERC Staff Report

Agenda Item/Issue: For the purpose of adopting changes to the MERC Capital Asset Management Policy

Resolution No.: 13-21 **Presented By:** Tim Collier/Brian Kennedy

Date: August 7, 2013

Background and Analysis:

Finance and Regulatory Services staff has been working on drafting updates to Metro's Capital Asset Management Policy in part due to the adoption of Metro's Green Building Policy in 2011, the Metro Auditor's ongoing follow-up to their 2009 audit of Metro's sustainability program, and direction from the COO in the 2013-14 budget process to review budget practices for renewal and replacement and new capital projects.

The new policies represent a major change from the current Capital Asset Management Policy. The draft policy synthesizes elements from the current policy, the existing MERC Capital Asset Policy, various manuals and administrative procedures, and recommendations from a staff working group. The major changes include:

- Incorporating direction for renewal and replacement (R&R) and new capital projects into one policy statement;
- Recognition of Metro's sustainability plan and its relationship to R&R and capital projects;
- Official chartering of a Capital Asset Advisory Committee to guide administration of that program;
- A more transparent process for considering sustainability improvements to R&R projects;
- Recognition of Metro's new Construction Project Management Office and associated process requirements for capital and R&R projects.

The new policies also incorporate and replace the existing MERC Capital Asset Management Policy (adopted by MERC Commission with Resolution 05-09A). This change was made to improve the efficiency of construction project planning as project management staff are now responsible for projects at both MERC and Metro facilities. As MERC policy was also superior to the Metro policy in several respects, including requirements for financial analysis of projects and incorporation of sustainability values, the incorporation in the agency-wide policy will be beneficial to the agency as a whole.

Fiscal Impact: No budget impact.

Recommendation: Staff recommends that the Metropolitan Exposition-Recreation Commission adopt Resolution 13-21, for the purpose of adopting changes to the MERC Capital Asset Management Policy.