

METROPOLITAN EXPOSITION RECREATION COMMISSION

Resolution No. 10-24

Approving the Block 26 Ground Lease Agreement between the Metro, acting by and through the Metropolitan Exposition Recreation Commission (collectively referred to as the "Commission") and the City of Portland, acting by and through the Portland Development Commission (collectively referred to as "PDC"), to enter into a five-year ground lease of Block 26, HOLLADAY'S ADDITION TO EAST PORTLAND, for the benefit of the Oregon Convention Center to construct, manage and maintain a public outdoor exhibition/plaza area adjacent to the Oregon Convention Center.

WHEREAS, it is in the public interest to create an outdoor public space to serve as the gateway for the Oregon Convention Center and to provide customers an attractive, outdoor exhibit and event space; and

WHEREAS, the proposed lease agreement also allows for the use of this outdoor public space to be utilized for neighborhood activities and events, under management by the Oregon Convention Center; and

WHEREAS, PDC has undertaken due diligence related to the environmental condition of the property and has demolished the existing vacant building on the site in order for new improvements to be constructed; and

WHEREAS, the Commission has budgeted funds in the FY 10-11 Oregon Convention Center budget for the design and construction of the Block 26 improvements; and

WHEREAS, staff has negotiated the attached Block 26 Ground Lease Agreement to lease the property from PDC for the purposes described above and according to the terms summarized in the attached Staff Report; and

WHEREAS, Oregon Convention Center staff will manage construction of the public improvements during the next several months, with completion expected in Spring 2011.

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


1. Approves the Block 26 Ground Lease Agreement with the PDC in substantially the form attached hereto as Exhibit A,
2. Delegates the authority to the Metro Chief Operating Officer to execute a ground lease agreement with PDC in substantially the form attached hereto as Exhibit A.

Passed by the Commission on October 6, 2010.


Chair

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


Secretary/Treasurer

By: 
Nathan A. Schwartz Sykes, Senior Attorney

BLOCK 26 GROUND LEASE AGREEMENT

DATE: _____, 2010

LESSOR: City of Portland, acting by and through the Portland Development Commission
John Matschiner
Real Estate Manager
222 NW Fifth Avenue
Portland, OR 97209
Phone: 503-823-3200
Fax: 503-823-3368

LESSEE: Metro
Jeffrey A. Blosser
Executive Director, Oregon Convention Center
777 NE Martin Luther King Jr. Boulevard
Portland, OR 97232
Phone: 503-235-7575
Fax: 503-235-7517

This Block 26 Ground Lease Agreement (the "Lease") is made and entered into as of this ____ day of _____, 2010 ("Effective Date") between the Portland Development Commission ("Lessor") and Metro ("Lessee"). Lessor and Lessee may be referred to jointly as "Parties".

RECITALS

A. WHEREAS, Lessor desires to lease to Lessee, and Lessee desires to lease from Lessor, the real property with the physical street address of 834 NE Martin Luther King Jr. Blvd., Portland, OR 97232 (the "Premises") and more particularly described as:

All of Block 26, HOLLADAY'S ADDITION TO EAST PORTLAND, in the City of Portland, County of Multnomah, State of Oregon. The Premises are also referred to as Multnomah County Property Tax ID number R182134 and are further illustrated in Exhibit "A" attached and incorporated herein by the reference;

B. WHEREAS, Lessee desires to use the Premises for the purpose of the construction, operation and management of a public space that includes a plaza and other improvements described herein;

C. WHEREAS, the Parties acknowledge that all previous agreements between the Parties relating to the Premises are terminated and that this Lease shall solely govern the use of the Premises;

D. WHEREAS, the Parties understand and agree that this Lease is limited in duration in order to make the Premises available for future development;

E. WHEREAS, prior to the Effective Date, Lessor has undertaken the design of the improvements that Lessee intends to construct on the Premises, but Lessee expects to reimburse Lessor for the costs of such design;

F. WHEREAS, the Premises is currently improved with a building previously occupied by the Sizzler Restaurant, and an asphalt parking area. Lessor intends to demolish those improvements at Lessor's expense prior to the Possession Date (defined below); and

G. WHEREAS, on _____, 2010, the Metropolitan Exposition & Recreation Commission, by MERC Resolution _____, approved the terms of this Lease and authorized the Metro Chief Operating Officer to execute this Lease;

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein, Lessor and Lessee hereby agree as follows:

Section 1. Term and Possession.

1.1 Term. The term of this lease (the "Term") will commence on the Effective Date and will continue for a period of sixty (60) months. Not later than the end of the forty-eighth (48th) month of the Term, Lessor and Lessee shall review the Lease terms, and each will determine, in its sole discretion whether to extend the Term.

1.2 Possession. Lessee's right to possession of the Premises shall commence on the date that Lessor certifies to Lessee the completion of the demolition and remediation activities described in Section 7.2 below ("Possession Date"). Except for the provision in Section 2.4 below, which is effective at the Effective Date, the Lease terms shall be effective on an after the Possession Date.

Section 2. Rent.

2.1 Base Rent. Lessee shall pay to Lessor as annual rent the sum of \$1.00. Rent for the entire Term has been prepaid as of the Effective Date. Lessor shall not refund any portion of the Rent under any circumstances.

2.2 Security Deposit. There shall be no security deposit associated with this Lease.

2.3 Late Charge. There shall be no late charges associated with this Lease.

2.4 Payment of Design Service Fees. In lieu of material rent payments, Lessee shall pay to Lessor the costs that Lessor incurs pursuant to the agreement for design services for the improvements to be constructed on the Premises ("Improvements") between Lessor and Mayer/Reed Landscape Architects ("Designer"), dated March 1, 2010 ("Design Contract");

provided, however, that in no event shall Lessee's reimbursement obligations exceed \$65,000. The terms of the Design Contract, including the scope of the work, have been approved by Lessee and are attached hereto as Exhibit B. Any change in the terms of the Design Contract that affects the scope of work or the compensation to be paid to the Designer are subject to the prior written approval of Lessee. After the Designer's completion of the Construction Documents for the Improvements (as these terms are defined in the Design Contract), and Lessor's and Lessee's approval of those documents, Lessor shall submit to Lessee an invoice for the total costs of the services under the Design Contract, and Lessee shall pay such invoice within thirty (30) days of receipt.

2.5 Additional Consideration. As additional consideration of the Lease, for the duration of the Lease, Lessee agrees to undertake and maintain the *NE Martin Luther King Jr. Boulevard Heritage Markers* ("Heritage Markers") and the *Martin Luther King Jr. Boulevard Gateway Site*, ("King Gateway Site") each of which is described and depicted in Exhibit C attached hereto. The minimum requirements for maintenance of the Heritage Markers and the King Gateway Site are described in Exhibit D attached hereto. Lessee's obligation to maintain each of the above will (a) commence only after Lessor notifies Lessee that the construction of the respective improvement is complete and (b) cease upon the expiration or termination of this Lease. Lessor and Lessee will hold periodic meetings to review the maintenance needs and discuss any other outstanding issues related to the Heritage Markers and the King Gateway Site.

Section 3 Permitted Use.

Lessee may use the Premises for the purposes of the construction, operation and management of a public space, that includes a plaza, for use as a gateway to the Oregon Convention Center from the east, as an outdoor event venue related to and managed by the Oregon Convention Center, and for other uses that are supportive of the Oregon Convention Center and in conformance with the adopted Oregon Convention Center Urban Renewal Plan.. Lessee may permit the public to use the Premises, subject to Lessee's rules established pursuant to Section 5.4 below. Lessee shall also have the right to program the use of the Premises in coordination with the Oregon Convention Center or otherwise, and to license use of the Premises for such purposes as Lessee deems reasonably appropriate provided all such use is otherwise in accordance with the terms and conditions of this Lease. Lessee shall have exclusive use of the Premises subject to Lessor's right to enter into or upon the Premises for the purposes of examining the condition thereof, or for any other lawful purpose. Lessor's right of inspection shall not unreasonably interfere with Lessee's use of the Premises.

Section 4. Insurance and Indemnification.

4.1 Indemnity. To the extent permitted by the Oregon Tort Claims Act and the Oregon Constitution, Lessee shall indemnify, hold harmless and at Lessor's request, defend Lessor and the City of Portland and each of their respective commissioners, officers, agents and employees from and against any and all liability or alleged liability, all suits, legal proceedings, claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or in connection with or incidental to Lessee's use of the Premises, or error or omission of Lessee or anyone acting on behalf of Lessee in connection with or incidental to this Lease; provided

however, that nothing herein shall be construed to require indemnification of Lessor for liability attributable to Lessor's negligence. The provisions of this Section 4.1, including the indemnification provision herein, shall survive the expiration or any termination of this Lease.

4.2 Insurance. Lessee shall maintain a self-insurance program for general liability for damages because of personal injury, bodily injury, death, and/or damage to property, including loss of use thereof, and occurring on or in any way related to the Premises leased or occasioned by reason of the operations of Lessee with coverage of not less than the limits prescribed by the Oregon Tort Claims Act. Should Lessee change their insurance program to one that includes the purchase of insurance, Lessee will provide a Certificate of Insurance (Acord 25 or equivalent) and an Additional Loss Payee Endorsement to said policy covering the City of Portland, the Portland Development Commission, and each of their respective directors, officers, agents, invitees and employees.

4.3 Unauthorized Entry. Although the Premises will be open to the public, Lessee shall have the right to remove any person from the Premises if such person is interfering with Lessee's use or acting in a manner contrary to applicable Laws or contrary to Lessee's rules established pursuant to Section 5.4 below. Lessee shall assume all liability related to injury, death or disease to invitees, licensees, or trespassers, whether resulting from latent or patent property defects. Lessee shall be deemed solely responsible for any theft, damage or destruction to any materials, equipment or any other property of Lessee, or anyone acting on behalf of Lessee in connection with or incidental to this Lease.

Section 5. Restrictions on Use; Hazardous Substances

5.1 Compliance with Laws. Lessee shall in the use of the Premises, observe all rules, regulations, and laws in effect by any local, state or federal authority having jurisdiction over the Premises, as they relate to the use of the Premises ("Laws"). Lessee is solely responsible for obtaining any other permits or approvals as may be necessary for the use of the Premises. Furthermore, Lessee agrees to indemnify Lessor provided above for any damages caused by the violation thereof of any permits or approvals that may otherwise be required.

5.2 Liens. Lessee shall not allow any lien of any kind, type or description to be placed or imposed upon the Premises or upon any improvements on the Premises (if any) by reason of any work, labor, services, or materials done for, or supplied to, or claimed to have been done for or supplied to, Lessee or anyone occupying or holding an interest in all or any part of the Premises through or under Lessee, including but not limited to the construction of the Improvements. If any such lien shall at any time be filed against the Premises, Lessee shall cause the same to be discharged of record within 60 days after the date of filing the same, by either payment, deposit, or bond, or Lessee shall provide Lessor with other security reasonably satisfactory to Lessor in an amount that will ensure the discharge of the lien plus costs and interest.

5.3 Hazardous Substances. Neither Lessee nor Lessee's agents or employees shall cause or permit any Hazardous Substances, as hereinafter defined in Exhibit G, to be brought upon, stored, used, generated, released into the environment or disposed of on, in, or about the Premises and/or Building, except in a manner that complies with all laws regulating any such Hazardous Substances and with good business practices. To the extent permitted by law, Lessee

hereby agrees to indemnify, defend, protect, and hold harmless Lessor and the City of Portland and each of their respective commissioners, officers, agents and employees, and their respective successors and assigns, from any and all claims, judgments, damages, penalties, fines, costs, liabilities, and losses that arise after the Possession Date directly or indirectly from Lessee's use, storage, disposal, or release of Hazardous Substances on, in, or about the Premises. Notwithstanding the foregoing, Lessee will not be responsible for any claims, judgments, damages, penalties, fines, costs, liabilities, and losses that arise before, during, or after the Term which are not caused by Lessee's (or its agents', employees', contractors' or invitees') use, storage, disposal or release of Hazardous Substances on, in, or about the Premises. Lessee shall promptly notify Lessor of any release of Hazardous Substances on, in, or about the Premises that Lessee, Lessee's agents or employees becomes aware of during the Term, whether caused by Lessee, Lessee's agents or employees, or any other persons or entities.

5.4 Rules. Lessee may establish rules for access to the Premises and for the conduct of persons on the Premises, provided however, Lessee shall save and hold Lessor harmless, and defend Lessor at Lessor's request, from any claim for damages arising from or alleged to have arisen from Lessee's enactment or enforcement of such rules.

The provisions of Sections 5.1 through 5.3, including the indemnification provisions therein, and the indemnification provision in Section 5.4, shall survive the expiration or any termination of this Lease.

Section 6. Taxes

Lessor and Lessee are tax exempt entities and the Parties therefore anticipate there will be no real property taxes imposed on the Premises. Notwithstanding the preceding sentence, Lessor shall pay all real estate taxes and assessments on the Premises, if any, including any local improvement district assessments levied against the Premises, provided that Lessee does not assign or license the Premises, use the Premises, or otherwise manage the Premises in any manner that results in real property taxes being imposed on the Premises. If Lessee's actions result in real property taxes being imposed on the Premises, Lessee shall pay all real estate taxes on the Premises. Lessee shall pay all business and occupation taxes, assessments and any other governmental impositions not otherwise allocated to Lessor above. Any non-real estate related tax relating to a fiscal period of the taxing authority, a part of which is within the Term and a part of which is before or after the Term, assessed, on the Premises or shall become payable, during the Term, shall be paid by Lessee.

Section 7. Initial Improvement; Maintenance

7.1 Lessee Obligations to Construct Improvements. Upon receiving all the necessary permits and approvals (which Lessee shall diligently procure), Lessee shall, subject to acts of God, strikes, or any other reason beyond the reasonable control of Lessee (including delays due to unusual weather conditions) commence construction of the Improvements within thirty (30) days after the Possession Date. Lessee shall thereafter diligently pursue the construction to completion at Lessee's sole cost and expense ("Improvement Costs"). Lessee shall select and engage the contractor required for the construction of the Improvements using its lawful public procurement procedures. The Improvements are generally identified in Exhibit E attached hereto.

and more specifically described in the Construction Documents prepared under the Design Contract. The Improvements will include elements required by Metro's public art program. The Improvement Costs shall include all hard and soft costs required for the completion of construction of the Improvements, including permitting, bidding, and construction administration services, but excluding the services under the Design Contract. Lessee may engage the Designer to perform construction administration services by a separate contract between the Designer and Lessee. Lessee will pay for any and all Improvement Costs including cost overruns. Lessee shall hold Lessor harmless from any costs of the Improvements, including cost overruns. Upon completion of the Improvements as certified by Metro's construction manager, Metro will provide a statement from the general contractor accounting for all Improvement Costs incurred to complete the Improvements, excluding (a) the costs of compliance with the Metro public art program, (b) the cost of the services of the Metro construction manager and (c) the value of any Metro staff time incurred in connection with the construction of the Improvements ("Cost Accounting Statement").

7.2 Lessor Obligations for Demolition and Environmental Action. Prior to the Possession Date, using contractors and consultants engaged by Lessor using its lawful procurement procedures, Lessor shall undertake and complete demolition of the improvements existing on the Premises at the Effective Date ("Demolition") and conduct such environmental surveys, testing and remediation on the Premises as is required in Lessor's reasonable judgment, but at a minimum as required by law ("Environmental Action"). The Demolition will be completed according to Exhibit F attached hereto. The Environmental Action will be completed according to Exhibit G attached hereto. The Demolition and the Environmental Action will be completed at Lessor's sole cost and expense. Lessor shall hold Lessee harmless from any costs of the Demolition or the Environmental Action. At the completion of the Demolition and the Environmental Action (as evidenced by Lessor's final payment to each contractor or consultant engaged for the Demolition or the Environmental Action) Lessor will deliver the Premises to Lessee after giving a certificate of the completion to Lessee and (b) if the Environmental Action requires oversight by the Department of Environmental Quality ("DEQ"), then providing Lessee with a copy of the "No Further Action" letter issued by the Oregon Department of Environmental Quality. Lessor shall make the records of its Demolition and Environmental Action available to Lessee at Lessee's request.

7.3 Maintenance of the Premises. At Lessee's sole cost and expense, Lessee shall maintain and keep the Premises in a clean and orderly condition at all times according to the same standards as Lessee applies to its outdoor improvements on the site of the Oregon Convention Center. Lessee shall be responsible for all repairs and damages to the Improvements and any Additional Improvements (defined below), including landscaping, hardscape and sidewalks. If Lessee determines in its reasonable discretion, that repair to a damaged or worn element of the Improvements or Additional Improvements is not commercially feasible, Lessee shall be responsible to replace the damaged or worn element unless, using their reasonable judgment, Lessor and Lessee agree to an alternative. Lessor assigns to Lessee such rights, if any, as Lessor may have against any parties causing damage to the Improvements on the Premises to sue for and recover amounts expended by Lessee as a result of such damage. Any improvements to the Premises in addition to the Improvements must be approved in advance by Lessor ("Additional

Improvements"). Lessee shall pay the cost of all required maintenance, repair and replacement of the Improvements and Additional Improvements.

7.4 Winter Conditions. Lessee shall at all times keep the sidewalks, plaza and pathways free and clear of ice and snow; and will save harmless and protect Lessor against any injury whether to Lessor or Lessor's property or to any other person or property caused by Lessee's failure in that regard.

7.5 Costs of Operation. Lessee shall be solely responsible for all maintenance, repair, replacement and operating costs that may result from use of the Premises, including but not limited to landscape maintenance, sweeping and removal of debris, utilities, and any street tree maintenance and sidewalk maintenance in the right of way adjacent to the Premises. Lessee shall pay when due all charges and fees for services provided to the Premises, including utilities.

7.6 Lessor Reimbursement. Any activities performed by Lessee upon the Premises shall be without expense of any kind (direct or indirect) whatsoever to Lessor unless such activities are performed at the direction of Lessor. Should Lessor incur any costs or taxes as a result of Lessee's use of the Premises, Lessee agrees to reimburse Lessor promptly upon the presentation of an invoice and documentation of such expense; provided, however, that in no event shall Lessee be responsible for any Local Improvement District assessments imposed against the Premises.

Section 8. Lessee Default; Remedies

8.1 Default. The occurrence of any one or more of the following events constitutes a default and a breach of this Lease by Lessee:

8.1.1 Lessee fails to timely pay any sum owed to Lessor, and such default continues for 30 days after Lessor has given Lessee a written notice specifying the same.

8.1.2 If Lessee, whether by action or inaction, is in default of any of its obligations under this Lease (other than a default under Section 8.1.1 above) and such default continues and is not remedied within sixty (60) days after Lessor has given Lessee a written notice specifying the same, or, in the case of a default that can be cured but not within a period of sixty (60) days, if Lessee has not (1) commenced curing such default within such sixty (60) day period; (2) notified Lessor of Lessee's intention to cure the default; and (3) continuously and diligently pursued the cure of the default.

8.2 Termination. In the event of a default as set forth at Section 8.1 above, Lessor may, in its sole discretion terminate the Lease effective immediately upon Lessee's receipt of Lessor's written notice thereof. If the Lease is terminated for Lessee's default by the election of Lessor, Lessor shall be entitled to recover damages from Lessee for the default, and Lessor may reenter, take possession and remove any persons or property by legal action or by self-help with the use of reasonable force and without liability for damages and without having accepted a surrender.

8.3 Damages. In the event of termination or retaking of possession following default, Lessor shall be entitled to recover immediately from Lessee, any taxes assessed upon the Premises and payable by Lessor as the result of Lessee's, or its licensee's impermissible use of the Premises, the reasonable costs of any cleanup, refurbishing, removal of Lessee's property and fixtures, or any other expense occasioned by Lessee's default including but not limited to, any repair costs, all attorney fees and court costs.

8.8 Remedies Cumulative. The foregoing remedies shall be in addition to and shall not exclude any other remedy available to Lessor under applicable law.

Section 9. Lessor Default; Remedies

If Lessor, whether by action or inaction, is in default of any of its obligations under this Lease and such default continues and is not remedied within sixty (60) days after Lessee has given Lessor a written notice specifying the same, or, in the case of a default that can be cured but not within a period of sixty (60) days, if Lessor has not (1) commenced curing such default within such sixty (60) day period; (2) notified Lessee of Lessor's intention to cure the default; and (3) continuously and diligently pursued the cure of the default, then Lessee shall be entitled to exercise concurrently or successively any one or more of the following rights, in addition to all other remedies provided in this Lease or available at law or in equity: (a) to bring suit for the collection of any amounts for which Lessor may be in default, or for the performance of any other covenant or agreement of Lessor, without terminating this Lease; or (b) to terminate this Lease upon thirty (30) days' written notice to Lessor after expiration of the applicable cure period stated above, without waiving Lessee's rights to damages for Lessor's failure to perform its obligations hereunder.

Section 10. Expiration; Option to Extend; Termination; Survival; Surrender

10.1 Expiration of the Lease. The Lease will expire sixty months after the Effective Date.

10.2 Early Termination by Lessor. If during the Term Lessor determines in its sole discretion that possession of the Premises is required for the imminent commencement of construction of improvements to be built on the Premises for redevelopment consistent with the Oregon Convention Center Blocks Plan, then Lessor may terminate this Lease at any time by providing to Lessee not less than one hundred eighty (180) days advance written notice of its intent to terminate. If Lessor terminates the Lease under this Section 10.2, within sixty (60) days after the termination date, Lessor shall pay to Lessee a proportionate share of Lessee's Improvement Costs included in the Cost Accounting Statement. Lessor's "proportionate share" during the first 30 months of the Lease Term shall be equal to 100% of Lessee's Improvement Costs. Lessor's "proportionate share" for the remainder of the Lease Term shall be calculated by multiplying the Lessee's Improvement Costs by a fraction, the numerator of which is the number of months remaining in the Term, and the denominator of which is sixty. Notwithstanding the foregoing, Lessor agrees to provide Lessee with periodic updates regarding negotiations with any party Lessor is considering to undertake redevelopment of the Premises, and will provide Lessee a reasonable opportunity to comment on the terms of such negotiations.

10.3 Survival of Lease Terms. Except for the terms of this Lease that specifically survive termination or expiration of the Lease, expiration or termination of the Lease will relieve both Lessor and Lessee of all further obligations under this Lease. Notwithstanding the immediately preceding sentence, any liability resulting from any act or omission which shall have occurred during the Term shall survive the expiration or other termination of this Lease. The provisions of this Section 10.3, including the indemnification provision herein, shall survive the expiration or any termination of this Lease.

10.4 Surrender. Upon expiration or any termination of this Lease, Lessee shall vacate and surrender the Premises on or before the termination or expiration and repair any damage to the Premises that is caused or may result from Lessee's use of the Premises, and except for removal of the Improvements or any Additional Improvements, shall restore the Premises to the same or better condition as existing immediately prior to utilizing the Premises, or to such other condition as Lessor may reasonably approve. Upon expiration or termination, the title to the Improvements and the Additional Improvements shall vest in Lessor and Lessee is deemed to abandon all legal interest in the Improvements or Additional Improvements as of that date. Lessee shall take such action and execute such documents as Lessor deems reasonably necessary to evidence Lessor's ownership of the Improvements and any Additional Improvements. If restoration is impossible, or in lieu of restoration if Lessor agrees, Lessee shall compensate Lessor for any physical damage, beyond normal wear and tear, to the Premises in the amount the Parties may reasonably determine. The provisions of this Section 10.4, including the indemnification provision herein, shall survive the expiration or any termination of this Lease.

Section 11. Right of First Offer

11.1 If during the Term, Lessor intends to sell or otherwise convey fee simple ownership of the Premises, Buyer shall not take steps to solicit offers or market the Premises nor respond to an unsolicited offer for the acquisition of the Premises without first giving written notice of that intent or that offer to the Lessee and negotiating in good faith with the Lessee for a period of sixty (60) days to determine if Lessor and Lessee can agree on the fair market value of the Premises and on the other terms and conditions for a Lessee purchase of the Property. However, this Section 11 is not a right of first refusal or an option; and, accordingly, if the Lessor and the Lessee cannot reach an agreement after sixty (60) days of good faith negotiations, Lessor shall be free to sell or otherwise convey the Premises to any third party.

11.2. Right of First Offer Subject to Starterra's Interest. The Parties hereby agree that Lessee's right of first offer is subject to any rights Starterra may have to acquire the Premises pursuant to that Memorandum of Understanding dated May 10, 2010, among Lessor, Starterra, LLC, Hill Redwood Development Corp., and Hyatt Hotels (together referred to as "Starterra") regarding the redevelopment of the Premises.

Section 12. Force Majeure

If the performance by either of the parties of their respective obligations under this Lease (excluding monetary obligations) is delayed or prevented in whole or in part by any Laws (and not attributable to an act or omission of the party), or by any acts of God, fire or other casualty, floods, storms, explosions, accidents, epidemics, war, civil disorders, strikes or other labor difficulties, shortage or failure of supply of materials, labor, fuel, power, equipment, supplies or

transportation, or by any other cause not reasonably within the party's control, whether or not specifically mentioned, the party shall be excused, discharged, and released of performance to the extent such performance or obligation (excluding any monetary obligation) is so limited or prevented by such occurrence without liability of any kind.

Section 13. General and Miscellaneous Provisions

13.1 Prior Agreements. This instrument is the entire, final and complete agreement of the parties pertaining to the Lease of the Premises and supersedes and replaces all written and oral agreements heretofore made or existing by and between the parties or their representatives insofar as the Lease of the Premises is concerned. Neither party shall be bound by any other promises, representations or agreements, except as are expressly set forth herein.

13.2 Quiet Enjoyment. Lessee, on paying the Rent and observing and keeping all covenants, agreements, and conditions of this Lease on its part to be kept, shall quietly have and enjoy the Premises during the Term without hindrance or molestation by anyone claiming by, through, or under Lessor as such, subject, however, to the exceptions, reservations, and conditions of this Lease.

13.3 Time of the Essence; Notices. Time is expressly made of the essence of each provision of this Lease. Any notice required or permitted under this Lease shall be in writing and shall be given when actually delivered or forty-eight (48) hours after having been deposited in the United States mail as certified or registered mail, or when sent by facsimile transmission with receipt confirmed, addressed as set forth in the preamble to this Lease, or to such other address or facsimile transmission number as one party may designate by written notice to the other party.

13.4 Attorney Fees and Costs. If legal action is commenced in connection with this Lease, the prevailing party in such action shall be entitled to recover its reasonable attorney fees and costs incurred therein.

13.5 Nonwaiver. Failure by either party at any time to require performance by the other party of any of the provisions hereof shall in no way affect the party's rights hereunder to enforce the same, nor shall any waiver by a party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.

13.6 No Merger. The obligations set forth in this Lease shall not merge with the transfer or conveyance of title to any part of the Premises, but shall remain in effect until fulfilled.

13.7 Amendments. This Lease may be amended or modified without new consideration, but only by written instrument executed by both Parties. Lessor may act on the authority of its Executive Director, except that any extension of the Term will require Lessor's Board approval.

13.8 Governing Law. This Lease shall be construed in accordance with and governed by the laws of the State of Oregon.

13.9 Severability. If any portion of this Lease shall be invalid or unenforceable to any extent, the validity of the remaining provisions shall not be affected thereby.

13.10 Counting of Days. Whenever a time period is set forth in days in this Lease, the first day from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday or legal holiday, including Sunday, in which event, the period runs until the end of the next day that is not a Saturday or legal holiday.

13.11 Binding Effect. The covenants, conditions and terms of this Lease shall extend to and be binding upon and inure to the benefit of the heirs, personal representatives, successors and assigns of the parties hereto. Provided, however, no assignment by Lessee shall relieve Lessee of any of its obligations and liabilities under this Lease.

13.12 Assignment / Subleasing. This Lease may not be assigned by Lessee and the Premises may not be subleased by Lessee during the Term of this Lease without the advanced written approval of Lessor, which approval shall be granted or withheld in Lessor's sole discretion.

13.13 Real Estate Commissions. Each party represents that it has not had dealings with any real estate broker, finder, or other person with respect to this Lease in any manner.

13.14 Recitals. The Recitals and the content of all exhibits hereto are hereby incorporated by this reference.

13.15 Special Lease Provisions. Lessee acknowledges that Lessor acquired the property on which the Premises are located for the purposes of redevelopment pursuant to an urban renewal plan and that, at the time of such acquisition, Lessee had no legal interest whatsoever in the Premises. Lessee acknowledges that it is not entitled to any relocation benefits as defined under ORS 35.500 et seq. and by Lessor relocation policies, and will assert no claim for such statutory relocation benefits from Lessor. Lessee agrees that upon termination of this Lease that Lessee will remove all of its personal property from the Premises at its sole expense.

13.16 Recordation of Lease. Lessee may elect that a copy of this Lease or a memorandum, executed and acknowledged by both parties, be recorded in the public records of Multnomah County, Oregon. Lessee shall pay the recording costs.

13.17 Exhibits. The following Exhibits are attached hereto and incorporated as a part of this Lease:

- Exhibit A - Property Map
- Exhibit B – Design Contract
- Exhibit C – King Gateway Site and Heritage Markers
 - C-1 – Description and Drawing of King Gateway Site
 - C-2 - Description and Drawing of Heritage Markers
- Exhibit D – Description of Minimum Maintenance for King Gateway Site and Heritage Markers
 - D-1 – King Gateway Site
 - D-2 - Heritage Markers
- Exhibit E – Identification of Plaza Improvements
- Exhibit F – Demolition Description
- Exhibit G – Environmental Action Description

IN WITNESS WHEREOF, Lessee and Lessor have caused this Lease to be executed by their duly authorized officers.

LESSEE:

Metro

By: _____

Name: _____

Title: _____

Date: _____

LESSOR:

**The City of Portland Acting by and through the
Portland Development Commission**

By: _____

Bruce A. Warner, Executive Director

Date: _____

Approved as to Legal Form

PDC Legal Counsel

Exhibit "A" Property Map

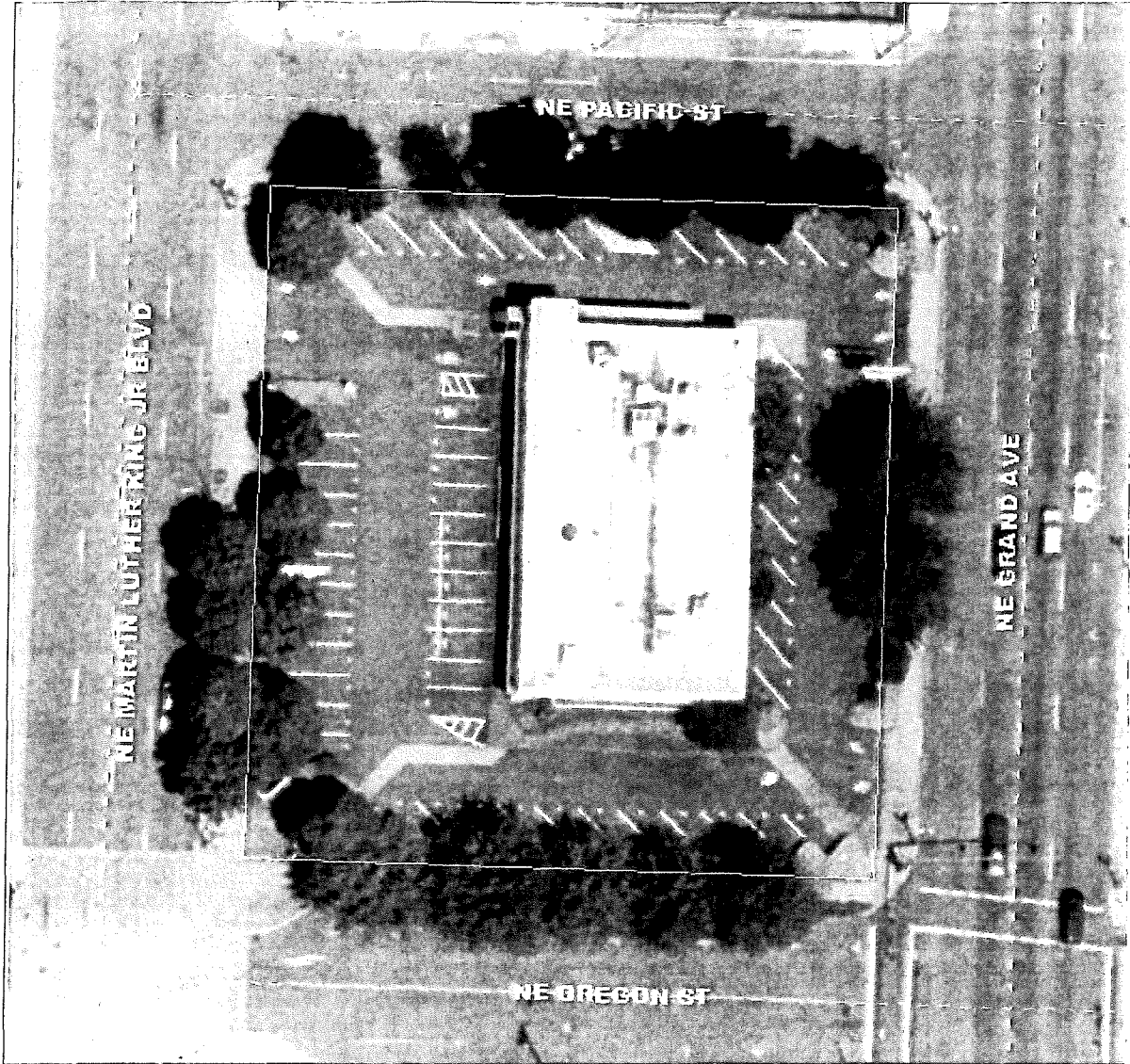


Exhibit B
Design Contract



FLEXIBLE SERVICES WORK ORDER STATEMENT OF WORK

For
Contract #: 208070 Work Order # 2
Amendment # 1

Contractor Name: Mayer Reed
Project: Block 26 (Sizzler Block) Landscape Services

Flexible Services Work Order 208070-2 (the "Work Order"), is hereby amended with this Amendment Number 1 (the "Work Order Amendment"). In the event of a conflict between this Work Order Amendment and the Work Order or any previous Amendment to the Work Order, this Work Order Amendment shall govern.

I. Description of Project:

Provide design development and construction documents for a temporary plaza on Block 26, NE Pacific and NE Oregon Streets, NE Grand Avenue and NE MLK Jr. Blvd

II. Deliverables and Timeframe:

Under this Flexible Services Work Order 208070 Mayer/Reed agrees to complete the following work to provide the Portland Development Commission ("PDC") Urban Development Department with landscape services for Block 26. The contractor shall complete all work no later than the expiration date of this Work Order and in accordance with the agreed-upon work schedule.

The work is to include right-of-way (ROW) sidewalk improvements from back of curb to property line as required by city codes for NE Pacific and NE Oregon Streets, NE Grand Avenue and NE MLK Jr. Blvd. surrounding the project block. All right-of-way improvements will be documented within the same set of construction documents as the rest of the site improvements, not as a separate PBOT permit set. This scope does not include site lighting, power or data outside of the property line. Separate drawings formatted for other agency reviews are not included in this scope.

Key services Contractor shall perform under this Contract include:

- ❖ Bid Package - suitable for bidding and permitting

Specifically, the Contractor will perform the following tasks and activities and provide PDC with the deliverables (or Work Products) listed below:

A. Design Development (Due date: 6 weeks from the work order execution)

Key tasks and activities include:

- Negotiate work order / project setup
- Project administration / team coordination
- Collect project data, base information, reports, studies
- Develop base plan / distribute to team coordinate site lighting with electrical engineer
- Coordinate site drainage and ROW work with civil engineer
- Develop site plan & details for areas outside Right-of-Way (ROW)
- Develop layout plan for areas outside ROW
- Develop grading plan for areas outside ROW
- Develop site section/elevations (2-3)

CONTRACT# 208070-WORK ORDER # 2-AMENDMENT#1

PROJECT TITLE

Page 1 of 4

Work Order Amendment SOW \$50K and over 030110 RMH

- Prepare site furnishing information
- Prepare design development outline specifications
- Review Cost estimate prepared by others
- Meetings:
 - Design team work session at Mayer/Reed (1)
 - Owner's meeting at Mayer/Reed (2)
 - Early assistance appointment with Bureau of Development Services
 - Attend optional city staff meeting (1)

B. Construction Documents: (Due date - 12 weeks from the work order execution)

Key tasks and activities include:

- Prepare construction documents of Bid Package suitable for
 - Hardscape design and details outside ROW
 - Grading outside ROW
 - Planting plan & details
 - Irrigation plan & details
- Update / distribute base for 50% & 100%
- Review ROW grading & site drainage by civil
- Review site lighting by electrical engineer
- Prepare technical specifications
- Coordinate sub-consultant work
- Coordinate submissions at 50% & 100%
- Review cost estimate by others
- Meetings
 - Design team work session at Mayer/Reed (2)
 - Owner's meeting at Mayer/Reed (2)

C. Plaza Rendering (Due date – July 31, 2010)

Provide a plaza rendering that would show booths, people and include enough of the Convention Center in the background for context.

D. Deliverables

Deliverables to be provided by Contractor to PDC for the tasks and activities described in this section include:

Design Development documents: (Due date - 6 weeks from the work order execution)

- Site & Materials Plan & details
- Layout Plan
- Grading Plan within property lines
- Planting Plan & details
- Site Selections / elevations (2-3)
- Outline specifications

Construction documents: (Due date - 12 weeks from the work order execution)

- Site & Materials Plan & details
- Layout Plan, grading plan, Planting Plan & details
- Site Selections / elevations (3)
- Technical specifications

Unless otherwise stated above, all dates are firm and are subject to change only upon mutual written agreement between PDC Project Manager and Contractor.

Work Expiration Date. This Work Order shall **December 31, 2010.**

III. Consideration

- A. **Contractor Hourly Rate Schedule.** This project is anticipated to require the following hours to be billed at rates per hour listed below. The cost for the work performed by the Contractor shall not exceed \$22,978.

HOURLY RATE SCHEDULE: Mayer/Reed – Landscape Architecture			
Position Title	Hourly Rate	Hours Estimated	Subtotal
Partner	\$152	16	\$2,432
Project Manager	\$112	56	\$6,272
Project Landscape Architect	\$92	140	\$12,880
Administrator	\$75	4	\$300
Labor			\$21,884
Reimbursables			\$1,094
Total			\$22,978

- B. **Subcontractor Hourly Rate Schedule.** The subcontractor(s) listed below are hereby approved by PDC. The Contractor, Mayer/Reed, shall subcontract to KPFF Consulting Engineers for civil engineering and MFIA, Inc for electrical engineering. The cost for the work performed by this KPFF Consulting Engineers shall not exceed \$19,476 and MFIA, Inc. shall not exceed \$10,651. All billing for subcontracted work shall be invoiced to Contractor. This project is anticipated to require the following subcontractors hours to be billed at rates per hour listed below.

HOURLY RATE SCHEDULE: KPFF – Civil Engineering			
Position Title	Hourly Rate	Hours Estimated	Subtotal
Principal	\$152	6	\$912
Project Manager	\$112	57	\$6,384
Design Eng/Designer	\$90	114	\$10,260
Draftsperson/Technician	\$75	12	\$900
Clerical	\$65	8	\$520
Labor			\$18,976
Reimbursables			\$500
Total			\$19,476

HOURLY RATE SCHEDULE: MFIA, Inc. – Electrical Engineering			
Position Title	Hourly Rate	Hours Estimated	Subtotal
Principal	\$148	7	\$1,036
Electrical Designer	\$92	82	\$7,544
Electrical Drafter	\$65	28	\$1,820
Clerical Electrical	\$60	4	\$240
Labor			\$10,640
Reimbursables			\$11
Total			\$10,651

HOURLY RATE SCHEDULE: Martin Kyle-Milward – Architectural Illustrator			
Position Title	Hourly Rate	Hours Estimated	Subtotal
Architectural Illustrator	\$90	22.25	\$2,000
Reimbursables			\$0
Total			\$2,000

C. **Not-To-Exceed Amount.** The total not-to-exceed amount for the work order shall be \$53,105.00 and is delineated as follows:

CONTRACTOR	\$22,978
SUBCONTRACTORS	\$32,127
Not-To-Exceed (NTE) Total:	\$55,105

The fees are subject to the actual terms of the agreement. The above fees include reimbursable expenses: local travel by automobile, long-distance telephone, computer plots, printing for in-house use, reprographics and photography supplies. All meetings will be held in Portland.

IV. Billing and Payment Procedures:

The Contractor shall submit to the Portland Development Commission for payment an itemized invoice in a form and in sufficient detail to determine the work performed for the amount requested. Invoices submitted by the Contractor shall be prepared in such a way as to make it easy for PDC to determine if the hourly rates billed correlate with Exhibit A – Fee Schedule of the Flexible Services Contract. At a minimum, submitted invoices shall include:

- Invoice date
- Date or date range worked
- Contract number and work order number
- Personnel job classification or title exactly how it is written in Exhibit A – Fee Schedule
- Correlating billing rate exactly how it is written in Exhibit A – Fee Schedule
- Number of hours worked
- A brief description of work performed or tasks completed
- Any approved reimbursable expenses

Contractor shall submit invoices for work to include subcontractor hours and applicable rates for the work performed. PDC will review the invoices to ensure billing rates do not exceed the fee schedule approved by PDC. Contractor shall be liable for adjusting and resubmitting invoices if it is found that the subcontractor rates exceed the amounts listed in the work order. Contractor shall be liable for crediting PDC for any hourly rates that were billed higher than the rates approved by PDC.

Discounts offered by the Contractor for earlier payment are encouraged, but the Commission shall not be obligated to make payment in less than 30 days from the date the invoice is received.

Invoices may be submitted monthly, or at such other interval as is specified by the PDC Project Manager. PDC shall process payment in its normal course and manner for accounts payable, **NET 30 DAYS**.

All final Work Order invoices must be received by the Commission within 90 days of Work Order expiration date or work product delivery and acceptance by the Commission.

The Commission reserves the right to reject and refuse payment of any invoice delivered either more than 90 days following the date on which the final work product is accepted by the Commission, or more than 90 days following Work Order expiration date.

Contractor's Acknowledgement:

Signature and Print Name

Date

CONTRACT# 208070-WORK ORDER # 2-AMENDMENT#1

PROJECT TITLE

Page 4 of 4

Work Order Amendment SOW \$50K and over 030110 RMH

June 10, 2010

Irene Bowers, Senior Project Coordinator
Portland Development Commission
222 NW 5th Avenue
Portland, Oregon 97209

Dear Irene:

Thank you for the opportunity to provide land use services to prepare a Type II Minor B Design Review application for the proposed redevelopment of Block 26 located near the Oregon Convention Center (OCC), for an outdoor plaza to be used by the OCC for event space and occasional overflow parking. The purpose of this proposal is to establish the terms of this engagement:

Parties. The work will be undertaken by The Bookin Group LLC (TBG) (Consultant) on behalf of the Portland Development Commission (PDC)(Client). Irene Bowers will serve as PDC's Project Manager for this assignment.

Staff. Rebecca Woods, AICP, Senior Planner, will serve as TBG's Project Manager. She will be assisted by Principal Planner, Beverly Bookin, AICP.

Scope of Work. The Consultant will undertake the following tasks:

- 1) Meet with the Client to discuss the project (1 hour)
- 2) Conduct a site visit (1 hour)
- 3) Review all pertinent documentation including the applicable sections of the Portland Zoning Code, Central City Fundamental Design Guidelines, and Lloyd District Design Guidelines (5 hours)
- 4) Discuss current site plan with landscape architect (3 hours)
- 5) Contact City of Portland planner, Kara Fioravanti, to review proposal and application requirements (3 hours)
- 6) Meet and coordinate with design team to discuss application submittals (4 hours)
- 7) Prepare the application in collaboration with other members of the consulting team such as the landscape architect and civil engineer as required (24 hours)
- 8) Prepare the application form, coordinate getting check and signatures and submit to Bureau of Development Services (BDS) (3 hours)
- 9) Supplement the application as necessary if BDS requests additional information during completeness check (4 hours)
- 10) Remain in contact with assigned BDS planner during review until a decision is rendered (1 hour)
- 11) In the likely event that the application is approved without appeal, record the decision with the Multnomah County Recorder (1 hour)

Total = 50 hours. See attached table.

Fees. TBG's fee for this assignment is \$4,950. This includes professional services as follows: Beverly Bookin (\$150/hour) and Rebecca Woods (\$90/hour) and out-of-pocket expenses. These fees do not include: 1) City filing fees for the applications; 2) filing fee for recording the decision with the Multnomah County Recorder; or 3) professional fees associated with representing PDC in the case of an appeal to the Portland Design Commission.

Billing. The Consultant will bill the Client only for actual hours and expenses incurred on a monthly basis under the terms specified in Fees above. These invoices are due and payable within 30 days. If the Client fails to make full payment within 30 days after the date of receipt of the invoice, the amount due to the Consultant under the invoice shall bear interest at the rate of 18% per annum or the maximum permissible by applicable law, whichever is less, from the thirtieth day following the date of receipt of the of the invoice by the Client. The Consultant shall be entitled to recover all costs and attorney's fees incurred in the collection or attempted collection of amounts due under this Agreement.

Schedule. To meet the Client's 9/10 construction schedule, the Consultant plans to submit the application to the City of Portland no later than 7/20/10. This schedule allows two weeks for PDC to contract with TBG to undertake the work and up to five weeks for TBG to prepare the application. BDS will require six to eight weeks to deem the application complete, allow for agency review, public notice to other stakeholders, and render a decision. This portion of the schedule may be longer if BDS finds that additional information is required for the application to be deemed "complete". Once BDS issues the decision, there is a two-week appeal period. If no appeal is filed after 14 days, the final decision can be recorded with Multnomah County. The Consultant will inform the Client of any changes in this schedule. TBG is available to begin this project immediately.

Confidentiality. The Consultant affirms that all proprietary information about the Client's project will be treated confidentially to the degree that projects under the aegis of the City of Portland are accorded confidentiality under state law. However, any information submitted in writing to the City of Portland Bureau of Development Services on behalf of the Client becomes a matter of public record.

Liability. Damages for professional or other liability are limited to actual damages incurred or twice the total fee, whichever is less.

Consultant's Expertise. The Consultant provides planning expertise that in no way can be construed or relied upon as legal advice.

We look forward to working the consulting team on this important project. To indicate your acceptance of these terms, please sign both copies of this agreement, keeping one for your files and returning the other to me.

Sincerely,



Rebecca Woods, AICP, Associate Planner
The Bookin Group LLC

ACCEPTED BY:

Name: _____

Title: _____

Date: _____

ATTACHMENT

TABLE
COST PER TASK AND TOTAL PROJECT COST

	TASK	HOURS PER TASK	COST PER TASK @ \$90/HR
1	Meet with the Client to discuss the project	1	\$90
2	Conduct a site visit	1	\$90
3	Review all pertinent documentation including the applicable sections of the Portland Zoning Code, Central City Fundamental Design Guidelines, and Lloyd District Design Guidelines	5	\$450
4	Discuss current site plan with landscape architect	3	\$270
5	Contact City of Portland planner, Kara Fioravanti, to review proposal and application	3	\$270
6	Meet and coordinate with design team to discuss application submittals	4	\$360
7	Prepare the application in collaboration with other members of the consulting team such as the landscape architect and civil engineer as required	24	\$2,160
8	Prepare the application form, coordinate getting check and signatures and submit to Bureau of Development Services (BDS)	3	\$270
9	Supplement the application as necessary if BDS requests additional information during completeness	4	\$360
10	Remain in contact with assigned BDS planner during review until a decision is rendered	1	\$90
11	In the likely event that the application is approved without appeal, record the decision with the Multnomah County Recorder	1	\$90
SUBTOTAL		50 Hours	\$4,500
OUT-OF-POCKET EXPENSES			\$450
TOTAL			\$4,950

Investing in
Portland's Future



SERVICES PURCHASE ORDER

P.O. Number **42175**

222 NW Fifth Avenue
Portland, OR 97209
503-823-3200

FIRM

Rebecca Woods
Bookin Group, The
1020 SW Taylor, Suite 760
Portland, OR 97205

CHARGE CODE(S):

350440160 5110 H25537

BUDGET ANALYST:

TAX EXEMPTION ID NO: 93-6013584	VENDOR NUMBER: 183
START DATE: 2/10/10	COMPLETION DATE: 9/15/10

TOTAL PRICE:
\$4,950.-

SCOPE OF SERVICE

Block 26 (Singer block) redevelopment - outdoor plaza
Design Review application - Jupyter Miner B
Scope of work attached

If additional space is needed please attach additional sheets.

I the undersigned agree to perform work outlined in this Purchase Order in accordance to terms and conditions outlined on the back of this form and the Scope of work and hereby certify I am an Independent Contractor as defined in ORS 670.600.

<i>Rebecca Woods</i> CONTRACTOR SIGNATURE	Rebecca Woods PRINT NAME	Senior Planner TITLE
--	-----------------------------	-------------------------

Jeane Bowers
PDC CONTRACT MANAGER SIGNATURE

PRINT NAME: Jeane Bowers

Lew Bowers
PDC EXPENDITURE AUTHORITY SIGNATURE

PRINT NAME: Lew Bowers

CONTRACTOR COPY

1. Contractor agrees to comply with all Federal, State, and local laws, regulations or orders applicable to the performance of services provided under this Purchase Order. The provisions of this agreement shall be construed in accordance with the provisions of the State of Oregon. Any action or suits involving any question arising under this contract must be brought in the appropriate court in Multnomah County, Oregon.
2. Contractor shall defend, indemnify and hold harmless PDC, its officers, agents and employees from any and all claims, suits, or actions of whatsoever nature resulting from or arising out of the activities of the Contractor, its officers, employees, subcontractors, or agents, in delivery of products or performances of services pursuant to this order.
3. The passage of the contract expiration date shall not extinguish, prejudice or limit either party's right to enforce this Purchase Order with respect to any default or defect in performance that has not been cured.
4. All work products of the Contractor which results from this contract are the exclusive property of PDC.
5. Contractor shall not subcontract, assign or transfer any of the work scheduled under this agreement without undue delays and without additional cost.
6. The Contractor shall perform such additional work as may be necessary to correct errors in the work required under this agreement without any undue delays and without additional cost.
7. The Contractor shall make payment promptly, as due, to all persons supplying to such Contractor labor or material for the prosecution of this Contract. The Contractor shall not permit any lien or claim to be filed or prosecuted against the Commission on account of any labor or material furnished.
8. If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the Commission may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of this Contract. The payment of a claim in this manner shall not relieve the Contractor or the Contractor's surety from obligation with respect to any unpaid claims.
9. Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 including Title II of the Act, ORS 659.425, and all regulations and administrative rules established pursuant to those laws.
10. The Contractor is engaged as an independent contractor and will be responsible for any federal, state, and local taxes and fees applicable to payments hereunder. The Contractor, its subcontractors, and their employees are not employees of the Commission and are not eligible for any benefits through the Commission, including without limitation federal social security, health benefits, workers' compensation, unemployment compensation, and retirement benefits.
11. The Contractor, its subcontractors, if any, and all employers working under this Contract who are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers. The Contractor further agrees to maintain workers' compensation insurance coverage for the duration of this Contract.
12. The Contractor shall pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract.
13. The Contractor shall pay to the Oregon Department of Revenue all sums withheld from employees pursuant to state law.
14. As required by ORS 279.320, the Contractor hereby agrees that the Contractor shall promptly, as due make payment to any person, copartnership, association or corporation furnishing medical, surgical or hospital care or other needed care and attention incident to sickness or injury to the employees of such Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.

Exhibit C

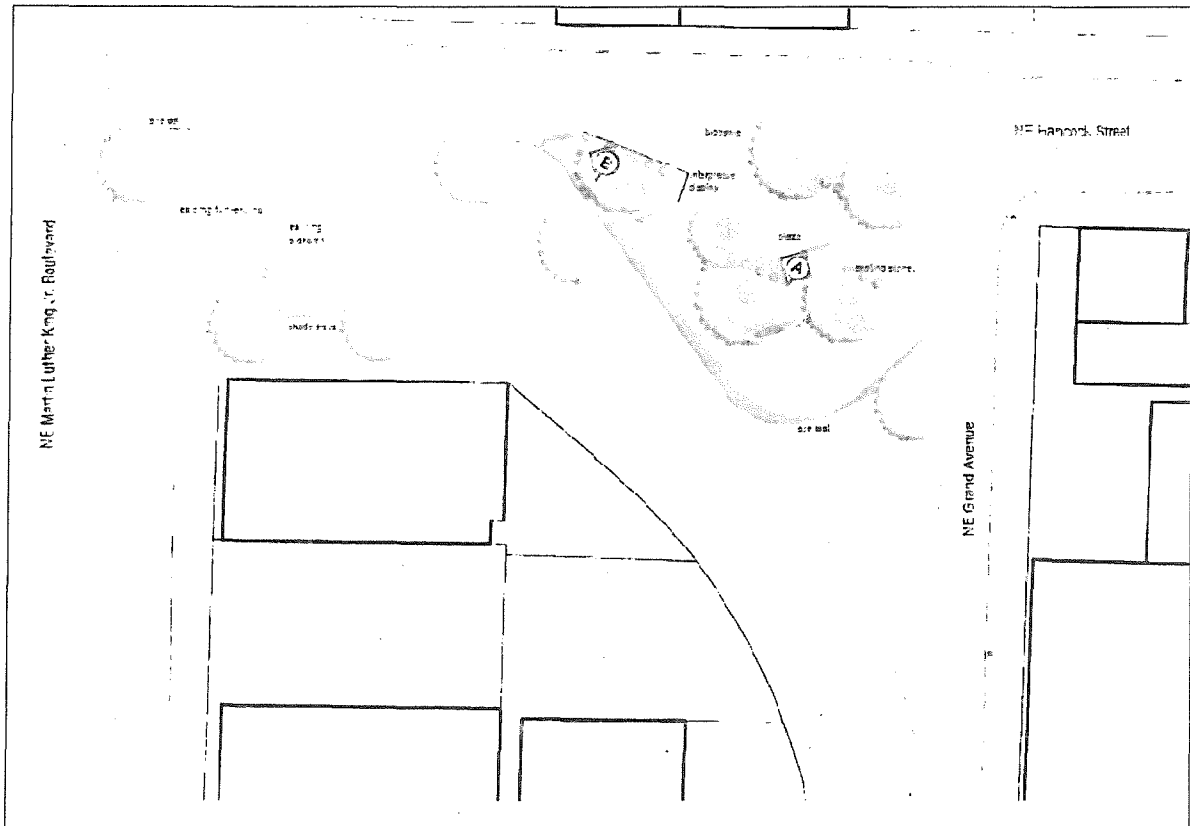
King Gateway Site and Heritage Markers

C-1 – Description and Drawing of Gateway Site

Gateway Site (see attached drawing)

Site consists of:

- approximately 20,000 sf including median along MLK
- 5,600 sf of concrete for the plaza
- 14,500 sf of ornamental grasses (bioswale included) no lawn
- 4 heritage markers (20' tall lighted)
- Undulating perforated metal screen 3' - 5' approximately 300 linear feet



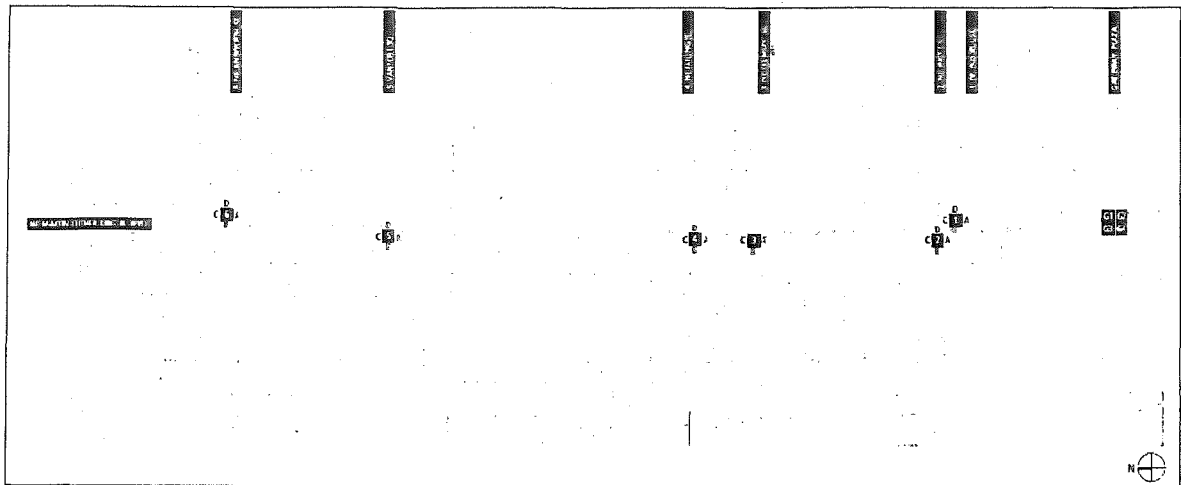
C-2 - Description and Drawings of Heritage Markers

Heritage Markers (see attached drawings)

Four markers at the gateway site and 6 markers along King Blvd. 3-4 panels per marker

- Column: 1/4" thick weathering steel
- Interpretive panel frame: Stainless steel
- Interpretive panels: UV & graffiti resistant powder coated graphics on steel. 10 year warranty against fading.
- Illumination at Gateway site markers only: LED strip fixtures, 6 per marker

Markers Location Map



Typical Markers

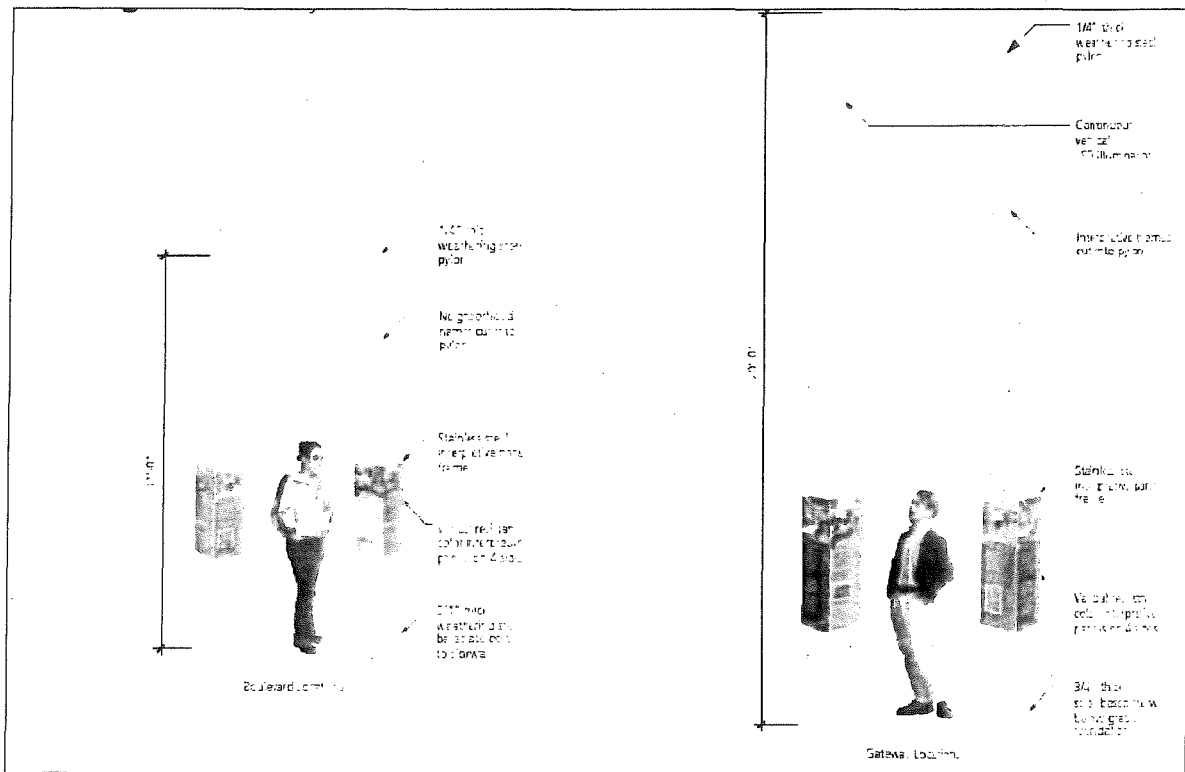


Exhibit D
Description of Minimum Maintenance for
King Gateway Site and Heritage Markers

D-1 - Gateway Site

Estimate of maintenance requirements:

- bi-monthly site visit for trash pick-up, general clean-up and hosing down of plaza (no garbage cans on site)
- graffiti removal as needed
- irrigation repair as needed
- yearly cutting of ornamental grasses

D-2 - Heritage Markers

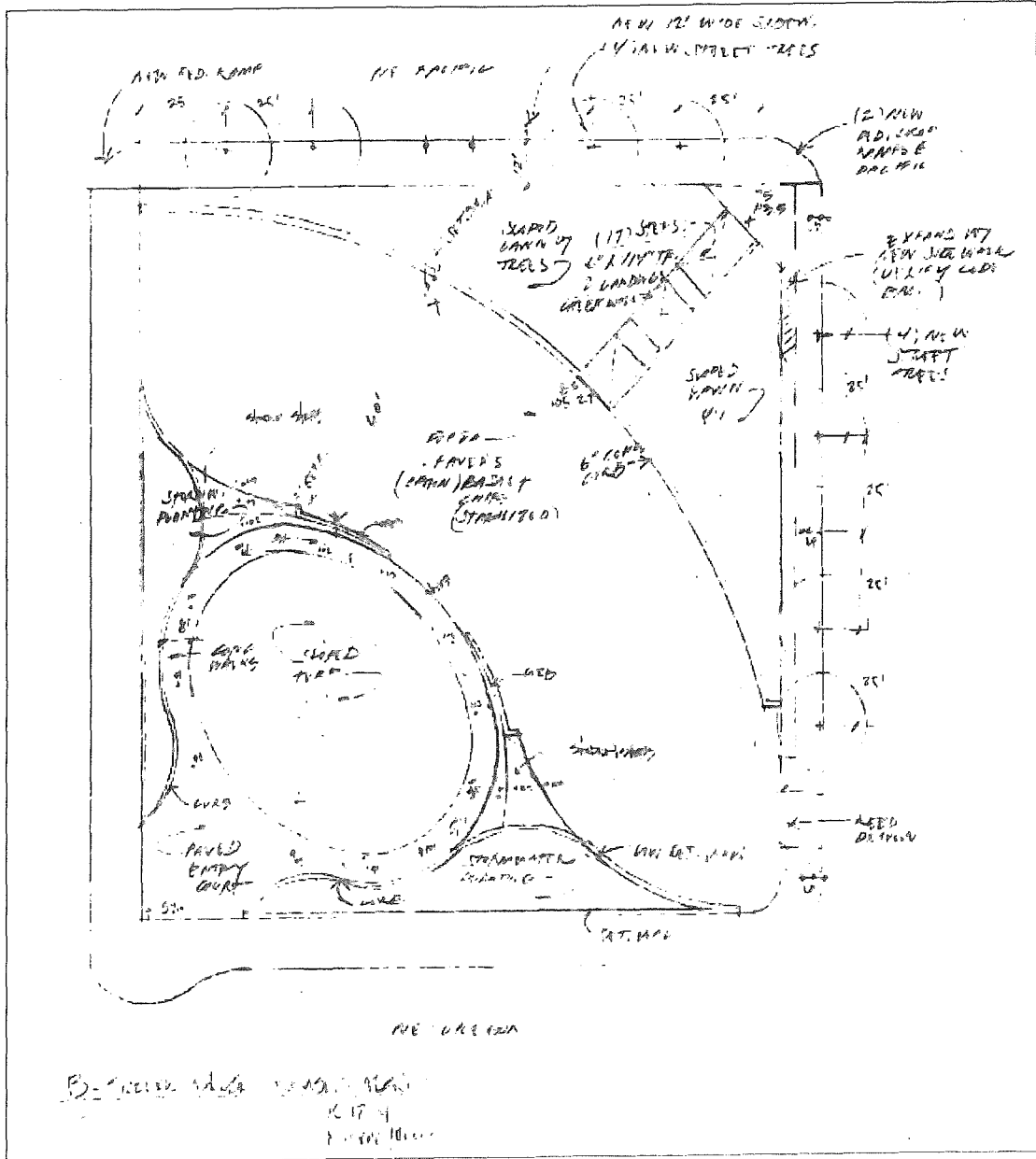
Estimate of maintenance requirements:

- Column & Interpretive Panel Frame: Graffiti removal with cleaner for metals
- Interpretive panels: Graffiti removal with environmentally friendly cleaner such as "Disappear-Organic Graffiti, Adhesive & Paint remover". Quarterly cleaning with cleaner such as "Windex" or water with mild soap, followed by warm water rinse and dry with clean soft cloth, to 6 ft maximum above grade
- Illumination at Gateway site markers: LED strip fixture replacement as needed

Exhibit E – Identification of Plaza Improvements

Site consists of:

- Utilities
- Plaza
- Steps and walls
- Sidewalk Improvements
- Street trees
- Irrigation
- Planting



Concept Plan

Exhibit F – Demolition Description

DEMOLITION

Prior to the Possession Date, Lessor shall demolish and remove all buildings, structures and debris on the Premises, including but not limited to removal of: all foundations, internal walkways, and pavement, not including any street sidewalks and street sidewalks driveway entrances sidewalks, capping of or removal of utilities, and grading the Premises even up to the edge of the existing sidewalks (“Demolition”). Specifically, but not exclusively:

Lessor to remove storm and sewer lines to within 5 feet of right of way and cap. Remaining lines extending into the street ROW remain.

Lessor will not deactivate Pacific Power and Light transformers or otherwise kill service. Telephone, cable and other fiber optic lines will be located, and removed to within 5 feet of right of way, and capped.

Lessor to remove water lines to within 5 feet of right of way, and cap at the private side of the meter, with meter and meter box in place. Lessor will NOT terminate the service back into the street.

Lessor to remove all equipment, catch basins, cesspools, yard poles, fixtures on the Premises.

Lessor to remove/relocate (or cause to be) electric meters and lines dropped from street poles. Telephone, cable and other fiber optic lines will be removed from right of way or terminated within 5 feet of right of way.

Exhibit G – Environmental Action Description

ENVIRONMENTAL ACTION

1. **Environmental Due Diligence Reports.** Lessee acknowledges receipt of copies of all Environmental Due Diligence Reports listed below, other than the Pre-Closing Phase 1 Environmental Assessment which Lessor will provide as described in Section 2 below.
2. **Environmental Report Prior to Closing.** During the period of Demolition, Lessor shall retain, at its sole cost and expense, an independent environmental consultant to review the Environmental Conditions on the Premises during and after Demolition and complete a Phase 1 Environmental Assessment of the Premises in conformance with the ASTM E 1527-07 process in compliance with the United States Environmental Protection Agency All Appropriate Inquiries (40 CFR Part 312), as may be amended and updated by the date upon which the Phase 1 is commissioned (“Pre-Closing Phase 1”). Lessor shall provide Lessee with copies of the Pre-Closing Phase 1 promptly after Lessor’s receipt thereof. Lessor will secure reliance letters from its consultants covering the Phase 1 and Phase 2 investigations from 2006 (“2006 Reports”), and the Pre-Closing Phase 1.
3. **Environmental Cleanup.** For any Recognized Environmental Conditions on the Premises discovered during the period of Demolition, which has not been characterized in the 2006 Reports, Lessor shall be responsible for retaining an independent environmental consultant to determine the nature of the material encountered and whether it is an environmental condition or Hazardous Substances requiring corrective measures and/or remedial action under a Phase 2 Updated Environmental Site Assessment of the Premises in conformance with ASTM E 1903-97 (2002). Lessor shall provide Lessee with copies of the Phase 2 Updated Environmental Site Assessment promptly after Lessor’s receipt thereof. If such work is undertaken, Lessor covenants and agrees to undertake such measures at its sole cost and expense prior to delivering Possession to Lessee.
4. **As – Is Condition.** Upon the completion of the Demolition and related environmental clean-up, Lessor shall deliver possession of the Premises to Lessee, and Lessee shall accept the Premises, in “AS IS” condition on the Possession Date, without warranty of any kind. In particular, Lessor makes no warranties or representations that the soil conditions, Environmental Conditions or any other conditions of the Premises or structures thereon are suitable for any improvements. Lessee acknowledges that it has not relied on any verbal representations made by Lessor as to the soil conditions, Environmental Conditions or any other conditions of the Premises. Lessee acknowledges that it has had free access to Lessor’s records with respect to the condition of the Premises, specifically including the Environmental Due Diligence Reports.
5. **Definitions for Exhibit G.** The capitalized terms used in this Exhibit G are defined as follows:
 - a) **“Environmental Conditions”** means the physical condition of the Premises as measured by the standards of the Environmental Laws. Environmental Conditions do not include de

minimis conditions that generally do not present a threat to human health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies.

- b) “**Environmental Due Diligence Reports**” means reports of investigations performed as part of environmental due diligence, which may include Phase I, Phase 2 and Hazardous Building Materials Assessments and reports, documents or documentation of Recognized Environmental Conditions that Lessor has completed or Lessor has in its possession, completed by others.
- c) “**Environmental Laws**” means all federal, state and local laws, ordinances, rules and regulations relating to the protection or regulation of the environment that apply to the Premises or the Project, including without limitation, Chapter 466 of the Oregon Revised Statutes, Chapter 341 of the Oregon Administrative Rules, RCRA (as defined in the definition of Hazardous Substances, below), CERCLA (defined in the definition of Hazardous Substances, below), the Safe Drinking Water Act, the Clean Air Act, the Clean Water Act, and the Toxic Substances Control Act.
- d) “**Hazardous Substances**” means any pollutant, dangerous substance, toxic substance, asbestos, petroleum, petroleum product, hazardous waste, hazardous materials or hazardous substance as defined in or regulated by Chapter 466 of the Oregon Revised Statutes, the Resource Conservation Recovery Act, as amended, 42 USC Section 6901, et seq. (“RCRA”), the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 USC Section 9601, et seq. (“CERCLA”), or any other Environmental Law.
- e) “**Recognized Environmental Conditions**” means the presence or likely presence of a Hazardous Substance on the Premises under conditions that indicate an existing Release, a past Release, or a material threat of a Release of a Hazardous Substance into structures on the Premises or into the ground, ground water, or surface water of the Premises, whether or not the Release is in compliance with applicable law. Recognized Environmental Conditions do not include de minimis conditions that generally do not present a threat to human health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies.
- f) “**Release**” means releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, disposing or dumping.

MERC Staff Report

Agenda Item/Issue: Block 26 Ground Lease Agreement – Oregon Convention Center

Resolution No.: 10-24

Presented By: Jeff Blosser

Date: October 6, 2010

For the past several years, Metro and Oregon Convention Center staff worked with the Portland Development Commission to develop a publicly-owned headquarters hotel project on two blocks of property directly adjacent to the to the OCC's main entrance. A headquarter hotel has long been recognized as a necessary component of the convention center package in order to remain competitive nationally. Approximately one year ago, efforts to develop a headquarter hotel were curtailed by a decision of the leadership at Metro, the City of Portland and Multnomah County due to many factors, including a weak economy and hotel market.

In the past year, staff continued discussions with PDC staff regarding the best public use for these blocks, specifically focused on urban design considerations to enhance the OCC's front door and interim uses that added value for OCC customers and the community. Staff proposed, and the Commission supported in the FY 10-11 budget process, that the southern block (Block 26 and commonly referred to as the "Sizzler Block") be repurposed as an outdoor exhibition/event plaza for OCC. PDC concurs with this concept and has taken steps to partner with OCC, including: 1) completed environmental assessment of the site; 2) completed demolition of the long-vacant existing building (former Sizzler restaurant); 3) provided project management assistance on the design and land use reviews of the new outdoor event/exhibition plaza and 4) negotiated a ground lease agreement.

OCC has committed to expend up to \$65,000 on design and land use approvals of the improvements. The cost of construction/permitting/general conditions is expected to be \$612,500, of which OCC will contribute the full amount. OCC's construction management will be an additional cost. PDC is contributing \$67,000 towards sidewalk reconstruction on the block. Construction work will be bid this Fall per MERC procedures and the plaza would open in the Spring of 2011.

The Block 26 Ground Lease Agreement is before the Commission today with staff requesting approval of Resolution 10-24 to authorize the Metro COO to enter into this agreement. The Block 26 Ground Lease Agreement is attached to Resolution 10-24 in substantially final form.

Block 26 Ground Lease Agreement Terms

The general terms of the ground lease are:

1. OCC commits to manage and maintain the Block 26 improvements for public uses, such as business and activities related to the OCC, and other neighborhood-oriented purposes. OCC shall do so at its sole cost.
2. The term of the lease shall be 60 months. At the end of the 48th month; the parties will determine whether or not to extend the lease.

3. OCC shall be responsible for the cost of design and construction of the improvements.
4. PDC shall be responsible for the demolition of the site and environmental remediation, if any. PDC will also pay for sidewalk improvements.
5. OCC shall pay PDC rent of \$1.00 per year. OCC also shall, as additional consideration, maintain the NE Martin Luther King Jr. Boulevard Heritage Markers and Gateway Site, upon construction completion by PDC.
6. OCC shall indemnify and hold PDC harmless from any and all liability.
7. PDC has the right to terminate the lease prior to its expiration, by giving OCC no less than 180 days advance notice. In that event, PDC will reimburse OCC for construction costs per the terms described in the lease agreement.
8. PDC shall give Metro /OCC the right of first offer to acquire the site if PDC intends to sell during the term of this lease, subject to any rights Star Terra may have to acquire the site pursuant to a Memorandum of Understanding dated May 10, 2010 and expiring November 11, 2010.
9. Agreement includes standard and typical provisions regarding defaults and remedies and other basic real estate provisions

Staff recommends that the Commission approve Resolution 10-24 to authorize execution of the Block 26 Ground Lease Agreement so that the public improvements to be completed and managed by OCC.

Fiscal Impact: The FY 10-11 budget includes funding for this project.

Attachments to Resolution and/or Staff Report: Block 26 Ground Lease Agreement is attached to Resolution 10-24.

Recommendation: Staff recommends that the Metropolitan Exposition-Recreation Commission adopt Resolution 10-24 Block 26 Ground Lease Agreement.