

METROPOLITAN EXPOSITION-RECREATION COMMISSION

RESOLUTION 2000-12

Metropolitan Exposition-Recreation Commission Resolution 00-12 accepting the Proposal of Hoffman Construction Company of Oregon ("Hoffman Construction"), and authorizing the Chairman and Secretary/Treasurer to execute Contracts in accordance with the Request for Proposals, with Hoffman Construction, for the Construction Manager/General Contractor (CM/GC) services for the Oregon Convention Center Expansion Project.

WHEREAS, Metro Contract Review Board, by Resolution No. 99-2872, has approved use of the CM/GC process for selecting and contracting with a CM/GC contractor; and

WHEREAS, the Commission has forwarded a proposed FY 2000-2001 budget to the Metro Council for approval which includes the Oregon Convention Center Expansion Project; and

WHEREAS, Commission Staff subsequently issued "Request for Proposals" ("RFP") for CM/GC services to construct said expansion and received four responses to said RFP; and

WHEREAS, an Evaluation Committee established to advise Project Staff have evaluated all proposals received and subsequently interviewed the three highest ranked candidates, and selected Hoffman Construction as the Proposer best qualified to perform all construction services; and

WHEREAS, the Project Co-directors subsequently reviewed the Evaluation Committee's recommendation, conferred independently and have recommended the selection of Hoffman Construction as the Project's CM/GC; and

WHEREAS, the RFP provides that there shall be separate contracts for Pre-construction Services and Construction Services; and

WHEREAS, financing for the project has not yet been finalized to fund the anticipated total project cost of approximately One Hundred Six Million Dollars (\$106,000,000.00); and

WHEREAS, award of the Construction Services Contract for the Oregon Convention Center Expansion is to be contingent upon establishment of an acceptable Guaranteed Maximum Price and on the finalization of financing arrangements for the Project acceptable to the Commission; and

WHEREAS, the Hoffman Construction Proposal includes a fixed fee percentage of 1.98% of the total final construction cost, plus actual reimbursable, currently estimated at \$1,762,895; and

BE IT, THEREFORE, RESOLVED that the Metropolitan Exposition-Recreation Commission hereby selects Hoffman Construction Company of Oregon as the best qualified proposer in response to the Commission's Request for Proposals for Construction Manager/General Contractor services for the Oregon Convention Center Expansion Project, issued January 31, 2000; and

BE IT FURTHER RESOLVED that the Commission authorizes the Chairman and Secretary/Treasurer to execute a contract with Hoffman Construction Company of Oregon for Pre-construction services in an amount not to exceed \$158,000 in a form substantially similar to Pre-construction Contract form included as part of the Request for Proposals document, provided that the Chairman and Secretary/Treasurer notify the Commission in writing that they have determined that completion of the project financing arrangements is likely and that entering into the pre-construction services project presents an acceptable risk to the public; and

BE IT HEREBY RESOLVED that the Metropolitan Exposition-Recreation Commission selects Hoffman Construction Company of Oregon for award of the Construction Services Contract for the Oregon Convention Center Expansion Project and directs staff to negotiate and recommend to the Commission for approval a Guaranteed Maximum Price and contract in substantially the same form as provided in the Request for Proposals, upon completion of the project financing arrangements.

Passed by the Commission on April ⁵ 2000.

George E. Bell
Chairman

4/14/00
Date

[Signature]
Secretary/Treasurer

4-6-00
Date

APPROVED AS TO FORM:
Daniel B. Cooper, General Counsel

By Kathleen Pool
Kathleen Pool, Senior Assistant Counsel

MERC Staff Report

Agenda Item: Approving Selection of Hoffman Construction Company of Portland, Oregon to perform Construction Management/General Contracting Services for the Oregon Convention Center Expansion Project

Resolution 2000-12

Date: April 5, 2000 **Presented by:** Jeff Blosser & Scott Moss

Background Analysis:

Metro and MERC have worked towards a major expansion of the Oregon Convention Center for several years. The expansion generally provides an additional 320,000 to 330,000 square feet of new exhibit hall, ballroom, meeting room and related support space along with approximately 1200 subsurface parking spaces.

In January 2000, MERC authorized the issuance of a Request for Proposals (RFP) for Construction Manager/ General Contractor (CM/GC) Services for the Expansion Project. This RFP was issued on January 31, 2000. Proposals were received from four construction firms or teams:

- Baugh Construction
- Gilbane/Drake Construction
- Hoffman Construction
- Turner/Lease Cruthcher Lewis Construction

The same Evaluation Committee which assisted with the selection of the project's architectural firm reviewed all of the proposals. In accordance with the RFP, the Evaluation Committee ranked the firms based on the evaluation criteria listed in the RFP and determined the three highest ranking firms. These firms, Baugh, Hoffman and Gilbane/Drake, were interviewed on March 14, 2000. The interviews were conducted by the Evaluation Committee along with project staff. Upon completion of the interviews, the Evaluation Committee considered the remaining proposals, once again utilizing the evaluation criteria established in the RFP. At the completion of their deliberations, the committee provided a recommendation to the project co-directors, Scott Moss and Jeff Blosser. The committee recommended the selection of Hoffman Construction Company. Their Executive Summary is attached as Attachment A.

The project co-directors reviewed the committee's recommendation, considered the written proposals and interviews and conducted reference checks. Upon completion of this analysis, the project co-directors independently evaluated the proposals and have recommended the selection of Hoffman Construction Company. A memorandum detailing their evaluation process is attached as Attachment B.

Fiscal and Budget Impacts

The CM/GC RFP contemplated two separate contracts for the two distinct elements of the work – pre-construction and construction services. Initially, the approval of Hoffman as the project's CM/GC would authorize a pre-construction contract with a "not-to-exceed" fee of \$158,000. Secondly, the construction services contract contemplated would be the primary construction contract estimated at \$82 million. It would include a Guaranteed Maximum Price (GMP). Compensation to Hoffman for general contracting services would be based on a fixed fee of 1.98% and estimated general condition or reimbursable costs of \$1,762,895. This second contract is dependent on the establishment of an acceptable GMP which is anticipated in August 2000.

In addition to the establishment of an acceptable GMP, the construction services contract is dependent of the finalization of the project's funding. Funding for the project is anticipated from several sources that are detailed below. The bonds will be issued by the City of Portland and will be backed by revenues generated from the increases in the Multnomah County lodging and car-rental taxes.

Bond Proceeds	\$96,000,000
OCC Fund Balance	\$5,000,000
PDC	<u>\$5,000,000</u>
Total Sources	\$106,000,000

Recommendation

Staff recommend that the Metropolitan Exposition-Recreation Commission approve the selection of Hoffman Construction Company as the Construction Manager/General Contractor of the Oregon Convention Center Expansion Project, by passage of Resolution 2000-11, at a special meeting of the Commission on April 5, 2000.

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PERSONAL SERVICES AGREEMENT

THIS AGREEMENT made by and between Hoffman Construction Company of Oregon, hereinafter referred to as "Contractor," and the Metropolitan Exposition-Recreation Commission, a metropolitan commission established by METRO to renovate, maintain and operate metropolitan convention, trade and spectator facilities pursuant to ORS 268 and the 1992 METRO Charter; hereinafter called MERC.

In exchange for the promises and other consideration set forth below, the parties agree as follows:

1. Duration. This personal services agreement shall be effective April 5, 2000 and shall remain in effect until and including April 5, 2001, unless terminated or extended as provided in this Agreement.
2. Scope of Work. Contractor shall provide all services and materials specified in the Request for Proposals (RFP) number OOR-5-MERC issued January 31, 2000, and Contractor's response dated March 1, 2000 which are incorporated into this Agreement by reference. All services and materials shall be provided by Contractor in accordance with the RFP and Proposal, in a competent and professional manner. To the extent that the RFP and Proposal contains additional contract provisions or waives any provision in the body of this Agreement, the RFP and Proposal shall control. To the extent that the RFP conflicts with the Proposal, the RFP shall control.
3. Payment. MERC shall pay Contractor for services performed and materials delivered in the amount(s), manner and at the time(s) specified in the RFP and Proposal for a maximum sum not to exceed, as stated in the Proposal submitted in response to the RFP, ONE HUNDRED FIFTY EIGHT THOUSAND DOLLARS (\$158,000.00).
4. Insurance.
 - a. Contractor shall purchase and maintain at the Contractor's expense, the following types of insurance, covering the Contractor, its employees, and agents:
 - (1) Broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and
 - (2) Automobile bodily injury and property damage liability insurance.
 - b. Insurance coverage shall be a minimum of \$1,000,000 per occurrence.
 - c. Metro, and their elected officials, departments, employees, agents shall be named as ADDITIONAL INSURED. Notice of any material change or policy cancellation shall be provided to the additional insured (30) days prior to the change or cancellation.
 - d. Contractor, its subcontractors, if any, and all employers working under this Agreement that 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. Contractor shall provide MERC with certification of Workers' Compensation insurance including employer's liability. If Contractor has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached, as Exhibit, in lieu of the certificate showing current Worker's Compensation.

- e. If required by the Scope of Work, Contractor shall maintain for the duration of this Agreement professional liability insurance covering personal injury and property damage arising from errors, omissions, or malpractice. Coverage shall be in the minimum amount of \$500,000. Contractor shall provide to Metro a certificate of this insurance, and thirty (30) days' advance notice of material change or cancellation.
 - f. Contractor shall provide MERC with a certificate of insurance complying with this article and naming Metro and Merc as an additional insured within the fifteen (15) days of execution of this Contract or twenty-four (24) hours before services under this contract commence, whichever date is earlier.
5. Indemnification. Contractor shall indemnify and hold Metro, its agents, employees and elected officials and MERC's Commissioners harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Agreement, or by any patent infringement or copyright claims arising out of the use of Contractor's designs or other materials by Metro and for any claims or disputes involving subcontractors.
 6. Maintenance of Records. Contractor shall maintain all of its records relating to the Scope of Work on a generally recognized accounting basis and allow MERC the opportunity to inspect and/or copy such records at a convenient place during normal business hours. All required records shall be maintained by Contractor for three years after MERC makes final payment and all other pending matters are closed.
 7. Ownership of Documents. All documents of any nature including, but not limited to, reports, drawings, works of art and photographs, produced by Contractor pursuant to this Agreement are the property of MERC, and it is agreed by the parties that such documents are works made for hire. Contractor hereby conveys, transfers, and grants to MERC all rights of reproduction and the copyright to all such documents.
 8. Project Information. Contractor shall share all project information and fully cooperate with MERC, informing MERC of all aspects of the project including actual or potential problems or defects. Contractor shall abstain from releasing any information or project news without the prior and specific written approval of MERC.
 9. Independent Contractor Status. Contractor shall be an independent contractor for all purposes and shall be entitled only to the compensation provided for in this Agreement. Under no circumstances shall Contractor be considered an employee of MERC. Contractor shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified in the Scope of Work. Contractor is solely responsible for its performance under this Agreement and the quality of its work; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified in the Scope of Work; and for meeting all other requirements of law in carrying out this Agreement. Contractor shall identify and certify tax status and

identification number through execution of IRS form W-9 prior to submitting any request for payment to MERC.

10. Right to Withhold Payments. MERC shall have the right to withhold from payments due to Contractor such sums as necessary, in MERC's sole opinion, to protect MERC against any loss, damage, or claim which may result from Contractor's performance or failure to perform under this Agreement or the failure of Contractor to make proper payment to any suppliers or subcontractors.
11. State and Federal Law Constraints. Both parties shall comply with the public contracting provisions of ORS chapter 279, and the recycling provisions of ORS 279.545 - 279.650, to the extent those provisions apply to this Agreement. All such provisions required to be included in this Agreement are incorporated herein by reference. Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations including those of the Americans with Disabilities Act.
12. Situs. The situs of this Agreement is Portland, Oregon. Any litigation over this agreement shall be governed by the laws of the State of Oregon and shall be conducted in the Circuit Court of the state of Oregon for Multnomah County, or, if jurisdiction is proper, in the U.S. District Court for the District of Oregon.
13. Assignment. Contractor has been selected for its unique abilities, and therefore this Agreement may not, under any circumstances, be assigned or transferred by Contractor without MERC's express written consent.
14. Termination. This Agreement may be terminated by mutual consent of the parties. In addition, MERC may terminate this Agreement by giving Contractor seven- (7) calendar day's prior written notice of intent to terminate, without waiving any claims or remedies it may have against Contractor. Termination shall not excuse payment for expenses properly incurred prior to notice of termination, but neither party shall be liable for indirect or consequential damages arising from termination under this section.
15. No Waiver of Claims. The failure to enforce any provision of this Agreement shall not constitute a waiver by MERC of that or any other provision.
16. Modification. Notwithstanding and succeeding any and all prior agreement(s) or practice(s), this Agreement constitutes the entire Agreement between the parties, and may only be expressly modified in writing(s), signed by both parties.

MERC

George S. Bopp
Chairman

Jeff [Signature]
Secretary/Treasurer

5/10/00
Date

HOFFMAN CONSTRUCTION CO.

[Signature]
President

#28417
CCB #

5/12/00
Date

JAS