

ORDINANCE No.

Approve agreements among the City of Portland and one or more of, the Portland Development Commission, Rip City Management LLC, d/b/a Portland Arena Management, and Portland Winterhawks, Inc. for the renovation and operation of the Veterans Memorial Coliseum for use by the Portland Winterhawks hockey team and for other events, uses and activities. (Ordinance)

The City Council ordains:

Section 1. The Council finds:

1. Future development and redevelopment in the Rose Quarter will realize the long-anticipated community vision of a pedestrian-oriented, mixed-use district well integrated and connected with the surrounding neighborhood and adjacent Lloyd District, and create jobs.
2. In 2009, the City and the Portland Development Commission (PDC) embarked on a process to determine the future use of the Veterans Memorial Coliseum (VMC).
3. The VMC is owned by the City of Portland and operated by Rip City Management LLC, d/b/a Portland Arena Management (PAM) pursuant to an Operating Agreement (City/PAM OA). The VMC is the home venue for the Portland Winterhawks (PWH), a Western Hockey League team.
4. On November 17, 2010, pursuant to Resolution No. 36826, City Council authorized, among other things, the Chief Administrative Officer to enter into the Fifth Amendment to the Development Agreement with PAM, extending PAM's right to develop certain areas in the Rose Quarter (the "Development Rights") to May 24, 2011 and that the Office of Management and Finance (OMF) work with PDC in negotiating a Phase 1 improvement project for the Rose Quarter with PAM, and that Phase 1 project was determined to be the renovation of the VMC.
5. On November 17, 2011, pursuant to Resolution No. 36887, the City Council affirmed the City's support for the renovation of the VMC and authorized the Mayor's office and OMF to continue negotiating a Redevelopment Agreement (RDA) with PAM and the Portland Winterhawks, Inc (PWH).
6. On December 15, 2011, pursuant to Ordinance No. 185078, the City Council exempted the RDA and the City/PAM OA from the competitive bidding requirements of ORS 273B and exempted the RDA from the competitive bidding requirements of ORS 279B and the standard bonding requirements imposed by state law.
7. On January 25, 2012, through Ordinance 185121, the City Council authorized the City's Chief Administrative Officer (CAO) and City Auditor to execute an Intergovernmental Agreement (IGA) with the Portland Development Commission for the renovation of the VMC.

8. On February 24, 2012 the City's CAO and PDC's Executive Director executed an IGA through which PDC will provide to the City up to \$23 million in funding for the VMC renovation and improvement project ("the VMC Project") and authorizing the use of funds to accomplish a portion of the VMC Project (the "Pre-RDA Work") to be completed prior to execution of the RDA.
9. On May 23, 2012, the Portland Development Commission approved an Amended and Restated IGA (A&R IGA) to modify the funding to consist of: (i) a \$17.1 million PDC Grant (Section III.B. A&R IGA); (ii) a PDC loan of up to \$4.7 million (Section III.C. A&R IGA); and (iii) a contingent grant from PDC of up to \$2 million for VMC heating and cooling and district energy (Section V. A&R IGA).
10. In a document dated July 31, 2012, the City's CAO and PDC's Executive Director agreed on the scope and estimated costs for the Pre-RDA Work. To date, significant progress has been made on these elements including completion of a new ice floor and ice plant at the VMC.
11. On August 22, 2012, through Resolution 36950, the City Council directed (i) the City's CAO to negotiate a City/PDC Conditional Operating Agreement under specified terms for 2023-2033; (ii) the PDC Executive Director to provide to the City Council the written description of the types of funds and the legal opinion as described in the Concurrent Agreements and Documentation section of the Binding Term Sheet prior to submission of the RDA for City Council consideration; (iii) the City's CAO to work with the PDC Executive Director to develop a separate agreement formalizing PDC's lead role in the redevelopment of the Rose Quarter; and (iv) that this separate agreement shall provide PDC with the same Development Rights as were held by PAM under the Fifth Amendment to the Development Agreement.
12. Since November 2011, OMF, PDC, PAM, and PWH have been meeting to develop and refine the potential scope of the VMC renovation, the cost of the renovation and to determine what resources, both public and private, might be available for funding the VMC renovation.
13. The multi-party negotiations have now concluded in a group of integrated agreements, attached as Exhibits to this Ordinance. Specifically the following documents (and exhibits attached to each) should be approved:
 - a. Exhibit A: Redevelopment Agreement (RDA) to which the City, PAM and PWH are signatory and its exhibits, specifically including Exhibit 2.6 – Project Funding Agreement to which the City, PDC, PAM, PWH, and Funding Agent are signatory, and Exhibit 2.8 - Revenue Sharing Agreement (RSA) to which the City and PWH are signatory;
 - b. Exhibit B: Second Amendment To Coliseum Operating Agreement (2nd Amendment City/PAM OA) to which the City and PAM are signatory;
 - c. Exhibit C: Veterans Memorial Coliseum Conditional Operating Agreement (City/PDC OA) to which the City, and PDC are signatory;

- d. Exhibit D: Assignment of Architect Agreement to which the City, PAM and PDC are signatory; and
 - e. Exhibit E: Amended and Restated Intergovernmental Agreement (A&R IGA) between the City and PDC.
14. Section 22.3 of the RDA acknowledges that the City or PDC will have paid certain Project Costs, which are deemed to be part of the Public Contribution. These previously paid costs are shown in Exhibit 22.3 of the RDA, which exhibit will be updated before Closing. The Public Contribution will be reduced by the amount shown in the updated Exhibit 22.3 before the Public Contribution is deposited into the Project Payment Account in accordance with the RDA and PFA.
15. In a memorandum to the General Counsel for the Portland Development Commission dated October 5, 2012, the law firm of Orrick, Herrington and Sutcliffe, LLP, as special counsel to the PDC, provided a legal opinion to PDC on the legal authorities related to the City/PDC OA and concludes (i) subject to authorization, direction and approval from the City Council pursuant to Section 15-103 of the City Charter, PDC may operate and manage the VMC pursuant to the City/PDC OA, and (ii) PDC may use PDC Facility Revenues in connection with its operation and management of the VMC pursuant to the City/PDC OA.
16. The City of Portland Spectator Facilities Fund will be the primary funding source for all of the City's payment obligations under the City/PDC OA, including, without limitation, the annual "Budget Amount" of \$375,000 (as escalated) applicable to the costs of certain repairs, structural repairs, and capital improvements to the VMC and the annual "City NOL Reimbursement" of up to \$250,000 applicable to net operating losses at the VMC. If the Spectator Facilities Fund becomes insolvent, or is otherwise unable to fund the City's payment obligations under the City/PDC OA, then the City of Portland General Fund will serve as a secondary funding source for the City's payment obligations under the City/PDC OA.
17. The City's Chief Administrative Officer should be granted authority to provide administrative oversight to these agreements.

NOW, THEREFORE, the Council directs:

- a. The Mayor is authorized to execute the RDA, PFA, RSA, 2nd Amendment City/PAM OA, City/PDC OA and Assignment of Architect Agreement on behalf of the City in substantially similar form to the ones contained in Exhibits A through D attached to this Ordinance.
- b. The City's Chief Administrative Officer and City Auditor are authorized to execute the A&R IGA on behalf of the City in substantially similar form to Exhibit E attached to this ordinance.
- c. The City's Chief Administrative Officer is granted authority to act on behalf of the City

and to amend these agreements provided the amendments do not substantially alter the financial obligations of the agreements.

- d. The City's Chief Administrative Officer, or his designee, is granted authority to execute the documents necessary or appropriate to consummate the transactions contemplated by the Redevelopment Agreement (Exhibit A), as determined by the CAO or his designee, including any documents that must be delivered at Closing.
- e. The Portland Development Commission, on behalf of the City of Portland, is directed to operate and manage the Coliseum, subject to the terms and conditions set out in the City/PDC Operating Agreement.

Passed by the Council:

Mayor Sam Adams

Prepared by: Susan G. Hartnett

Date Prepared: November 19, 2012

LaVonne Griffin-Valade
Auditor of the City of Portland

By

Deputy