



**Date:** November 3, 2014

**To:** Thomas J. Bonfield, City Manager

**Through:** W. Bowman Ferguson, Deputy City Manager, City of Durham

**From:** Joel Reitzer, Director of General Services, City of Durham

**Subject:** Approval of the Durham Convention Center (DCC) Interlocal Agreement between the City of Durham and County of Durham for joint ownership of the Durham Convention Center

### **Executive Summary**

The City of Durham (City) and the County of Durham (County) are parties to an Interlocal Cooperation Agreement (Interlocal) due to the joint ownership of the Durham Convention Center (DCC) property, which includes the Morgan, Foster, Chapel Hill block real estate parcel and an air lease with the Shaner Hotel Group. The Interlocal agreement was executed in October 1987 and has been amended twice, between June 1988 and July 1989. The June 1988 amendment established the DCC Authority Board and amendment #2 (July 1989) outlined term limits of the DCC Authority Board members.

The City has identified additional areas of the contract that require revisions to accommodate operational growth.

### **Recommendation**

The General Services Department recommends that City Council:

Authorize the City Manager to execute a new DCC Interlocal Cooperative Agreement with Durham County, consistent with the deal points described herein, which include updates to: 1) Property Definition, 2) Contract Administrator Powers and Duties, 3) Removal of Invalid Operational References and 4) Management of Joint Venture Fund and Capital Expenditures.

### **Background**

On October 9, 1987, the City and County entered into an agreement for Construction, Joint Ownership and Operation of the Durham Convention Center (DCC). This agreement was subsequently amended in June of 1988 and October of 1989, primarily to establish and define the duties of the Durham Convention Center Authority Board (Authority).

Now the City and the County desire to create a new interlocal agreement (DCC Interlocal) which will supersede the previous agreement and further define the intent of both parties with regard to joint ownership and operation of the DCC. This new DCC Interlocal will become the predominant authoritative agreement between the parties regarding co-ownership and management of the Joint Venture (JV) known as the Durham Convention Center.

The new agreement will have updates to the following:

1. An updated definition of the property that is referenced by meets and bounds and an applicable description of the Air Lease property. The original contract makes reference to the facility during its development. The property description will be from the deed – Exhibit A.
2. Inclusion of the definition of powers and duties for the Contract Administrator and DCC Authority Board as they relate to matters of the facility. The original contract references an “Executive Director”, a position that the Contract Administrator (GS Dept. Director) currently holds. The new agreement will define the appointment and term limits for the position.
3. Removal of references to former agreements (Catering Agreement) and defining requirements for Repair and Replacement Schedules and Facility Maintenance Plans.
4. Modification of the annual reconciliation of owner contributions. The current Interlocal agreement requires owners to share in revenues and costs of the Joint Venture operation annually. The subsidy is jointly funded at the beginning of each fiscal year based on budgets approved by the City and County. At fiscal year-end, if the operational performance exceeds the budget (for the operational deficit), surplus funds are returned to the owners. The new interlocal agreement would modify the process to allow the Joint Venture (JV) fund to retain any operating or capital reserves due to a positive net position. The net position will be managed by mutual consent of the owners. The new agreement will also propose changes in financial reporting for the Joint Venture (DCC Fund), the type of financials issued, to whom the reports are distributed and frequency.
5. Clarifies annual budgets required (Operating/Capital) and spending limits for capital expenditures.

### **Issues/Analysis**

The management of Joint Venture net position is an important aspect of the new agreement. The City and County will continue to make annual appropriations to the JV. The net position (Fund Balance) will be managed at a threshold of \$500,000. Net position shall only be used for capital expenditures or unanticipated operating deficits that exceed the projected deficit during a fiscal year.

We can further understand the concept through a few threshold scenarios:

#### **Scenario 1 –**

Start the year with \$300K in net position

County budgets \$200K

City budget \$200K

On monthly basis city and county put in \$16,666 each month

End of year net position = \$400K

No action required

**Scenario 2 –**

Start the year with \$300K in net position

County budgets \$200K

City budget \$200K

On monthly basis city and county put in \$16,666 each month

End of year net position = \$600K

City and County each get a refund of \$50K and ending net position goes to \$500K

**Scenario 3 –**

Start the year with \$500K in net position

County budgets \$200K

City Budgets \$200K

No contributions during the year (monitored net position each month and never dropped below \$100K)

End of year net position = \$300K

County contributes \$100K

City Contributes \$100K

Final net position goes to \$500K

City and County experience a positive budget variance of \$100K compared to their expected \$200K budgeted amounts.

**Alternatives**

An alternative is to not approve the new Interlocal with Durham County , resulting in the continued management of the Joint Venture with administrative barriers that prohibit establishment and growth of the JV net position (fund) which, in turn, restricts the ability of the DCC to effectively manage facility issues with operational savings. Another consequence of not taking action on the revised agreement will be the sustained, inconsistent compliance of irrelevant operational processes that have been identified and documented by previous audits.

**Financial Impacts**

It is the intention of the City and County to bear equally the costs of the JV and to share equally the revenues therefrom in the manner prescribed by the DCC Interlocal. There will be no additional financial impacts to the City or County based on the adoption of the new Interlocal. The City and County may realize efficiencies in the ability to fund DCC facility improvements through management of the JV net position.

**SDBE Summary**

The Equal Business Opportunity Ordinance is not applicable to this agreement.

**Attachments:**

DCC Interlocal Agreement – Durham Convention Center (DCC Interlocal)