

CITY OF OAKLAND

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OAKLAND

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# AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** Mark Sawicki  
Director, EWD

**SUBJECT:** George P. Scotlan Convention  
Center Management Agreement

**DATE:** November 21, 2016

City Administrator Approval

Date:

11/22/16

## RECOMMENDATION

**Staff Recommends That The City Council Adopt A Resolution (1) Authorizing the City Administrator, Without Returning to the City Council, to Negotiate and Execute a Ten-Year Agreement, with a Five-Year Extension Option, with Integrated Services Corporation, Inc. for Management and Operation of the George P. Scotlan Memorial Convention Center for an Annual Base Fee not to Exceed \$150,000, Plus an Incentive Fee not to Exceed (a) Ten Percent of Net Revenue less than \$500,000 and (b) Twenty Percent of Net Revenue above \$500,000, Such Agreement to be in a Form and Content Substantially in Conformance with the Term Sheet Attached as Attachment A; And (2) Adopting CEQA Exemption Findings Pursuant to CEQA Guidelines Section 15301.**

## EXECUTIVE SUMMARY

Staff is recommending that the City Council authorize the City Administrator to enter into a new management agreement (the "Agreement") with Integrated Services Corporation, Inc. ("ISC") for the George P. Scotlan Memorial Convention Center (the "Convention Center"). The Agreement would have a term of 10 years, with an administrative 5-year extension option. ISC would receive a base management fee of \$150,000 per year, and an incentive management fee not to exceed (a) 10 percent of all net revenue below \$500,000, and (b) 20 percent of any net revenue above \$500,000. **Attachment A** to the staff report summarizes the main terms of the Agreement.

## BACKGROUND/LEGISLATIVE HISTORY

### ***The Convention Center/Marriott /Warriors Training Facility Complex***

The Convention Center is located at 550 10<sup>th</sup> Street and owned by the City of Oakland ("City"). The facility first opened in 1983. The Convention Center is attached to the 484-room Oakland Marriott City Center hotel (the "Marriott") located at 1001 Broadway, and features 64,000 square feet of exhibit space, 11 conference rooms, office space and a public garage with 585 spaces. The Marriott also includes a small and a large ballroom and meeting spaces. The Convention

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Center and the Marriott were designed and constructed to be physically and functionally integrated. It is therefore essential that both facilities are managed by the same entity.

In 1998, pursuant to the terms of a lease between the City and the Golden State Warriors ("GSW") of January 10, 1997, GSW completed construction of a new corporate office and practice facility (the "Practice Facility") on the top deck of the Convention Center. The lease has a term of 35 years and will expire on December 31, 2032, by which time the City must transfer fee title to the Practice Facility to GSW at no cost. GSW is not paying any rent or common area maintenance charges. The use, operation and maintenance of the Convention Center, Marriott and Practice Facility are governed by Covenants, Conditions and Restrictions (CC&R) that were first executed on August 21, 1981, and amended after that.

### ***The Existing Management Agreement***

On November 1, 1997, the City entered into the "Convention Center and Convention Center Garage Management Agreement", (as amended, the "Existing Agreement"), with ISC. The Existing Agreement provided for coordinated use and operation of the Convention Center and the Marriott. The Existing Agreement clearly spells out several "Principal Objectives" of the parties, which are "to maximize hotel room nights, Transient Occupancy Tax ("TOT"), and related revenue to the City and its citizens."

Under the terms of the Existing Agreement, ISC manages all activities and operations of the Convention Center, including the rental of space, marketing/sales, events management, public relations, procurement, maintenance, security, custodial, and support services. ISC also arranges catering, food and beverages, concession and support services for conferences, conventions, exhibitions, and special events. Lastly, ISC is responsible for managing the parking garage. The Existing Agreement was amended in 1998 to add that ISC act as a representative and agent of the City with respect to the City's lease with GSW for the Practice Facility.

Previously, ISC was owned by Oakland Renaissance Associates ("ORA"), a prior owner of the Marriott, and was sold to CIM Oakland City Center LLC ("CIM") in 2007 as part of the sale of the Marriott from ORA to CIM. On May 1, 2015, CIM sold the Marriott and ISC to AGRE DCP Oakland City Center Owner LLC ("AGRE"). ISC, under the new ownership of AGRE, continued to manage the Convention Center.

The Existing Agreement expired on June 30, 2015, but was twice automatically extended by one year through June 30, 2017. At this time, ISC would like to enter into a new long-term Agreement with the City for the management and operation of the Convention Center.

## ANALYSIS

### ***The New Management Agreement***

#### Term

The term of the Agreement would be for ten years, with an administrative option to extend the term by another five years at the sole and absolute discretion of the City Administrator. Prior to the City considering any such extension, ISC would be required to submit evidence regarding its performance under the Agreement. Other cities in California have entered into convention center management agreements with initial terms ranging from five to seven years with one or two automatic or administrative five-year term renewal provisions. The proposed ten-year term with one five-year administrative option for a total of 15 years generally conforms to industry practices with regard to the potential total duration of these management agreements. The initial 10-year term is designed to foster a long-term partnership between the City and ISC.

#### Management Fee

It is common for convention center management agreements to have a fee structure that consists of a base management fee and a certain incentive fee which is only payable when financial performance thresholds are met. Incentive management fees are based on a certain share of revenues to the operator in addition to the base management fee.

Staff proposes to pay ISC an annual base management fee of \$150,000. The current management fee of \$45,000 per year, which was approved in 1997, was not adjusted for inflation over the last 20 years. If adjusted for inflation, the base management fee would be approximately \$80,000 per year today. Convention center management fees can range from 3 to 10 percent of "gross revenue", meaning all cash received from operation of a convention center before deducting operating expenses. Management fees depend on the location, type and size of the facility and the details and scope of the contract. Staff recommends that ISC be paid an annual base management fee of \$150,000 with an annual Consumer Price Index ("CPI") adjustment not to exceed 3 percent. The proposed base management fee represents about 3 percent of operating revenue from the Convention Center.

Incentive management fees are intended to promote sales and management efficiency. These fees are frequently based on a percentage, often in the range of 8 to 10 percent, of "net operating income", meaning all income remaining after the deduction of certain operating expenses. By increasing the percentage above certain performance thresholds, the operator is further rewarded for high performance which benefits both parties.

Since AGRE's acquisition of ISC in May 2015, operating revenues at the Convention Center have increased by 24.6 percent and net revenues by 39 percent (without including the City's annual payments for utility costs and the current management fee of \$720,000). Given this outstanding performance, staff recommends an incentive management fee not to exceed (a) 10 percent of all net operating income below \$500,000, and (b) 20 percent of all net operating income above \$500,000.

Under the proposed management fee structure, in Fiscal Year ("FY") 2015/16, ISC would have earned a base management fee of \$150,000 and an incentive management fee of \$65,000 for a total fee of \$215,000, instead of the current \$45,000. The combined base and incentive management fee represents about 5 percent of gross revenues generated from the Convention Center in FY 2015/16.

#### Capital Improvements and Reserve

Convention centers generally require greater investments as they age. Key spending categories include technology, carpeting, furniture, fixtures and equipment (FF&E), exhibit hall and meeting room renovations and other miscellaneous improvements. In the past, capital reserve set-asides at the Convention Center were based on available net revenues, which only allowed for minimal reserve funds that were insufficient to address major on-going capital needs. By 2010, the Convention Center was in poor condition and the former Redevelopment Agency, prior to its dissolution, took over the facility and undertook a major capital improvement program. While this effort addressed many substandard features and necessary repairs, the Convention Center still requires on-going capital investments to function properly and remain competitive with other convention centers in the area. Since renovation work was completed in 2014, capital reserve set-asides have amounted to \$250,000 per year. Therefore, staff recommends that ISC place six (6) percent of the Convention Center's annual gross operating revenue in a capital reserve fund held and administered by ISC. This would translate to approximately \$259,000 in the first year of the new contract with regular increases in the following years based on the performance of the Convention Center.

Current capital reserves amount to approximately \$490,000. However, there are numerous improvements needed, including a new parking revenue and access system for the garage and Convention Center perimeter lighting to improve security. **Attachment B** to this report lists up to \$1,272,000 of future capital needs at the Convention Center, which exceed available current and future capital reserve set-asides. Staff will work with ISC to prioritize all future capital improvements.

#### Use of Convention Center by Qualified Organizations

The Convention Center will be available to community-oriented, civic-minded, not-for-profit, incorporated or unincorporated organizations ("Qualified Organizations") for 12 days per year, but no more than three days per quarter. Use of the Convention Center shall be provided to such Qualified Organizations at cost (i.e., without extra fees, mark-up or profit to ISC). Such dates shall be selected by ISC and the City based on the lowest risk of displacing TOT revenues for the City.

#### Assignment

ISC shall have the right to assign all of its rights and interest under the Agreement to any subsequent owner of the Marriott's proposed management company, subject to the written approval of the City Administrator based on criteria related to the new owner's management company's experience in managing hotels and conference facilities and a demonstrated net worth. Specifically, a new owner must demonstrate management experience of at least three

years managing two large full-service hotels that contains at least 30,000 square feet of meeting space/conference facilities.

### Labor Agreements

The International Union of Operating Engineers, Stationary Engineers Local 39 and Unite Here Union Local 2850, AFL-CIO represent many current workers at the Marriott and the Convention Center. ISC has been approached by representatives of the Sign and Display Union, Local 510 and the International Alliance of Theatrical Stage Employees, Local 107 to enter into negotiations for applicable work at the Convention Center. Currently, prospective clients are given the option to select between unionized labor and non-unionized labor to cover the services provided by IATSE 107 and Local 510. There is concern that a requirement to use union labor for every event may adversely affect business at the Convention Center and the Marriott because some clients could decide to seek out alternative venues that do not have this requirement and the costs associated with compliance. ISC has been asked to endeavor to enter into agreements with each union subject to the following considerations:

- The labor agreements may not affect currently booked business/signed contracts.
- Non-profit, educational and religious groups are exempt from the agreements.
- The agreement shall only apply to events that are held in the East and West exhibit halls, the foyer outside the exhibit halls and outdoor areas outside of the Convention Center. The agreement shall not apply to events taking place only in the conference/boards rooms located on the second floor of the Convention Center, or non-City-owned property.

### FISCAL IMPACT

#### ***Convention Center and Hotel Financial Performance***

Very few convention centers across the country are able to produce an operating profit. The same is the case for the Convention Center. While the facility generates direct revenues from room rental fees, food and beverage surcharges, banquet fees, equipment rentals and parking, operating costs have been in excess of revenues and require the City to make a separate fixed payment of \$675,000 per year to cover certain utility expenses, central plant maintenance staff salaries and certain service contracts (the "Continuing Building Costs"). Actual costs for these expenses have exceeded the City's annual payment for many years. The City also pays ISC an annual management fee of \$45,000. The Convention Center could not operate without these annual subsidies from the City. The Convention Center is, in effect, a "loss leader" that drives other economics and fiscal benefits, particularly TOT revenues, for the City.

The Convention Center had its best financial performance in FY 2015/16. Operating revenues at the Convention Center increased by 24.6 percent and net revenues by 39 percent (without deducting the annual City payments for Continuing Building Costs and the current management fee).

***Attachment C*** provides a 10-year cash flow statement for Convention Center operations from FY 2006/7 to FY 2015/16, a projection for FY 2016/17, and actual revenues and expenditures

for the period beginning July 2016 and ending October 2016. Total net cash flow (without the City's annual payments of \$720,000 for the Continuing Building Costs and ISC's management fee) is projected to increase by approximately six (6) percent from the previous year.

Last year's results and the financial projections for the current fiscal year represent a continuation of an upward trend in revenues at the Convention Center that started to gain momentum after the Great Recession. Since FY 2011/12, the City's gross operating deficits at the Convention Center, defined as the sum of all revenues generated from operations of the Convention Center and the City's subsidy of \$720,000 less the sum of all operating expenses, Continuing Building Costs and ISC's management fee, have decreased substantially.

As a result, in FY 2015/16, the City's net subsidy to the Convention Center was approximately \$190,000, a reduction of \$530,000 from a subsidy of \$720,000 in FY 2011/12.

As stated, the City currently budgets \$675,000 towards Continuing Building Costs, and \$45,000 to pay for ISC's management fee. Upon contract approval the City would have to increase its base management fee contribution by \$105,000 from the current \$45,000 to \$150,000, plus a CPI adjustment of the base management fee by up to three (3) percent per year. Beginning in FY 2017/18 the following amounts must be regularly budgeted from the following funding source:

Fund Source	Organization	Account	Project	Program	Amount
(1010 - (General Fund: General Purpose)	(90551- Oakland Convention and Visitor's Authority (OCVA)	(54919 - Services: Miscellaneous Contracts)	(0000000 - Undetermined Project)	(IP51- Fiscal Management)	\$675,000 & \$150,000, plus up to 3% CPI Adjustment each year
<b>Total On-Going</b>					<b>\$825,000, plus up to 3% of annual CPI adjustments for the base management fee</b>

The incentive management fee and any Continuing Building Costs that are in excess of the City's annual payment of \$675,000 would be paid from net operating income, which was \$573,000 in Fiscal Year 2015/16, before deducting Continuing Building Costs of \$45,210 that were in excess of the City's annual payment of \$675,000.

Upon execution of the new Agreement, payments to ISC for the proposed new management fee during the second half of FY 2016/17 would be made out of net operating income generated by the Convention Center during the same year, FY 2016/17.

All net revenues are deposited in the City's General Fund and thus partially off-set the City's annual payments for building utility costs. All excess cash flow to the City will be deposited into the following fund, project and account:

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<b>Fund Source</b>	<b>Organization</b>	<b>Account</b>	<b>Project</b>	<b>Program</b>	<b>Amount</b>
(1010 - (General Fund: General Purpose)	(90551- Oakland Convention and Visitor's Authority (OCVA)	(48727 - Other Revenue: Other Income)	(0000000 - Undetermined Project	(IP51- Fiscal Management)	\$TBD

In the event that net operating income at the Convention Center is insufficient to pay for (1) any City Continuing Building Costs in excess of \$675,000 or (2) the incentive management fee, staff will return to the City Council and request an increase to the City's proposed contribution of \$675,000. Any such proposed increases could be funded from the General Fund.

**PUBLIC OUTREACH / INTEREST**

No public outreach or coordination is required for this legislation other than the posting of the staff report on the City's website.

**COORDINATION**

The following City departments were consulted during the preparation of this report:

- City Administrator's Office
- Office of the City Attorney; and
- City Controller's Bureau.

**PAST PERFORMANCE, EVALUATION AND FOLLOW-UP**

Under its new ownership of AGRE, ISC has managed the Convention Center since May 1, 2015. During the first full year of operating the Convention Center (FY 2014/15 to FY 2015/16), gross operating revenues increased significantly by approximately 25 percent from \$3,426,315 to \$4,267,310. AGRE and ISC took several immediate steps to enhance the appeal and marketing of the Convention Center. First, in 2016, AGRE invested in excess of \$18 million to renovate all hotel rooms, the hotel bar and restaurant and common areas of the Marriott.

Second, AGRE enlisted the services of Marriott International to manage the hotel. ISC has also used Marriott International to maximize sales, marketing, and public relations efforts for the Convention Center. After its acquisition of Starwood Hotels in November of 2015, Marriott International is the largest hotel company in the world, offering over 30 brands. The Convention Center is now included in a large network of properties that cater to the meeting and convention markets, increasing lead volume and the ability to be considered for multi-year programs. Over 150 agents are actively selling and marketing the Marriott and the Convention Center, whereas prior to AGRE's acquisition of the Marriott these efforts were managed by a staff of 18 working at the Convention Center. Marriott and ISC market the Marriott and the Convention Center

through direct sales efforts, social media, print, call center capture and more. With the recent completion of the Marriott renovation, the Convention Center is attracting customers that have not stayed previously. Two examples for this year were large events sponsored by Gainsight Pulse and the Cannabis industry. Both events will be back in 2017.

In the future, ISC will be evaluated based on meeting its financial performance targets for the Convention Center and the generation of TOT for the City.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** There are no economic sustainable opportunities associated with the proposed assignment. However, ISC is required to comply with the City's local business and employment participation requirements. Many of AGRE and ISC's employees at the Marriott and the Convention Center are unionized.

**Environmental:** ISC will be required to maintain or exceed its current Leadership in Energy & Environmental Design (LEED) certification.

**Social Equity:** ISC and the City will make the Convention Center available to Qualified Organizations for 12 days per year, but no more than three days per quarter. Use of the Convention Center shall be provided to such Qualified Organizations at cost (i.e., without extra fees, mark-up or profit to ISC).

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) EVALUATION**

The City has determined, after independent review and consideration, that the proposed Agreement is exempt from CEQA pursuant to Section 15301 (existing facilities) of the CEQA guidelines.



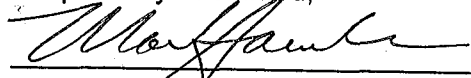
**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the City Council adopt

A Resolution (1) Authorizing the City Administrator, Without Returning to the City Council, to Negotiate and Execute a Ten-Year Agreement, with a Five-Year Extension Option, with Integrated Services Corporation, Inc. for Management and Operation of the George P. Scotlan Memorial Convention Center for an Annual Base Fee not to Exceed \$150,000, Plus an Incentive Fee not to Exceed (a) Ten Percent of Net Revenue less than \$500,000 and (b) Twenty Percent of Net Revenue above \$500,000, Such Agreement to be in a Form and Content Substantially in Conformance with the Term Sheet Attached as Attachment A; And (2) Adopting CEQA Exemption Findings Pursuant to CEQA Guidelines Section 15301.

For questions regarding this report, please contact Jens Hillmer, Urban Economic Coordinator, at 238-3317.

Respectfully submitted,



MARK SAWICKI, Director  
Economic & Workforce Development  
Department

Reviewed by:  
Patrick Lane, Redevelopment Manager

Prepared by:  
Jens Hillmer, Urban Economic Coordinator  
Project Implementation Division

*Attachments (4):*

- A: Term Sheet*
- B: List of Future Capital Improvements*
- C: Ten-year Cash Flow Statement*

# Attachment A

**CITY RESPONSE TO ISC'S PROPOSED TERM SHEET  
FOR DISCUSSION PURPOSES**

<b>1. Owner</b>	The City of Oakland ("City")
<b>2. Operator</b>	Integrated Services Corp., a California corporation ("ISC").
<b>3. Facilities</b>	Oakland Convention Center (the "Convention Center") and Convention Center Parking Garage ("Parking Garage") (collectively referred to hereinafter as the "Facilities").
<b>4. Term</b>	<p>The Initial Term of the management agreement (the "Agreement") between the City and ISC shall be ten (10) years. The Initial Term shall commence upon the execution of the Agreement by the City and ISC (collectively referred to hereinafter as the "Parties").</p> <p>After expiration of the Term, the Agreement may be automatically extended by one (1) year, if the parties require additional time to negotiate and seek City Council approval for a new management agreement</p>
<b>5. Renewal Term</b>	<p>The Initial Term may be extended by five (5) years (the "Renewal Term") at the mutual election of the Parties, and subject to approval by the City Administrator, at his/her sole and absolute discretion, based on evidence that ISC is in good standing and has performed well in meeting its obligations and goals under the terms of the Agreement.</p> <p>After expiration of the Renewal Term, the Agreement may be automatically extended by one (1) year, if the parties require additional time to negotiate and seek City Council approval for a new management agreement.</p>
<b>6. Base Management Fee</b>	The City shall pay ISC a base management fee of \$150,000 per year (the "Base Management Fee") that shall be paid quarterly. Each year the Base Management Fee shall be adjusted by increases in the Consumer Price Index ("CPI") for the San Francisco–Oakland–San Jose, CA Metropolitan Statistical Area, but in no event by more than 3% percent in any given year. In no event shall the base management fee be less than \$150,000.
<b>7. Incentive Management Fee</b>	<p>In addition to the Base Management Fee, the City shall pay ISC an annual Incentive Management Fee that will be calculated by multiplying increments of Net Operating Income ("NOI") by a percentage rate as follows:</p> <p>Up to \$500,000 of NOI @ 10% (for example, if NOI was \$300,000, ISC would be paid \$30,000 as an incentive fee) Everything above \$500,000 of NOI @ 20%</p> <p>The Incentive Management Fee shall be paid out of NOI or the Operating Reserve to ISC.</p> <p>Operating Revenue shall be defined as all cash received by ISC from operation of the Facilities, including, but not limited to, all Parking Garage income, room rentals, banquet fees, food and beverage charges and equipment rental fees, and from leases and licenses within the Facilities.</p> <p>Operating Expenses shall include (1) any and all cash expenditures required by ISC to operate and maintain the Facilities, and (2) payments into the Capital Reserve per Section 9 below. The City's Continuing Building Costs as defined in item 8 below,</p>

	<p>and payment of the base management fee and incentive management fee shall not be included in Operating Expenses.</p> <p>NOI shall be defined as the difference between Operating Revenue generated by the Facilities and the Operating Expenses for the Facility.</p> <p>Any NOI remaining in any given year after payment of (1) the Incentive Management Fee and (2) any shortfall between City Continuing Building Costs and the City's annual Continuing Building Costs Payment of \$675,000 (3) and replenishment of the Operating Reserve up to \$200,000 (no replenishment necessary if the balance is at \$200,000) shall be considered Excess Cashflow and disbursed to the City within 90 days after the end of each fiscal year.</p>
<p><b>8. City's Continuing Building Costs</b></p>	<p>The City shall be responsible for (1) payment of all utility costs (gas and electric) related to the Facilities, (2) any service and maintenance contracts related to the maintenance of the central plant and the elevators of the Facilities, and (3) any direct personnel charges related to the operation and maintenance of the central plant (the "City's Continuing Building Costs").</p> <p>The City will make an annual payment of \$675,000 (in quarterly installments of \$168,750) (the "Continuing Building Costs Payment") to cover these costs. In the event actual City Continuing Building Costs exceed the City's Continuing Building Costs Payment, such deficit shall be paid by ISC out of the City's remaining share of NOI after payment of ISC's Incentive Management Fee or the Operating Reserve. Any unspent balance of the City's Continuing Building Cost Payment will be added to the Capital Reserve.</p>
<p><b>9. Capital Reserve for Capital Expenditures ("Set Asides"), Emergency Capital Expenditures and FF&amp;Es</b></p>	<p>Each year ISC shall set-aside six percent (6%) of Operating Revenues (the "Capital Reserve") for Capital Improvements and Repairs, Emergency Repairs and purchase of FF&amp;E.</p> <p>ISC's expenditures from the Capital Reserve shall be based on the Capital Forecast, as defined in Item 12 below (although there might be unexpected or emergency repair items that aren't included on the Capital Forecast). Any expenditure from the Capital Reserve shall be reviewed and approved by the Contract Administrator. The 5-year plan for Capital Improvements and Repairs and purchase of FF&amp;Es will be structured so as to maintain the Facilities in a manner reasonably consistent with the appearance of any convention spaces that are part of the Marriott.</p> <p>If the funds in the Capital Reserve are insufficient to cover the maintenance of the Convention Center, then the City Administrator shall make a determination as to when to seek approval of allocating additional Capital Reserve funds from the City Council.</p> <p>ISC or its manager shall provide project management staff that can implement any capital improvements expeditiously.</p>

<b>10. Use of Convention Center by Qualified Organizations</b>	<p>180 days prior to the beginning of each new Fiscal Year, the Parties shall work together to select twelve (12) days, but no more than three (3) days per quarter, during the next fiscal year on which the Facilities will be available for potential events sponsored by community-oriented, civic-minded, not-for-profit, incorporated or unincorporated organizations ("Qualified Organizations"). Use of the Facilities shall be provided to such Qualified Organizations at cost (i.e., without extra fees, mark-up or profit to ISC). Such dates shall be selected based on the lowest risk of displacing Transient Occupancy Tax ("TOT") revenues for the City.</p>
<b>11. Use of Oakland-Based Companies</b>	<p>ISC shall comply with the following City of Oakland Employment and Contracting Programs when doing work on the Facilities only:</p> <ul style="list-style-type: none"> <li>• 50% Local and Small Local For Profit and Not For Profit Business Enterprise Program (L/SLBE) –This requirement must be satisfied for professional services and during project construction.</li> <li>• 50% Local Employment Program (LEP)</li> <li>• 15% Oakland Apprenticeship Program</li> <li>• Payment of Prevailing Wages</li> <li>• City of Oakland Living Wage Ordinance</li> <li>• City of Oakland Equal Benefits Ordinance</li> <li>• Electronic Certified Payroll Submittals</li> <li>• City's Local and Small Local Business Enterprise (L/SLBE) Program</li> </ul> <p>More information about these programs can be found at the City of Oakland's website at <a href="http://www2.oaklandnet.com/oakcal/groups/contracting/documents/form/oak029719.pdf">http://www2.oaklandnet.com/oakcal/groups/contracting/documents/form/oak029719.pdf</a></p>
<b>12. Annual Plan and Operating Budget</b>	<p>No later than ninety (90) days prior to the commencement of a new Fiscal Year, ISC will submit to the City for its written approval, at the City's sole and absolute discretion, a detailed, itemized Operating Budget for the Facilities. Such Operating Budget shall list, without limitation, the following: (1) all projected Operating Revenues identified by source, (2) all projected Operating Expenses identified by category, (3) projected Transient Occupancy Taxes generated by the Marriott, (4) projected Parking Tax revenues, (5) City Continuing Building Costs, including details on staff allocations, (6) the amount anticipated to be placed in the Operating Reserve, if any, (7) a capital asset management plan which details all expenditures from the Capital Reserve during the preceding year, immediate capital needs, as well as projected replacements and improvements and costs therefore for the succeeding five years, (8) the annual amount anticipated to be placed in the Capital Reserve, (9) a report on the amount, condition and maintenance of all FF&amp;E, as well as projected replacements and costs for the succeeding 5 years (collectively items 7 through 9 shall be referred to as the "Capital Forecast"), and (10) the projected Base and Incentive Management Fee. The City has sixty (60) days to approve or disapprove the Operating Budget, provided that if the City fails to respond in writing within this time, the Operating Budget shall be deemed approved, except for projected and proposed</p>

	<p>expenditures from the Capital Reserve, which must be approved separately. The Parties shall by mutual agreement select a date during the midterm of each Fiscal Year to meet and discuss the actual results and forecasts for the operation of the Facility.</p> <p>No item shall be "deemed approved" unless, after the sixty (60) day period, ISC has first sent a seven (7) business day's prior notification to the City pursuant to the notification provisions of the Agreement that the matter will be deemed approved if the City does not respond within the seven (7) day business day period.</p>
<p><b>13. Authority and Duty of Operator</b></p>	<p>Duties of ISC. ISC shall perform all services necessary to manage, maintain and operate the Convention Facilities:</p> <ul style="list-style-type: none"> <li>a. Coordinating the use of the Facilities with the management of the Hotel;</li> <li>b. Obtaining bookings for Convention Center events;</li> <li>c. Maintaining and controlling the master event schedule and calendar for the Convention Center;</li> <li>d. Establishing and charging rental fees and charges for space, equipment and other special services related to the Facilities;</li> <li>e. Scheduling and administering the daily operation and providing services required by users of the Convention Center, including but not limited to: <ul style="list-style-type: none"> <li>(i) Providing coordination of events, parking, set-up and take-down, cleanup security, crowd control, provision of labor, sound operations, equipment rentals and house-keeping;</li> <li>(ii) Directing, managing, supervising, operation or contracting for the operation of the catering, food and beverage, gift, novelty, concession stands and other facilities at the Convention Center.</li> <li>(iii) Collecting all rents, fees, charges and other sums which become due for the use of the Convention Facilities or any part thereof;</li> <li>(iv) Paying all Operating Expenses</li> </ul> </li> <li>f. Except as otherwise provide herein and except as prevented by causes beyond ISC's reasonable control (i.e. acts of God, flood, earthquake, fire or other casualty), ISC shall, at its sole cost and expense, maintain the Facilities (other than the Warriors' premises) in good order and condition make all repairs thereto.</li> <li>g. Maintaining and replacing the FF&amp;E as necessary to keep it in good order and repair, and to assure that sufficient quantities of appropriate items are always on hand to meet the needs of the Convention Center customers and other users.</li> <li>h. Developing and presenting to City through the Contract Administrator any proposals for the expansion and improvement of the Convention Center.</li> <li>i. All other matters reasonably incidental to the above. In connection with the above responsibilities, ISC may fulfill its obligations by directly providing services, by employing third parties to provide such services as its agent, or by use of independent contractors.</li> <li>j. Administering the daily operation of the Parking Garage and providing services required by users of the Parking Garage, including but not limited to: <ul style="list-style-type: none"> <li>(i) Security services connected with the garage;</li> <li>(ii) Billing, collection and administration of fees connected to the Garage, including the collection of City's Gross Receipts Parking tax, which ISC</li> </ul> </li> </ul>

	<p>agrees to pay directly to City; (iii) Cleaning and maintenance of the Garage.</p> <p>k. Maintaining current Leadership in Energy and Environmental Design (“LEED”) certification of the Convention Center Facilities and meet all requirements to receive recertification of the Convention Center Facilities in 2020.</p> <p>l. Acting as an agent and representative of City with respect to the day-to-day activities under the Warriors’ lease with the City.</p> <p>Authority of ISC: ISC is authorized to exercise the following powers in relation to the Facilities:</p> <p>a. To use the Operating Revenue to pay Operating Expenses.</p> <p>b. To have sole discretion to determine the Convention Center and Parking Garage fees and operating criteria, including, but not limited to hours of operation.</p> <p>c. To negotiate and execute leases and other tenancy agreements of portions of the Facilities, including the office space located on the 2nd floor on the north side of the Facilities running along 11th Street, in the name of City for the purposes of storage, office space, retail activities, or parking. Prior to execution of a new lease by a tenant, ISC shall in good faith conduct such investigations of the financial responsibility and general reputation of the prospective tenant as ISC shall reasonably deem to be necessary. All such leases shall, except as expressly provided therein, survive any termination of this Agreement.</p> <p>d. To hire and maintain a regular and/or temporary staff of employees to operate the Facilities, and to enter into agreements with third parties for the temporary services of employees.</p> <p>e. To have exclusive control and use of the FF&amp;E</p> <p>f. To purchase all expendable supplies necessary for the operation of Facilities.</p> <p>g. To enter into contracts with third parties of its selection for the provision of food, beverages, and/or merchandise at the Facilities or to provide all or some of such items itself.</p> <p>h. To perform such other functions with respect to the Convention Facilities as shall be mutually agreed to by City and ISC.</p> <p>ISC shall act as an agent and representative of City with respect to the day-to-day activities under the Warriors’ lease with the City.</p>
<b>14. Assignment</b>	<p>ISC shall have the right to assign all of its rights and interest under the Agreement to any subsequent owner of the Oakland City Center Hotel subject to the written approval of the City Administrator based on criteria to be negotiated, that may include, among other criteria, matters related to the management company that the new owner engages to manage the Facilities. The new owner’s management company must have 3- years of experience in managing two large full service hotels and meeting space or convention centers greater than 30,000 square feet, a good business reputation and a demonstrated net worth of at least \$10 million. The new owner must have a net worth of at least \$50 million (“Assignment Criteria”). The current management, ISC, is approved to manage the convention center.</p>
<b>15. Governing Law</b>	California

<p><b>16. Miscellaneous</b></p>	<p>For the avoidance of doubt, this draft term sheet does not create any legally binding obligation on the parties at law or in equity. Neither party shall rely on this draft term sheet, nor any further discussions or negotiations regarding the transaction(s) described herein, as a commitment, offer or agreement by the other party to enter into such transaction(s).</p> <p>This Agreement does not apply to work performed at the adjoining hotel and such work is specifically excluded from the scope of the requirements of the Agreement.</p>
<p><b>17. Reporting Requirements</b></p>	<p>On or before the 30th day following the last day of each calendar quarter, ISC shall prepare and deliver to City a quarterly report describing the use and operation of the Facilities for the prior calendar quarter and a calendar of events for the upcoming calendar quarter and new business secured for future years ("Quarterly Report"). The Quarterly Report will also include (1) a financial analysis of how the Facilities are operating, (2) operation and maintenance issues and concerns, (3) anticipated changes in operations or maintenance activities, and (4) such other information as is appropriate or as requested by City through the Contract Administrator. The report shall further indicate the number of hotel room nights booked related to events at the Convention Center and attendance at such events, and the total TOT generated by the Marriott Hotel in the past quarter. The report shall also indicate the average daily hotel room rate during the past quarter. The report shall further indicate projected attendance at events booked for the upcoming quarter.</p>
<p><b>18. Labor Agreement</b></p>	<p>On the Effective Date of the Agreement, ISC shall submit evidence of having entered into negotiations for agreements with Sign and Display Union, Local 510 and International Alliance of Theatrical Stage Employees, Local 107 for applicable work at the Convention Center.</p> <p>Such negotiations shall include the following considerations:</p> <p>The labor agreements may not affect currently booked business/signed contracts and shall apply only to events that are held in the East and West Exhibit Halls, the foyer outside of the East/West Exhibit Hall and the exterior of the Facilities.</p> <p>Non-profit, education and religious groups are exempt from the agreement with the labor groups.</p> <p>Nothing herein shall require any labor agreement between ISC and either or both unions to apply to events taking place in the board/conference rooms on the 2<sup>nd</sup> floor of the Convention Center, or any work performed at the adjoining hotel or any other property that is not owned by the City.</p>



# Attachment B

**CONVENTION CENTER CAPITAL FORECAST**

<b>Future Capital Items</b>	<b>Cost Estimates</b>
Garage Parking Revenue and Access System	\$350,000.00
Parameter Building-Lighting	\$140,000.00
Pool fire piping leak	\$20,000.00
Wifi Upgrades	\$110,000.00
Banquet Carpet cleaner	\$3,000.00
Additional Security Cameras	\$29,000.00
OCC Window Covering along 10th Street	\$30,000.00
Carpet change - East Hall/West Hall/Lobby	\$300,000.00
Garage drainage flooding	\$40,000.00
Elevator Modernization	\$250,000.00
<b>Total Capital items (wish list)</b>	<b>\$1,272,000.00</b>

**AVAILABLE CAPITAL RESERVE**

**\$490,000.00**

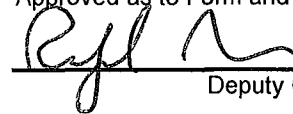
# Attachment C

**CONVENTION CENTER CASH FLOW FY 2006/7 TO FY 2016/17**

	FY 2006/07	FY2007/08	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16	Projected FY 2016/17	Actual July - October FY 2016/17
<b>OPERATING REVENUES</b>												
CONVENTION CENTER REVENUES	\$952,093	\$1,156,420	\$1,034,851	\$845,265	\$1,244,732	\$1,228,990	\$1,418,746	\$1,530,761	\$1,637,224	\$2,287,693	\$2,173,309	\$502,675
PARKING GARAGE REVENUES	\$1,228,532	\$1,415,695	\$1,278,272	\$1,114,981	\$1,334,120	\$1,456,063	\$1,588,323	\$1,646,822	\$1,789,091	\$1,979,617	\$2,296,356	\$752,405
<b>TOTAL OPERATING REVENUES FOR CONVENTION CENTER</b>	<b>\$2,180,625</b>	<b>\$2,572,115</b>	<b>\$2,313,123</b>	<b>\$1,960,246</b>	<b>\$2,578,852</b>	<b>\$2,685,053</b>	<b>\$3,007,069</b>	<b>\$3,177,583</b>	<b>\$3,426,315</b>	<b>\$4,267,310</b>	<b>\$4,469,665</b>	<b>\$1,255,080</b>
<b>TOTAL CITY PAYMENTS - CENTRAL PLANT &amp; MANAGEMENT FEE</b>	<b>\$720,000</b>	<b>\$720,000</b>	<b>\$720,000</b>	<b>\$720,000</b>	<b>\$720,000</b>	<b>\$720,000</b>	<b>\$720,000</b>	<b>\$720,000</b>	<b>\$720,000</b>	<b>\$720,000</b>	<b>\$720,000</b>	<b>\$225,000</b>
<b>TOTAL OPERATING REVENUES</b>	<b>\$2,900,625</b>	<b>\$3,292,115</b>	<b>\$3,033,123</b>	<b>\$2,680,246</b>	<b>\$3,298,852</b>	<b>\$3,405,053</b>	<b>\$3,727,069</b>	<b>\$3,897,583</b>	<b>\$4,146,315</b>	<b>\$4,987,310</b>	<b>\$5,189,665</b>	<b>\$1,480,080</b>
<b>TOTAL OPERATING EXPENSES</b>	<b>\$2,087,547</b>	<b>\$2,276,094</b>	<b>\$2,086,373</b>	<b>\$1,999,516</b>	<b>\$2,209,657</b>	<b>\$2,579,810</b>	<b>\$2,596,749</b>	<b>\$2,726,603</b>	<b>\$2,773,145</b>	<b>\$3,444,488</b>	<b>\$3,577,480</b>	<b>\$1,198,161</b>
<b>TOTAL CITY EXPENSE - CENTRAL PLANT &amp; MANAGEMENT FEE</b>	<b>\$740,874</b>	<b>\$708,743</b>	<b>\$746,186</b>	<b>\$707,980</b>	<b>\$784,944</b>	<b>\$785,543</b>	<b>\$840,073</b>	<b>\$801,606</b>	<b>\$743,852</b>	<b>\$765,210</b>	<b>\$802,400</b>	<b>\$252,467</b>
<b>TOTAL OPERATING EXPENSES</b>	<b>\$2,828,421</b>	<b>\$2,984,837</b>	<b>\$2,832,559</b>	<b>\$2,707,496</b>	<b>\$2,994,601</b>	<b>\$3,365,353</b>	<b>\$3,436,822</b>	<b>\$3,528,209</b>	<b>\$3,516,997</b>	<b>\$4,209,698</b>	<b>\$4,379,880</b>	<b>\$1,450,628</b>
<b>CASH FLOW</b>	<b>\$72,204</b>	<b>\$307,278</b>	<b>\$200,564</b>	<b>-\$27,250</b>	<b>\$304,251</b>	<b>\$39,700</b>	<b>\$290,247</b>	<b>\$369,374</b>	<b>\$629,318</b>	<b>\$777,612</b>	<b>\$809,785</b>	<b>\$29,452</b>
<b>CITY CAPITAL RESERVE SET-ASIDE</b>	<b>\$72,204</b>	<b>\$307,278</b>	<b>\$200,564</b>	<b>\$0</b>	<b>\$304,251</b>	<b>\$39,700</b>	<b>\$290,247</b>	<b>\$0</b>	<b>\$250,000</b>	<b>\$250,000</b>	<b>\$250,000</b>	<b>\$0</b>
<b>CASHFLOW TO CITY</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>-\$27,250</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$369,374</b>	<b>\$379,318</b>	<b>\$527,612</b>	<b>\$559,785</b>	<b>\$29,452</b>
<b>CASH FLOW LESS CITY PAYMENTS</b>	<b>-\$720,000</b>	<b>-\$720,000</b>	<b>-\$720,000</b>	<b>-\$747,250</b>	<b>-\$720,000</b>	<b>-\$720,000</b>	<b>-\$720,000</b>	<b>-\$350,626</b>	<b>-\$340,682</b>	<b>-\$192,388</b>	<b>-\$160,215</b>	<b>-\$195,548</b>

2016 NOV 22 PM 12: 03

Approved as to Form and Legality:

  
Deputy City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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**A Resolution: (1) Authorizing the City Administrator, Without Returning to the City Council, to Negotiate and Execute a Ten-Year Agreement, with a Five-Year Extension Option, with Integrated Services Corporation, Inc. for Management and Operation of the George P. Scotlan Memorial Convention Center for an Annual Base Fee not to Exceed \$150,000, Plus an Incentive Fee not to Exceed (a) Ten Percent of Net Revenue less than \$500,000 and (b) Twenty Percent of Net Revenue above \$500,000, Such Agreement to be in a Form and Content Substantially in Conformance with the Term Sheet Attached as Attachment A; And (2) Adopting CEQA Exemption Findings Pursuant to CEQA Guidelines Section 15301.**

**WHEREAS**, the City of Oakland (the "City") owns the George P. Scotlan Memorial Convention Center (the "Convention Center") located at 550 10th Street, which also includes a public parking garage; and

**WHEREAS**, the Convention Center is attached to the Oakland Marriott City Center hotel located at 1001 Broadway (the "Marriott") and the Golden State Warrior's practice facility; and

**WHEREAS**, the Convention Center and the Marriott were designed and constructed to be physically and functionally integrated; and

**WHEREAS**, on November 1, 1997, the City entered into the "Convention Center and Convention Center Garage Management Agreement" (as amended, the "Existing Agreement") with Integrated Services Corporation, Inc. ("ISC"), which provided for coordinated use and operation of the Convention Center, the Convention Center garage and the Marriott; and

**WHEREAS**, on May 1, 2015, CIM Oakland City Center LLC, the previous owner of the Marriott and of ISC, sold the Marriott and ISC to AGRE DCP Oakland City Center Owner LLC ("AGRE"), and ISC, under the new ownership of AGRE, has continued to manage the Convention Center; and

**WHEREAS**, the Existing Agreement with ISC expired on June 30, 2015, but was automatically extended by one year in June 2015, and for another year in June 2016; and

**WHEREAS**, since May of 2015, ISC, under the new ownership of AGRE, has significantly improved the financial performance of the Convention Center and increased transient occupancy taxes ("TOT") at the Marriott; and

**WHEREAS**, the City desires to continue its partnership with ISC and enter into a new

management agreement (the "New Agreement") for the Convention Center; and

**WHEREAS**, the City and ISC desire to modify some of the terms of the Existing Agreement by entering into the New Agreement for the Convention Center; and

**WHEREAS**, under the Existing Agreement, the City provides (1) \$675,000 per year (in equal quarterly installments of \$168,500) to ISC for Convention Center operations, paid from the General Fund, to cover utility costs, and (2) a \$45,000 property management fee payable to ISC; and

**WHEREAS**, the proposed New Agreement will provide that the City will continue to provide the \$675,000 payment to ISC to cover Convention Center utility costs, and increase its payment to ISC for the base management fee by \$95,000, from \$45,000 to \$150,000, with annual Consumer Price Index ("CPI") adjustments not to exceed three (3) percent; now, therefore, be it

**RESOLVED:** That the City Administrator or her designee is authorized, without returning to the City Council, to negotiate and execute a New Agreement with ISC based on the following terms and conditions:

- 1) The New Agreement shall have a term of 10 years, with an option to extend the term by another five (5) years, subject to a performance review and at the sole and absolute discretion of the City Administrator.
- 2) ISC shall receive an annual base management fee of \$150,000 with an annual CPI adjustment not to exceed three percent (3%).
- 3) ISC shall receive an incentive management fee not to exceed (a) ten (10) percent of any net operating revenue ("NOI") below \$500,000, and (b) twenty (20) percent of any NOI above \$500,000.
- 4) ISC shall place six percent (6%) of the Convention Center's annual gross operating revenue in a capital reserve fund before calculating NOI.
- 5) Other terms of the New Agreement are described in the term sheet attached to this Resolution as Attachment A; and be it further

**RESOLVED:** That the City will continue to provide \$675,000 (in equal quarterly installments of \$168,500) to ISC to cover Convention Center utility costs, and increase its payment to ISC for the base management fee by \$95,000 from \$45,000 to \$150,000, with an annual CPI adjustment not to exceed three percent (3%) during each year of the New Agreement; and be it further

**RESOLVED:** That beginning in Fiscal Year 2017/18 and every year thereafter, the City shall appropriate (1) an amount not to exceed \$675,000 payable to ISC to cover Convention Center utility costs, and (2) a management fee not to exceed \$150,000 payable to ISC, with an annual CPI adjustment not to exceed three percent (3%) during each year of the New Agreement from the General Fund (1010), Oakland Convention and Visitor's Authority (OCVA), (Organization 90551), in an Undetermined Project (0000000), Fiscal Management Program (IP51); and be it further

**RESOLVED:** That all net cash flow of the Convention Center be deposited in the General Fund (1010), Oakland Convention and Visitor's Authority (OCVA), Central District Redevelopment (Organization 90551), in a Project to be set up for this purpose; and be it further

**RESOLVED:** That the City finds and determines, after independent review and consideration, that the authorization to enter into the New Agreement with ISC is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15301 (existing facilities); and be it further

**RESOLVED:** That any and all documents necessary to effectuate the intent of this Resolution shall be reviewed and approved as to form and legality by the City Attorney prior to execution by the City Administrator or his or her designee and a copy shall be filed with the City Clerk; and be it further

**RESOLVED:** That the City Administrator or his or her designee is further authorized to negotiate and enter into other agreements and take whatever action is necessary and consistent with this Resolution and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2016

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID,  
AND PRESIDENT GIBSON McELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California