



louisville arena authority

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**Board of Directors Meeting
February 26, 2007
9:00 a.m. EST
Kentucky International Convention Center
Louisville, KY**

Directors in Attendance: Mr. Larry Bisig, Mr. Neville Blakemore, Mr. Todd Blue, Mr. Junior Bridgeman, Mr. Zev Buffman (via telephone), Metro Council President Rick Blackwell (Ex Officio), Vice Chairman Larry Hayes, Ms. Alice Houston, Ms. Reba Doutrick, Ms. Cissy Musselman, Mr. Tom Schifano (Ex Officio; via telephone), Ms. Lindy Street, Mr. William E. Summers V, Mr. Dan Ulmer, Mr. Robert Woolery (via telephone), and Chairman Host

Directors Absent: Mr. James Patterson

Guests and Others: Mr. Harold Workman, Executive Director; Mr. Mark Sommer, General Counsel; Ms. Helen Thompson, Asst. General Counsel; Mr. John Hilkene, PC Sports; Mr. Steve Hotujac, HOK Sport

Opening Remarks and Welcome – Chairman Host

Chairman Host convened the meeting, declared a quorum, and thanked the Board members for their attendance.

DISCUSSION ITEM: Acceptance of the Minutes of January 22, 2007 Board Meeting – Chairman Host

Lindy B. Street moved to accept the Minutes of the January 22, 2007 Board of Directors Meeting. The Motion was seconded by William Summers V, and the Motion passed unanimously with no abstentions.



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DISCUSSION ITEM: Presentation by the Construction Manager at Risk – Dan Ulmer

Dan Ulmer explained that two firms submitted responses to the RFP for Construction Manager at Risk and Hotel Developer. Presentations were made, and M.A. Mortenson Co. was chosen in a competitive process under state procurement rules as the firm to present to the full Authority. Mr. Ulmer introduced John Wood, Senior Vice President of Mortenson.

Mr. Wood expressed his pleasure that Mortenson was chosen to present to the Authority. He introduced the members of the “Mortenson Team” – Bill Hedge, Project Director; Tom Lander, VP Mortenson Development; Allen Troshinsky, Construction Executive; Lynn Littlejohn, Community Participation Director; and Anthony Mathis, Principal, Mathis & Sons, Inc.

Mr. Wood discussed some of Mortenson’s qualifications that they believe make them particularly qualified for the Louisville Arena project.

- The arena construction “A” Team. The executives assigned to the Louisville Arena are the nucleus of the team currently working in Kansas City on the Sprint Center and previously worked together on Fed Ex Forum and the Xcel Energy Center. The Sprint Center will be complete in the Fall 2007, so the timing to begin the Louisville Arena is perfect.
- Mortenson provides a single-source of responsibility for the Arena and hotel.
- They have a track record of performance. Mortenson has never failed to meet a completion date or budget on any sport project.
- Minority participation track record and approach. They have an outstanding record of maximizing the participation of minority and women-owned businesses, as well as the employment of people of color on their projects.
- Mortenson operates as both a construction manager and as a general contractor, and in cases where they work as the general contractor, they have a strong ability and capacity to self-perform critical work. This is especially beneficial when subcontractors are underperforming or failing to deliver.
- Active senior leadership involvement. Mr. Wood has been with Mortenson for 30 years, and would represent them as the officer in charge of the Louisville Arena.
- “One at a time” approach provides certainty of outcome. Mortenson does not allow the organization to get spread too thin over too many projects. They are selective about the number of projects in the sports market that they are involved in at any given time, as these are large, complicated projects that require particular skill and expertise. The Louisville Arena and hotel represented one of

several opportunities that Mortenson has in the national marketplace. Louisville was their first choice and primary target for their sports facility group. Further, if they are selected, it is their intention not to pursue the other two arena projects that they would have otherwise pursued.

- Commitment to Louisville. Mortenson is the builder of Museum Plaza and already has a presence in Louisville.
- Mortenson has a working relationship with HOK and PC Sports. They worked with PC Sports on the Sprint Center and Fed Ex Forum.

Mr. Wood provided an overview of Mortenson Company, which is a privately-held, family-owned firm. Based in Minneapolis, it has 2000 employees. In 2006, Mortenson generated \$1.5 billion in revenue, and it is one of the top sport facility builders in the U.S. Mortenson has six geographic-focused operating groups and four industry-focused operating groups, including an energy group. Mortenson is the largest builder of wind energy facilities in the U.S, and employs 73 LEED accredited professionals.

Allen Troshinsky highlighted some of Mortenson's recent projects, including the Xcel Energy Center; Fed Ex Forum, the first public works project in Memphis that came in on time and within budget; Sprint Center; Pepsi Center; Walt Disney Concert Hall; and Museum Plaza. The Walt Disney Concert Hall was a unique project, as the project's drawings did not include dimensions. The building was built by positioning every piece of steel and material using GPS coordinates. Mortenson teamed with Walt Disney Imagineering and Stanford University and developed a new modeling tool that enabled them to understand and build the design. They have applied that tool to the rest of their business and are now using it in Kansas City.

Mr. Troshinsky showed a video depicting the actual construction of Sprint Arena. He explained that its origins are in traditional two-dimensional and three-dimensional architectural applications, to which Mortenson added a fourth-dimension - the schedule. At any point in their four-dimensional model, they can illustrate how the building will look, allowing them to show trades people and their foreman what they will be working on in the next days, weeks and months. It also allows them to view the different elements of the building such as the structure and the mechanical and electrical equipment months before they are put in place, and allows them to work with the design team and identify issues long before they could impact the cost or schedule. This technology is rather new to their industry, but Mortenson considers itself an innovator, and in their Kansas City experience, the design team and customer have routinely acknowledged the savings of this technology.

Mr. Wood stated that Mortenson has been involved with the Museum Plaza project for approximately 18 months. He assured the Authority that they are accustomed to multiple projects in the same city. They believe that they can collaborate on the two projects in such a way to create efficiencies and for both projects. Mortenson will have two entirely

separate and independent teams working on the two projects, so there will not be any overlap of personnel involved, with the exception of Mr. Wood and Bill Hedge, who is residing in Louisville as project director. This project gives them the opportunity to strategically buy products and services for both projects and maximize community participation, including the involvement of women-owned and minority-owned businesses.

Mr. Wood then addressed minority participation by stating that they have not only met the goals established in various communities for projects of a similar size and nature to the Louisville Arena, but in most cases, they have exceeded the goals, including the Sprint Center in Kansas City and FedEx Forum. He emphasized that while Lynn Littlejohn, as Director of the Community Participation Plan, will execute the plan put in place on this project, it is something that everyone takes very seriously and takes responsibility for, as they will all have a role in ensuring that it is successful.

Lynn Littlejohn stated that Mortenson has a good reputation of involving the community in their projects. Their approach is to identify firms, attract them, and provide meaningful and significant opportunities for them to be involved in the project. She noted that it is important to involve women and minority-owned businesses in a significant way. Mortenson voluntarily increased its goals for the Louisville Arena project by ten percent to 22% MBE and 5.5% WBE goals, and are confident that they will be able to achieve those goals. This will occur primarily through understanding the contractors, their capacity and capabilities, and then right-sizing the procurement method in contract packages to enable firms at every level and size to have an opportunity to be involved in the project. Mortenson believes that it is important to ensure that a multitude of firms are engaged, not just a few firms.

Ms. Littlejohn addressed workforce diversity, and stated that Mortenson is committed to ensuring that the community builds the project, in terms of having women and people of color on the project. They create a recruitment and referral source so people understand how to become involved in the project. In Kansas City, they partnered with an organization called Project Prepare, which introduced people who had not previously been exposed to the construction trades to the industry. It is an innovative program that introduces women and people of color to the trades, helps them get on-the-job training and then is used as a feeder for apprenticeship opportunities. Mortenson has used the program nationwide, over the life of the program introducing more than 100 individuals to the trades, helping them become self-sufficient. Mortenson also has an internship program for college and high school students to bring them on as engineering aides, demonstrating the professional side of the construction industry.

Ms. Littlejohn then discussed Mathis & Sons, who will be their local partner. Mortenson formed a relationship with them approximately two years ago. It's a family-held firm in Louisville that will be involved in all aspects of the project.

Mr. Troshinsky addressed the symbiosis between the Arena project and Museum Plaza. He stated that his team will benefit from Bill Hedge, Construction Executive and Project

Director of the Museum Plaza Project, being here in Louisville for more than a year in advance of their arrival. This allows them to immediately leverage the relationships that Mr. Hedge and his team have already created with various entities in the City. This will be especially helpful in addressing issues such as floodwall modifications and water pressures.

Mr. Troshinsky then expounded on Ms. Littlejohn's comments regarding local participation. He emphasized that the commitment of 75% of jobs from the statistical area in Louisville and 60% residents from Louisville performing work on the project - are very realistic goals. He expressed his confidence that they will be able to meet, if not exceed them. He stated that in Kansas City, from month-to-month, 78 to 80% of the workforce resides in the metropolitan statistical area of Kansas City. Mortenson will bring a small group of leaders and supervisors of the project, but the vast majority of the workforce will be residents of this area. This also applies to the procurement and purchasing strategy. Although the project will attract national attention, the local contractors and sub-contractors in this market will by far have a competitive advantage.

Mr. Wood introduced Tom Lander to discuss the hotel development. Mr. Lander stated that Mortenson has been providing development services to its corporate clients since 1975. He explained that Mortenson does not build for its own portfolio, but instead focuses its development services to meet the goals and objectives of its corporate clients and to assure the success of their projects. They have completed more than 30 major projects over the years, including corporate offices and manufacturing facilities. Mr. Lander provided illustrations of some of their projects, including the Allentown School of Business, now Lehigh Valley College, and the Selestica project, which is a 200,000 square foot manufacturing facility. Mortenson has become very focused in the hospitality industry over the last six years and has built 70 hotels across the country. In addition, they developed 12 major hotel projects across the country, including the Marriott Hotel and Conference Center in Coralville, Iowa; the Hilton Hotel in Bloomington, Minnesota; the Pueblo Conference Center Hotel; and the J.W. Marriott Hotel in Denver, Colorado.

For the Louisville Arena project, they have selected Elness, Swenson Graham as their architectural partner. They are a nationally recognized hospitality architect, having done 50 projects in 13 states across the country. Mortenson has a working relationship with them that goes back over 25 years and includes five major hotel projects. Mr. Lander stated that Mortenson has worked for and with almost all of the major flags such as Marriott, Hilton, Starwood, Intercontinental, Radisson, Hyatt, and Hampton. Their goal is to bring the strongest flag to the project, and they have identified flags that they believe are appropriate for this project.

Mr. Lander stated that Mortenson has asked Piper-Jaffrey to join them as its financial partner on the hotel development. Piper-Jaffrey placed Mortenson's turn-key financing in Coralville, Iowa and also structured the public financing for that hotel. As an entity, they have done the public-private financing for more than 10 hotels across the country.

Mr. Wood concluded by stating his belief that they submitted a very competitive financial proposal.

Chairman Host then reviewed the summary of terms agreed to with Mortenson.

- The Mortenson fixed-fee for pre-construction services for both the garage and the Arena is \$495,000.
- The Mortenson fixed-fee for the CM At-Risk for both the garage and the Arena is 7 million, which is 2.8% of the total. Mr. Wood commented that recently they were selected on three other major sports projects, and on each of those their fee was in excess of 3%.
- A reduction of fixed-fee for the on-site staff of \$100,000 to \$6,998,312.
- A reduction of the mark-up for additional services from 3.5% to 3%.
- During the establishment of the final guaranteed maximum price, Mortenson will be allowed a contingency of 2% to be controlled by Mortenson and a contingency of 0.5% to be controlled by the owner. This is based on the assumption that complete construction documents are available and have been bid. If an initial guaranteed maximum price is required based on partial documents, then the percentage of contingency will be mutually agreed to.
- The first \$500,000 of savings below the guaranteed maximum price will accrue to Mortenson with the understanding that 50% of any such amount will be paid to the on-site staff, as motivation for Mortenson's staff to beat the budget. Chairman Host asked Mr. Wood to comment on this point, and Mr. Wood stated that it is a very unique idea.
- The most important part of the negotiation is that all books will be open on all sub-contractor bids before awarding to ensure, not only the best price, but the fact that the Authority is meeting the minority and women-owned business goals, the price component, and the location of where the people are coming from, so the Authority can make absolutely certain that it has proper oversight.

Paul Gannoe, Head of Procurement for the Commonwealth, and Don Jeffers, Head of Engineering for the State, attended the meeting. At Chairman Host's request, they were present throughout the RFP process to ensure that the procurement was handled properly and in strict compliance with State procurement standards. Mr. Gannoe stated that having witnessed the procurement process, he was confident that the process was proper, and he commended the Arena Authority for following the statute, KRS 45(a).

Mr. Ulmer opened the floor for questions.

Alice Houston questioned Chairman Host and Mr. Ulmer about the savings clause and asked if it assumed that other goals have been met. Chairman Host responded in the affirmative.

Cissy Musselman asked about the savings clause and whether it applied only to materials, construction and labor. Chairman Host explained that it is the total price set as the budget, and it has to do with the total scope of the project - hard costs, and not soft costs.

Ms. Musselman stated that the Insurance Committee has discussed the possibility of having an owner-controlled insurance program because of the savings to the owner. She asked if that was considered as part of the savings figure. Chairman Host responded that the Authority must first determine whether the insurance will be owner-controlled or contractor-controlled. He agreed with Ms. Musselman that if it is owner-controlled, the savings would belong to the Authority.

Larry Bisig offered his comments regarding why Mortenson should be selected. He stated that Mortenson is sending its "A-Team." It is an internationally renowned firm that uses state-of-the-art technology, specifically the modeling tools, which will help them keep on schedule and on budget. He believes Mortenson's full in-house services are outstanding. Further, their relationships with the Authority's existing partners speak to the quality of their presentation and selection. Their minority initiatives are tremendous, as well as their sustainability initiatives. The capped costs are extremely important to the project. Mr. Bisig stated that he likes the idea that Mortenson is working with the Plaza, as it may provide an opportunity to have symmetries that might not otherwise occur.

Chairman Host asked Mr. Wood about Mortenson's agreement with Mathis, which is currently a verbal agreement. He asked Mr. Wood to explain the solidification of that agreement. Mr. Wood explained that Anthony Mathis was introduced to them approximately two years ago by their colleagues at Messer Construction. Mr. Wood explained Mr. Mathis' desire for his firm to have a significant role in the Arena project, with involvement in and exposure to every aspect of the project, including pre-construction services, planning the procurement strategies for the project, and how to maximize local participation. Mathis & Sons will staff certain of the positions on the project, although they have not determined what positions match up with their capacity and capabilities. If Mortenson is selected, they will immediately move forward with an agreement with Mathis.

Chairman Host asked if Mortenson would accept that a Memorandum of Understanding executed between it and Mathis would be a pre-cursor to a formally signed contract with Mathis; and Mr. Wood responded in the affirmative.

Chairman Host asked Anthony Mathis to introduce himself. Mr. Mathis thanked the Authority for the opportunity it has provided, not only to Mathis & Sons, but for all minority business and women-owned businesses. Mr. Mathis stated that they hope to bring a lot of excitement to the project and to keep a small business flavor to the project, as well as helping other minority companies become involved.

Ms. Musselman asked Mr. Wood to comment about Mortenson's safety experience and process. Mr. Wood responded that safety is a major focus of the firm, born out of an unsatisfactory performance over a decade ago where there was a general acknowledgment that "construction is a dangerous business and from time to time, people get hurt." Approximately 10 years ago, Mortenson's leadership decided that was an unacceptable standard, so they implemented a "zero injuries program." It fundamentally

says that any injury to any worker is unacceptable. Since they incorporated that program, they have had a steady and very marked reduction in the number and severity of injuries. In their Minneapolis office, they have worked 3 ½ years without a single lost-time accident on any of their projects. They have a recordable incident rate for the company that is about 3.5%, which is substantially below the industry average, and three years ago, they were recognized by the Association of General Contractors of America as the recipient of the Safety Contractor of the Year Award.

William Summers V asked to clarify that the agreement with Mortenson is subject to a contract with Mathis, which will be approved by the Affirmative Action and Labor Committee. Chairman Host responded in the affirmative.

Todd Blue asked who will ensure connectivity between the Arena architect and the hotel architect. Mr. Wood responded that it is a joint responsibility and expressed his belief that everyone involved has an obligation to ensure that there is complete cooperation and coordination in the design of the hotel and the Arena. He believes that an advantage Mortenson bring to the project as the builder of the Arena and the developer of the hotel, is their vested interest in ensuring that both things work together.

William Summers V asked if Mortenson will be involved in the demolition of the LG&E site. Mr. Wood responded that the scope of the contract as anticipated would not include demolition and environmental remediation of the site. However, they have both the capability and capacity to get involved in and, to the extent that the Authority requests their participation and assistance, they are happy to do so. Mr. Ulmer further explained that PC Sports is responsible for connecting all of the Authority's partners.

Rick Blackwell asked about Mortenson's relationship with the labor community. Mr. Wood stated that there are many places in which Mortenson operates as a union contractor. For example, all of their work in Minneapolis is performed under local agreements with the building trades. Conversely, in many places, they operate as open-shop, non-union. For example, they are the largest contractor in the State of Colorado, and all of that work is open-shop. Mortenson follows the local practice. On the Museum Plaza Project, they recently executed a cooperation agreement with the building trades indicating their intent to work harmoniously with them on the project, but they expect a mixture of non-union and union firms and non-union and union labor working side-by-side on that project and the Arena project.

Mr. Ulmer commented that it was a coincidence that HOK Sport, PC Sports and Mortenson had worked together on other arena projects such as the Sprint Center and FedEx Forum.

Mr. Ulmer moved to finalize the engagement with Mortenson under the general terms previously disclosed and to authorize the Chair to finalize and execute a definitive agreement with Mortenson in a manner not inconsistent with the presentation. The motion was seconded by Ms. Houston. An individual roll call vote was taken, and the motion passed unanimously.

DISCUSSION ITEM: PC Sports Update – Dan Ulmer

Dan Ulmer asked John Hilkene to provide an update from PC Sports. Mr. Hilkene began by expressing his pleasure with the selection of Mortenson as construction manager on the arena project.

Mr. Hilkene reported that in addition to his team’s involvement in evaluating RFP responses with the Construction Committee, he has participated in several meetings with HOK Sport’s design group. They met with UofL to discuss their expectations for the Arena, and a meeting with HOK and KSFB was scheduled for the afternoon of 2/26. Additionally, PC Sports’ representatives have met with representatives from the City, the Metro Permit Department, and MSD regarding permit requirements. Regarding LG&E, Mr. Hilkene is confident that portion of the project remains on schedule and on budget. Most of the major equipment has been ordered. With the selection of a Construction Manager, he will begin drafting an RFP for demolition.

DISCUSSION ITEM: HOK Sport – Chairman Host

Mr. Ulmer asked Steve Hotujac to comment on the selection of Mortenson as construction manager. Mr. Hotujac stated that he had worked with Mortenson in the past, and was pleased to have the opportunity to work with them again.

DISCUSSION ITEM: Downtown Development Corporation Urban Design Program – Dan Ulmer

Mr. Ulmer advised that the Downtown Development Corporation had issued its Executive Summary of the Louisville Arena Urban Design Program, which was previously mailed to the Authority members. A press conference announcing the final document was scheduled for March 7, 2007 at 4:00. Members were encouraged to attend.

DISCUSSION ITEM: Marketing RFP Update – Chairman Host

Mark Sommer stated that members of the Media and Public Relations Committee would receive a draft Marketing RFP by the close of business on February 26.

DISCUSSION ITEM: Affirmative Action & Labor Committee Report – William E. Summers V

William Summers V reported that he and Chairman Host met with African American Metro Council members and members of the Jefferson County legislators on February 5. The meeting went well. The Committee’s next meeting is March 7, 2007 at 9:00 a.m.

DISCUSSION ITEM: Amended TIF Grant Contract with Finance Cabinet – Chairman Host

A copy of the Amended and Restated TIF Grant Contract with the Finance Cabinet was included in the meeting binder for Board members' review. The document has been finalized.

DISCUSSION ITEM: Amended MOA with Finance Cabinet – Chairman Host

A copy of the Amended and Restated MOA with the Finance Cabinet was included in the meeting binder for Board members' review. The document has been finalized.

DISCUSSION ITEM: Agreement to purchase real estate from Metro Government – Chairman Host

Chairman Host reported that there is a narrow strip of land by River Road currently owned by the city, which must be purchased. Larry Bisig moved for the Authority to adopt and ratify the agreement to purchase property from Metro. The Motion was seconded by Junior Bridgman and passed unanimously.

DISCUSSION ITEM: Agreement to Purchase Real Estate from Humana – Chairman Host

A copy of the Agreement to purchase real estate from Humana was previously approved by the Board and a copy was being provided for the Board's information.

DISCUSSION ITEM: Memorandum of Understanding with Metro on Washington Street Closure – Chairman Host

Mr. Sommer explained that because of the accelerated time schedule concerning the Goldman Sachs bond underwriting initiative, it is necessary to have all key provisions of the site and the definitive agreements with the principal partners in place prior to moving forward with that piece of the financing. One piece relates to the closure of Washington Street. There is an approximately one-city block, east-west link that splits the Humana property from the LG&E property. While the owners of the parcels own up to the mid-point of Washington Street and have given an easement to Metro and/or the Commonwealth, he believes it appropriate to have an agreement that all parties are in favor of the closure simply because it takes between 90 days to 150 days at times to close a previously dedicated thoroughfare.

Cissy Musselman moved to adopt and ratify the February 20, 2007 MOU concerning the closure of a portion of Washington Street. The Motion was seconded by Neville Blakemore and passed unanimously.

DISCUSSION ITEM: Update on IRS Form 1023 Tax Exemption – Mark Sommer

Mr. Sommer explained that his initial request to the IRS for expedited review of the Authority's Form 1023 Tax Exemption was denied; however, he filed a motion to reconsider. Mr. Sommer is working with an Examining Agent out of the Cincinnati, Ohio Service Center. They have asked for some follow-up information, which was delivered to the IRS the previous week. A copy of the packet was included in the Board Binders. One final submission to the IRS should be mailed within the following week that relates to the financial piece of the project, including some cash flow analysis and draw down. Mr. Sommer reported that everything looks favorable so far.

DISCUSSION ITEM: Financial Audit/Accounting Update – Harold Workman

Mr. Workman stated that the Kentucky State Fair Board is establishing a formal system to handle the Authority's financial matters. Chairman Host commented that Chilton & Medley has begun its audit of the Authority's finances.

DISCUSSION ITEM: Update on Definitive UofL Agreements – Mark Sommer

Mr. Sommer reported that the third draft of the UofL Development and Lease Agreements are currently circulating. He expects completion and action by the next Board meeting.

DISCUSSION ITEM: Update on Parking/MOU with PARC – Mark Sommer

DISCUSSION ITEM: Arena news articles/press – Larry Bisig

Larry Bisig directed the Board members to a number of recent news articles assembled in the Board members' binders. He thanked the members of the media who have covered Arena Authority activities.

DISCUSSION ITEM: Old Business

None

DISCUSSION ITEM: New Business

Chairman Host asked Board members to note the revised dates of future Board meetings.

Chairman Host explained that the Authority Directors are subject to the Kentucky Ethics Code (in addition to the Board's Conflict of Interest Policy). Paperwork will be sent to Board members regarding the Ethics Code. Members were asked to complete the paperwork and return it to the State Ethics Commission.

No other business to come before the Authority, the meeting was adjourned at approximately 10:30 a.m.

Respectfully submitted,
Laura Chandler