

RESOLUTION NO. R-2005-068

(Convention Center Hotel Project)

APPROVING THE USE OF CERTAIN FUNDS OF THE CITY OF COLUMBIA, SOUTH CAROLINA, IN ORDER TO ENHANCE THE DEVELOPMENT OF A HOTEL TO SERVE THE MIDLANDS REGIONAL CONVENTION CENTER; AND OTHER MATTERS RELATING THERETO.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLUMBIA, SOUTH CAROLINA, AS FOLLOWS:

WHEREAS, the City is an incorporated municipality located in Richland County and Lexington County, and as such possesses all powers granted to municipalities by the Constitution and general laws of this State; and

WHEREAS, pursuant to Section 5-5-10, Code of Laws of South Carolina, 1976, as amended (the "SC Code"), the City has selected the Council-Manager form of government and is governed by a Council composed of a Mayor and six council members which constitute the governing body of the City; and

WHEREAS, in September, 2004, the construction of the Midlands Regional Convention Center (the "Convention Center") was completed and the Convention Center began full operations in October 2004; and

WHEREAS, the Midlands Regional Convention Center Authority (the "Authority") controls and operates the Convention Center and is governed by a Board of Directors consisting of nine (9) members. Two (2) members are appointed by each of Richland County and Lexington County (collectively, the "Counties") and the remaining five (5) members are appointed by the City; and

WHEREAS, the Counties and the City has entered into certain agreements whereby each governmental entity agreed to pay to the City its respective *Tourism Development Fees* which are required to be used solely to defray costs of developing, constructing, furnishing and equipping the Convention Center including payments on obligations issued to defray the costs of construction the Convention Center; and

WHEREAS, funds of the Counties cannot be applied to pay operational expenditures of the Convention Center. To the extent there is a deficit in operational expenditures of the Convention Center, the deficit must be paid by the City. For the partial year of operation that started in October and ended June, 2005 the Convention Center experienced a \$350,000.00 deficit; and

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WHEREAS, in conjunction with the construction and operation of the Convention Center, the City has planned to either construct or approve the construction and location of an adjacent hotel (the "Convention Center Hotel") in order to provide essential lodging for tourists, visitors and attendees to meetings and events at the Convention Center. Officials of the Authority and the Mayor and Council are informed by tourism and convention professionals that development of a Convention Center Hotel is required in order to assure the success of the Convention Center; and

WHEREAS, in February, 2001, the City received proposals from various hotel developers and, through a presentation and selection process, determined to construct a City-owned, privately-operated Convention Center Hotel; and

WHEREAS, subsequently the City Council determined that the plans to construct a City-owned hotel were not financially feasible and, in turn, sought proposals from private hotel developers for the Convention Center Hotel; and

WHEREAS, in June, 2004, Windsor Aughtry Company ("Windsor Aughtry") was selected as the developer of the Convention Center Hotel. Windsor Aughtry proposed to develop a less than full service hotel (i.e, Hilton Garden Inn). However, City Council and the Authority and its professional convention staff have determined that in order to make the Convention Center more marketable to a full and more diverse range of convention and tourism events, a full-service Hilton Hotel, offering more amenities and thus costing more than a Hilton Garden Inn, should be developed; and

WHEREAS, in order to fund the upgrading of the Convention Center Hotel to a full-service Hilton, the City initially agreed to make a \$3,000,000 hotel enhancement assistance grant to Windsor Aughtry; and

WHEREAS, Windsor Aughtry has recently informed officials of the City that due to major increases in the cost of building supplies caused by increased petroleum prices and natural catastrophes, an additional \$1,500,000 will be needed as a City enhancement grant in order for the Convention Center Hotel to be undertaken as desired by the City and the Authority; and

WHEREAS, the benefits to the City as a result of the development of the Convention Center Hotel are set forth, in part, herein:

- (a) Direct Benefits to Convention Center: The Convention Center Hotel shall be constructed within one-half (1/2) block of the Convention Center, and as an upscale full service operation, will insure the successful operation of the Convention Center. Professionals in the convention and tourism industry

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advise that only an upscale full service hotel will attract sufficient business meetings to make the convention center competitive with other venues. Maximum use of the Convention Center is essential to lower or eliminate the operational deficits of the Authority.

(b) Increases in Tourism Development Fees: It is estimated that guests of the Convention Center Hotel will pay significantly more in City Tourism Development Fees (3% of gross proceeds from the rental of any accommodation) annually.

(c) Increased Tourism: Guests of the Convention Center Hotel are likely to spend time in downtown Columbia dining and shopping, thereby furthering economic development in the City as other businesses, including restaurants and shops located within proximity to the Convention Center and the Convention Center Hotel, will experience increased sales and revenues as a result of the increase in consumers lodging in the area as guests at the Convention Center Hotel.

(d) Increased values of Other Properties: The values of properties in the vicinity of the Convention Center Hotel will likely increase, thereby further increasing the amount of annual property tax revenue generated for the City.

WHEREAS, the Council recognizes that the expenditure of public funds for economic development must be for a public purpose in accordance with the applicable provisions of the South Carolina Constitution and decisions of the South Carolina Supreme Court. Specifically, the cases of Byrd v. County of Florence, 315 S.E.2d 804 (1984) and Nichols v. The South Carolina Research Authority, 351 S.E.2d 155 (1986), formulate a four-point standard by which undertakings for financing economic development are tested for constitutionality. The City Attorney has reviewed this standard with the members of the Council. In light of all the findings of the Council stated herein and the Opinion of the South Carolina Supreme Court in Haesloop v. City Council of Charleston, 115 S.E. 596 (1923), in which the Court found that the erection of a hotel was a public purpose as hotels are quasi-public institutions, the undertaking herein authorized meets this four-point standard; and

WHEREAS, in order to insure the maximum development and utilization of the Convention Center, and to promote and enhance the economic development within the City, and in consideration of the direct and indirect benefits, some of which are set forth herein, afforded to the City by the development of the full-service Convention Center Hotel, it is necessary and in the best interests of the City to make the enhancement grant herein approved and authorized; and

WHEREAS, the undertaking authorized by this Resolution is necessary and in the best interest of the City and will assist and enhance the economic development of the City. The enhancement grant to Windsor Aughtry by the City authorized by this Resolution will be undertaken for a public purpose of the City. NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLUMBIA, SOUTH CAROLINA, THIS 2nd DAY OF NOVEMBER, 2005, AS FOLLOWS:

Section 1. Recitals and Authority for Resolution. It is hereby declared and found that the recitals of this Resolution set forth herein are in all respects true and correct. This Resolution is adopted pursuant to the provisions of Title 5, Chapter 7 of the SC Code, including specifically Section 5-7-260 thereof.

Section 2. Approval of Enhancement Grant. On the basis of the benefits (both direct and indirect) that the development of the Convention Center Hotel will have to the Convention Center and to the economic development of the City, the Council does hereby approve the enhancement grant to Windsor Aughtry for its development of the Convention Center Hotel. There is hereby approved a transfer of \$4,500,000.00 from the City's water and sewer system reserve funds for such purpose.

SECTION 2. Authorization. The Mayor and the City Manager, for and on behalf of the City, are fully empowered and authorized to take such further action and to execute and deliver such additional documents as may be necessary to effect the transaction contemplated hereby, and the action of such officers in executing and delivering any necessary documents, in such form as the Mayor and the City Manager shall approve, is hereby fully authorized.

SECTION 3 Effective Date of Resolution. This Resolution shall take effect and be in full force from and after its adoption.

Requested by:



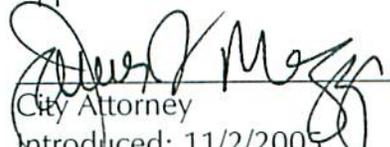
Mayor

Approved by:



City Manager

Approved as to form:



City Attorney
Introduced: 11/2/2005
Final Reading: 11/2/2005

ATTEST:



City Clerk

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