



# MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

*Rely on us.*

TO: Commissioners Brown, Mital, Helgeson, Manning and Simpson  
FROM: Roger Gray, General Manager  
DATE: October 1, 2014  
SUBJECT: EWEB Riverfront Master Developer  
OBJECTIVES: Board Action: (1) Approve selection of Master Developer to enter in to negotiation on redevelopment of EWEB Riverfront and (2) Provide guidance and approve general framework for negotiations

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## Issue

The Request for Qualifications (RFQ) process to seek a master developer for 17 acres of surplus riverfront property is nearly complete. I am now seeking Board approval to enter into negotiations with one of the three finalists as well as guidance and approval of a general framework for those negotiations.

## Background

Preparing the riverfront property for sale has been a multi-step process that started with the decision to build new operational facilities in west Eugene rather than on existing property. Since then, a number of critical milestones have been completed:

- 1) Before EWEB could make any of the newly vacant property available for sale, City Code required that a master plan first be developed and approved by the City Council. The EWEB Board of Commissioners unanimously approved the Riverfront Master Plan in June 2010. The Riverfront Master Plan was the culmination of an extensive community engagement. Over a thousand community members provided comments and creative input during the effort that led to the creation of the Riverfront Master Plan.

At the center of this effort were nine community members appointed by the EWEB Board of Commissioners and Eugene City Council to serve on a Community Advisory Team (CAT). The CAT held over 40 public meetings to work with the design team in creating a community-supported design for the entire 27 acre site. In addition to the dozens of public meetings, a design charrette, stakeholder interviews, and several presentations/workshops provided ample opportunity to gather critical feedback from community members along the way.

- 2) To gain City Council approval and enable mixed use development to occur on the site, the property had to be rezoned. EWEB contracted with a private firm who worked with EWEB and City staff to create the Downtown Riverfront Special Area Zone. The land use code package was approved by the Planning Commission, and later the City Council in mid-2012.

- 3) To prevent the right of first refusal clause from impeding the redevelopment process, clarifying potential City interest in the property was essential. Purchase of the EWEB Headquarters building for City Hall functions was explored and ultimately dismissed by vote of the City. To address concerns expressed from the City about future ownership of the riverfront park area, implementation of Board action on the Declaration of Surplus was postponed while EWEB and City staff worked out an agreement. The resulting "Park MOU" provided the riverfront park would remain in public ownership and established a framework for funding construction and maintenance of the park over time.
- 4) Throughout this process, targeted demolition of obsolete EWEB assets with no planned future and environmental remediation work was proceeding on a parallel path to reduce risk and uncertainty at time of sale. EWEB has also collaborated with the City to begin Level 1 and now Level 2 environmental testing of the EWEB site. DEQ recently opened the public comment period for the MGP site that is not part of the surplus property, but relates to the EWEB Riverfront Master Plan in both the creation of open space and/or parking and the continued management of environmental concerns and uncertainly.
- 5) In addition, outreach to potential developers was conducted to cultivate interest in the property and gain a better understanding of their sense of opportunity and potential barriers to redevelopment. In response to what was learned, staff then proceeded to draft a Request for Information/Qualifications for a master developer with the expertise and financial capacity to bring about high quality, cohesive development for the entire site (see [October 2013 Consent Calendar Item](#) for background).

To summarize, here are the important steps that have been completed (or current status) that have brought us to this important next step of selecting a master developer and beginning negotiations:

Critical Milestones	Status
Riverfront Master Plan approval	Complete
City Council approval of land use code and property re-zoning.	Complete
Targeted demolition of EWEB assets	Complete
Release of City interest in surplus EWEB riverfront property	Complete
Negotiation of park MOU between City and EWEB	Complete
Remediation of Steam Plant	Mostly complete with some items waiting discussion with developer (no major issues)
MGP Site Plan	DEQ plan out for public comment and review. Results in clear path forward that supports Master Plan
Environmental investigation of EWEB site	Level 1 complete and Level 2 underway; will serve to remove uncertainties
Headquarters Decision	Partially complete. EWEB leased out surplus space after offering it to the City for City Hall. This has improved EWEB's financial situation. EWEB is well situated for next 4-5 years and will remain flexible to stay or leave depending on circumstances, negotiations with master developer and market conditions. EWEB has finally created back-up sites for Mission Critical functions at ROC and is better positioned for flexibility.

This groundwork paid off when four reputable strong development teams responded to the RFQ in mid-May. A staff/consultant evaluation team ("Evaluation Team") made up of EWEB and City staff and outside consultants reviewed the submissions and scored them according to five evaluation criteria:

- Team experience and organization
- Capability of developer to secure financing
- Comparable development experience
- General development approach
- Preliminary business analysis

In addition to the team charged with ranking the teams according to the pre-designed criteria, I also requested assistance from a group of advisors to provide counsel and provide additional perspective ("Advisor Panel"). Advisors were City Manager Jon Ruiz, and EWEB Commissioners Brown and Manning. The Evaluation Team, with Advisor Panel and General Manager concurrence, recommended that three teams move on to the next phase. Trammell Crow Company (TCC), University of Oregon Foundation (UO-F) and Williams & Dame (W&D) were then invited to give presentations to the Board and community on July 30, 2014. The public was invited to attend and

provide input via [eweb.org](http://eweb.org), and the presentations were video-taped and made available on [EWEB's YouTube channel](#) as well. Public input received has been shared with the Board.

I also sought input from the CAT Members who attended or viewed the July 30th presentations and were successfully contacted. The five of the original nine CAT Members that provided input and feedback were Anita Van Asperdt, Mark Johnson, Gary Wildish, Tom Hoyt and Dave Hauser.

## **Discussion**

Since the July 30<sup>th</sup> interviews were held, a thorough vetting process has been undertaken. Two different sets of “due diligence” questions were developed to obtain more specific information relevant to areas of uncertainty or concern, as well as to gather annual financial statements to conduct a more intensive review of each team’s financial strength. Once this information was gathered, the Evaluation Team met once again to finalize scoring of the written information received (100 points total) as well as the interviews (70 points). It is important to note that the Evaluation Team was limited to the pre-defined criteria, using a more constrained and quantitative approach. While this approach is quantitative in structure it is important to also accept that measurements against these criteria are still subjective and not conducive to being measured by completely objective criteria such as: (1) highest bid in \$, (2) fastest time to market or (3) “best” in some clearly objective way.

Based on input from the 3 major sources (1) Evaluation Team, (2) Advisor Panel and (3) CAT Members, all the master developers appear more than capable of delivering a high quality project, but there are different strengths and potential risks associated with each.

## **The Evaluation Team Input**

The Evaluation Team agreed to recommend two top teams whose scores were very close, contingent on the results of reference checking. Reference checking confirmed the high caliber of master developers in the selection process and their ability to manage complex, multi-party projects that, despite different challenges, were highly successful.

Some key findings and comments from the Evaluation Team are as follows:

Prior to reference checking, based on the five criteria in the RFQ, the Evaluation Team had a slight preference for the TCC team. While the firm didn’t receive the highest ranking from every evaluation team member, some key factors favoring TCC included:

- Strength of finances and ability to resource a project of this size
- Interest and ability to get started quickly and execute the project within the current development cycle. The team was well-prepared and thorough in its responses and had a preliminary development approach and potential users that appeared highly feasible.
- Demonstrated technical skills and patience/tenacity to complete what could be a high profile and highly scrutinized project. The presence of local firms Cameron McCarthy, Pivot Architecture and Cogito offered additional security that the team would hit the ground running and could manage a range of uncertainties.

In short, it was viewed that the TCC team posed the least risk to EWEB financially and was most likely to deliver an economically successful development project for the community. While the evaluators had some questions about TCC's strength in delivering a program that is uniquely tailored to the site and the community, the presence of GBD on the team mitigated this concern to some extent.

A subset of the Evaluation Team conducted reference checks, speaking with different clients and stakeholders with prior experience with the master developers (Spectrum, Trammell Crow Portland and Williams & Dame). Reference checking validated that two developers, and the firm working under UO Foundation (Spectrum), are highly qualified, and had remarkable – if not precisely comparable – experience and strong reputations for delivering great projects for their clients. However, the four Evaluation Team members all agreed that based on consistent feedback received, W&D was more strongly suited to this particular redevelopment project

W&D was consistently praised for its vision and savvy in transformative, urban redevelopment projects and demonstrated creativity in financing projects, including taking on significant personal risk to help make a project go. While several Evaluation Team members questioned their level of interest in a much-smaller Eugene market, references explained that this reflected a difference in development approach and style. W&D also received highest marks for being very proactive and patient at engaging different community stakeholders, noting that they don't impose their will on a community but figure out how to knit new development into the existing fabric of the area.

After having fully vetted the finalists, the Evaluation Team determined that all three teams seemed highly motivated and capable of redeveloping the riverfront property consistent with the Riverfront Master Plan – thus the scores are fairly close.

The Evaluation Team also noted that as each developer has different strengths, they also carry different risks. Through follow-up questions, the Evaluation Team attempted to better understand potential risks, but not all issues were easily clarified. Of note, the UO-F proposal posed some assessment challenges due to their organizational structure where the lead respondent has no clearly comparable development experience. While other UO-F team members do have relevant expertise, and reference checks supported their abilities, success could ultimately rely on a clear definition of roles, decision-making authority, and emerging partnerships that were not fully described in the UO-F's responses.

I invited the Evaluation Team to meet with me and the Advisor Panel to discuss their findings. As part of this discussion, I inquired if any of the Evaluation Team members saw fatal flaws in any of the teams. Some concerns were raised concerning different aspects of each team, but in my opinion, these risks can be managed through negotiations and are therefore not truly fatal flaws.

In summary, the Evaluation Team rankings (as a whole vs. individually and not adjusted for reference checking) are:

1. TCC 146.6 points out of 170
2. W&D 140.7 points out of 170
3. UO-F 131.6 points out of 170

The scores were not adjusted after reference checking; if they had it may have resulted in different ranking for the W&D team and TCC team.

It is important to note and respect that individual Evaluation Team members had different rankings. I also evaluated individual scores by Evaluation Team members to assess whether there was a pattern of consistency or uniformity (e.g. most or all of the team ranking one developer #1 or such). I also looked for individual high and low scores, averages and other factors. Although the Evaluation Team used a quantitative approach (use of scores and numbers), there is no fundamental change to the fact that the nature of what is being assessed is still subjective. Given the subjective nature of what we are assessing and the patterns I saw I also judge the Evaluation Team results to be very close.

### **The Advisor Panel Input**

The Advisor Panel, who had access to all the written information gathered, were also asked to provide their perspectives on the selection. However, their assessment was not confined solely to the five evaluation criteria or methodology that the Evaluation Team was confined to so a broader set of issues and perspectives were considered, resulting in a different recommendation. The Advisor Panel attended the July 30th presentations and considered that in their overall assessments.

As a generality, the Advisor Panel tended to look less at technical issues per se, and more at strategic, policy, political and community issues. This is not surprising given that they are either policy makers or chief executives. Even when examining the same issue or question, it is interesting to note that the Evaluation Team and Advisor Panel ranked things differently. I suspect that the lens we use to observe things influences what we see. The point of this is not that the Evaluation Team or Advisor Panel is "right" or "wrong" - they just took different perspectives. In reality, both perspectives are essential.

In addition to meetings and discussions, I asked the Advisor Panel several questions and asked for their feedback on the 3 proposers. The Advisor Panel took somewhat different approaches to my questions. In some cases, they answered the questions and added comments and in another case one advisor answered it with an overall memo. However, all 3 Advisors emerged with a clear #1 with some reasons in common and some being unique.

As I would expect from policy-makers and a chief executive they were very focused on strategic issues and policy perspectives and issues. Transactional and future relationships among key parties were central comments.

A few of the comments in support of the overall #1 UO-F ranking and key advice going forward are listed below:

- U of O Foundation presented a sound strategic realistic approach and is connected with our community.
- U of O Foundation best overall realistic proposal; strongly favored.
- U of O Foundation has strong ties to the community; overall recommended
- All three written proposals were well written and provided adequate information and initial background for which to make a selection. I believe the U of O stood out in front of others due primarily to the diversity of the team and the relevancy of their respective projects.
- U of O Foundation out did both others in my opinion, Very well organized, to the point and right on in their proposal of incremental development, west to east.
- U of O's adaptive reuse of Water Operations building showed creativity on the overall style of how it should be done, while also recognizing the financial challenges of repurposing a building that may not make economic sense to repurpose.
- Less local connections from main stakeholders of both TCC and W&D. The U of O has been here for over 100 years and will continue to be her long after this project is completed.
- Local is significant plus for me. They understand the community and desire for a unique project.
- What I believe is good for the University is a prosperous Eugene, a community that can support the attraction of the brightest professors and students. My sense is that the UO Foundation is as well and is actively committed to support prosperity of the City through redevelopment of the EWEB site.

In summary, the Advisor Panel rankings are:

1. UO-F all 3 advisors ranked UO-F #1
2. TCC 2 of 3 advisors ranked TCC #2 and 1 of 3 advisors ranked W&D #2
3. W&D 2 of 3 advisors ranked W&D #3 and 1 of 3 advisors ranked TCC #3

### **The CAT Members Input**

In addition, all members of the Master Plan Community Advisory Team (CAT) were invited to watch the interviews and share their impressions for which team(s) was most likely to deliver a project consistent with the vision and values expressed in the Riverfront Master Plan they helped create. Similar to the Advisor Panel, the CAT Members were not constrained solely to pre-defined criteria.

As part of the overall assessment and evaluation of the 3 proposers, I was able to discuss and/or obtain feedback from 5 of the 9 original CAT members who had taken their own personal time to either attend the July 30<sup>th</sup> presentations or watch the videos of those presentations that were made available to the public in general. CAT Members also had access to the EWEB summaries of the proposals, but did not have access or review the original proposals or follow-up questions that EWEB asked of the three proposers.

Before summarizing the CAT Member input, however, I think it is important to acknowledge the incredible contribution that the entire CAT made in developing and creating the Riverfront Master Plan. These community members (all 9 and not just the 5, I communicated with) devoted large amounts of their own personal time, energy, vision and ideas. Their leadership and dedication created the Riverfront Master Plan and I think our entire community will benefit from their work for Eugene's next 150 year and EWEB's next 100 years! On behalf of EWEB and myself, I express my thanks and appreciation for their original work on the Riverfront Master Plan, but also 5 members' willingness to discuss their thoughts, feedback, concerns and views on the finalists.

My reasons for reaching out to the CAT Members were:

- They really helped create the Riverfront Master Plan,
- They care deeply about our community
- They represent different backgrounds, perspectives and views
- They are uniquely qualified to answer questions about how the different proposers and proposals match up to their original vision
- Frankly, I needed their guidance and felt the EWEB Board would also benefit from this important perspective as well.

The CAT process of creating the Riverfront Master Plan largely pre-dates my arrival at EWEB. One of my first actions as GM was the take the Riverfront Master Plan to the EWEB Board for its approval. I was pleasantly surprised that the unity of vision and alignment was so great given what I had heard about Eugene as an outsider. There was powerful and broad community support for the Riverfront Master Plan. I suspect that the investment in time and effort by EWEB and consultants, the CAT itself and broad community engagement was what created this alignment. It was an easy recommendation for me to ask the EWEB Board to approve the Riverfront Master Plan.

After approval of the Riverfront Master Plan, there was an incredible amount of detailed work and heavy lifting by EWEB and City of Eugene staff and others to convert the Riverfront Master Plan into detailed code. The fact that the Riverfront Master Plan was powerful in both alignment and vision I think helped guide this hard work and ultimately overwhelming approval by the City Planning Commission and later the City Council.

In my meetings/phone call/follow-up with CAT Members, we did not use a "scientific" or quantitative approach to the discussion. Truthfully, I don't think where we are in this process is as easy as holding up a stopwatch or measuring tape to create some pure quantitative and objective measurement. Rather, I was seeking their open and honest assessment and feedback recognizing that much of this is qualitative in nature and subjective. Some of the questions, I asked to "seed" the conversation were:

- What did you think about the proposals?
- What did you see at the pros and cons or pluses and minuses?
- What are the important considerations you think about if you were making the recommendation or making the selection or decision?
- Did you see any fatal flaws?
- How do the proposals match up with the Riverfront Master Plan?
- Do you have a preference or "rank order"?

First, each of the CAT Members shared their personal views and answered the first five questions as it was important to all of them to hear from the others before rendering an opinion on preference. The following bullet points are my summary and interpretation of the themes that emerged or key points of agreement and, in some cases, some mild differences of opinion.

There was uniform agreement and pride in the fact that there are three very strong proposals on the table. Everyone was very impressed with the capability and vision of all the finalists. There was incredible pride expressed that the CAT had created something that helped lead us to this point. An interesting point made during the discussion was that the "vision" or "dream" of the Riverfront Master Plan was very ambitious and there was some concern whether anyone would even attempt to take it on. The fact that we have 3 strong proposals was viewed as a great success and validation of the CAT's efforts and the resulting Riverfront Master Plan. The Riverfront Master Plan helped create momentum, alignment and helped remove objections and barriers ahead of time.

There was a general confidence that any of the proposers could do the job. There was discussion about different pluses/minuses ranging from what I call "technical" merits to "cultural fit" issues.

Examples included:

- Scope and scale of TCC and W&D
- Ecodistrict concept was liked. Incubator concept was liked. Local team was liked. Reuse of warehouse was liked. Phased-approach was liked. Long-term commitment to community was really liked.
- Acknowledgement of varying degrees of local players/partners
- Including people and organizations that were part of the Master Plan process (note: this area generated comments of both plus and minus. The "plus" was that people who were part of original process and plan were committed to it and could carry the vision forward. The "minus" that was noted was a point of caution that it could lead to "too much" commitment and maybe not being open to changes if necessary.
- The scale and scope of the "developer" experience. Again, this was another area that generated notes of plus and minus. The "plus" was the extensive experience of being a developer on projects and neighborhoods that were of a much larger scale than the EWEB riverfront. The "minus" noted was that it could create too much "developer" viewpoint that does not take in to consideration the unique Eugene culture and specific Riverfront situation we have.
- The public-private partnership is going to be critical (note: I interpreted "public" here to be more of a reference to the City of Eugene than EWEB).
- The proposals all captured the sense of community envisioned in the master plan to varying degrees
- Regardless of who is picked, we need to address some big public issues to create the hoped for public/community benefits (e.g. the park, roads/connections, the train noise issues, etc)
- No one found fatal flaws or such. As noted above everyone saw 3 very strong proposals.

Next, the CAT Members shared their rankings. One member said I could put them in a hat and draw a name, reinforcing the overall conclusion regarding the strength of the teams. After some good discussion and sharing of views, I concluded that the overall "blended" ranking from the 5

CAT Members are:

1. UO-F
2. TCC
3. W&D

I note, however, that some views were "tie" or "slight lean" here and there, but the pattern and ranking was uniform. UO-F was uniformly #1 outright or "slight lean/tied" for #1 among the 5 CAT members.

Next, I summarized for the CAT members where EWEB was in the process and gave them a high-level overview of the Evaluation Team feedback and Advisor Panel feedback to give them a sense of the overall closeness and divided views and opinions. We then discussed whether there are unique or important considerations that could help create a recommendation or should be considered as key decision factors. This led to comments from the CAT such as:

- Can they handle Eugene and the process/culture/politics/etc.?
- Who is committed the most in the long-term to not only the success of the Riverfront redevelopment, but also the broader community?
- Is there a natural alignment of interest?
- Can they handle a longer-time frame (e.g. 10 years) which is how things work here and can they handle the "bumps" that will occur?
- Who is really the most "local"?
- Who encourages future investment in our community?
- Who can stay the course and deal with the tough issues, opposition and controversy when it comes?
- Who will reinvest or truly keep money and jobs local?
- Besides money, what other motivations and objectives drive the proposer? Do those motivations and objectives align with our community?
- Relative to the proposer's other projects, objectives, mission where does the Riverfront redevelopment "stack up" in their list of priorities? Is it #1? Is it high? If the economy turns down or things get tough, does the Riverfront lose in terms of priority?

### **EWEB Headquarters**

The EWEB Headquarters (HQ) which is comprised of the main building and north building have not been declared surplus, but EWEB asked the proposers to indicate whether they had any interest in acquiring HQ. EWEB supplied basic information about its current use and constraints (e.g. how much time we would need to leave) and explained our leases. The responses from the teams was mixed, ranging from "not needed" to "very interested" to "maybe". In the case of one proposer (UO-F) the interest seems to have changed between the July 30th presentation and some follow-up due diligence. EWEB is well positioned to either stay or to leave (maybe in a 5-10 year time frame).

Essential to this decision is EWEB's ability to receive enough value in the sale to move our existing needs and functions elsewhere. In addition to regular commercial office space that many office

employees need, EWEB would need to replicate the following mission critical operational functions: (Data Center Dispatch Center, Trading Floor, Telecom hubs). In addition we would need to leave or create some customer-facing function in the downtown area (e.g. Customer Service walk-in front counter and Energy Management Services walk-in front counter). Because EWEB has leased its surplus space at HQ and moved more employees to ROC, we are now better positioned from a space utilization and economic standpoint. The future of the Headquarters Building will likely be explored as part of negotiations with the selected team, if interested, with basic sideboards provided by the Board.

### **TBL Assessment**

It is my view that the primary TBL assessment had already been considered in the creation of the Riverfront Master Plan and approval by EWEB's Board and the approval of zoning and code by the City Planning Commission and City Council. These processes consider extensive economic, social and environmental considerations. Regardless of which Master Developer is selected they will have to implement the vision of the Riverfront Master Plan and adhere to approved code and zoning.

The selection itself of the Master Developer does raise some unique TBL issues. Some can be perhaps addressed and considered in this decision making process and some will have to be considered later.

From an economic standpoint, it is too early to make a final assessment because there is no definitive contract or sales price. It appears that all 3 finalists are fully capable of performing the role and have sufficient financial capacity to enter in to a contract that will result in payments to EWEB. While we received only limited (and indicative) pricing, which in my opinion was low due to confusion and uncertainty, all 3 have the financial capacity to pay fair market value for the property.

During the interviews it was established by questions/answers that an economic interest of the City was clear with respect to the one non-profit proposer (UO-F). This related to the taxable status of the expected development. It does not appear that there will be a taxable vs. non-taxable issue based on the answer received. However, this is an important community issue that will need to be established in the negotiations regardless of the final selection.

From a social standpoint, the social issues associated with actual redevelopment of the riverfront have been well assessed and vetted in the Riverfront Master Plan process as well as code and zoning process. An important consideration raised in particular by both the Advisor Panel and CAT Members was the aspect of "local" business, connections, partners and alignment. All 3 proposals have some elements of "local". A final contract should address that local, as proposed by any of the 3 finalists, is actually met. Each of the 3 proposers had varying degrees of local team members. The UO-F perhaps has a unique "localness" in ways that are not delivered by contractual terms given the mission and purpose of the UO-F.

Environmental Factors are really of two kinds, first, the environmental nature of the code, zoning and development. These factors have been fully vetted by the Riverfront Master Plan process as well as code and zoning approval. The redevelopment of the EWEB riverfront is consistent with City direction such as Envision Eugene. The second environmental factors are the issues associated with legacy contamination. The most significant known contamination issue is the MGP

plant which has not been declared surplus and is not proposed to be sold. The Oregon DEQ is in the public comment period on a plan to remediate and stabilize this site. Environmental risk and cost factors are fully vetted in that process and EWEB believes that, if approved, the DEQ site plan will be an appropriate plan. EWEB has also begun extensive site remediation within the surplus area including removal of fuel tanks, asbestos removal from the steam plant and teardown of the vehicle repair building. Level 1 and 2 Environmental Site Assessments (ESA) to further understand potential environmental risks associated with past uses of the site are also underway. I believe EWEB is acting with great responsibility in dealing with environmental issues on this over 100 year old site for issues associated with both EWEB operations as well as past uses of the site by other owners. Effectively dealing with "Brownfield" issues to create a great place in the heart of Eugene is part of the vision and our responsibility working with key parties and parties such as the City, DEQ and former owners of the riverfront.

### **Other Important Considerations**

There are many factors to consider in this important community decision. Fortunately, the team selection may be the least risky as all three developers are highly capable and motivated to develop a great project on the riverfront. Negotiations, conducted in good faith and with fairness to all parties, will likely be the critical path to moving this long-standing community aspiration to reality.

Although EWEB is likely to receive revenues from the sale and/or lease of riverfront property that will serve to benefit EWEB customers, I expect that the most important monetary and non-monetary benefits are likely to flow to our community in the form of having new access to the river and connecting downtown to the riverfront in a great way and to our partner the City in the form of new tax revenues. These have major indirect benefits, of course, to EWEB as well.

I recognize and share the Board's concern for protracted and costly engagement that diverts EWEB attention from our primary mission of providing reliable power and quality water at reasonable prices and completing other mission-critical and complex projects needing the utility's full attention: Alternative Water Source, Carmen-Smith relicensing, rebuilding the downtown power network and completely overhauling our Information Technology Systems. The fact is that the economic return for sale of surplus property is dwarfed by the utility's \$300 million/year enterprise and 10-year capital plan of one-half of a billion dollars.

We have major initiatives and perhaps one of the most ambitious power resource plans in the nation to rely solely on energy efficiency and demand management and response to meet our customers' power needs for perhaps 10 to 20 years. If we get this plan right, we create enormous value for our customers.

Participating in real estate development is very unlikely to create value for EWEB customers in my judgment. However, taking our eye off the ball has large downsides for EWEB and our customers. Value to our customers is best served through focus on our core business and careful management of projects in service to our core mission.

So while EWEB is not in the real estate development business, we do need to find an effective manner to transfer the surplus property in a reasonable timeline that also generates a reasonable return for our planning investment and to our customers. We must work with the master developer and City early to create an implementation plan that works for the community and allows us to

phase out our role so we focus on running the utility we call EWEB. Direct economic benefits to EWEB, even if over the longer term (via land leases or incremental sale) may be relatively small in comparison to larger benefits to the community from a transformative economic development project that generates additional tax revenues long-term. Intangible benefits are numerous as well and are part of the commitment EWEB has made to the community.

EWEB's long-standing objective is to reduce uncertainty and manage risk and as described earlier, many of these are now resolved. There are two remaining areas that we need to keep within our focus before we start phasing our role, and both of these implicate how we approach negotiations. First, we have to continue to manage environmental liability if we want to create positive economic value and deliver the kind of mixed use development envisioned. This may be best accomplished through continued due diligence and a phased approach to the development.

Second, the outcome of this decision is not a property transaction with a definitive price. It is to select a master developer to begin negotiations on a property disposition agreement. But EWEB is not selling something that is easy to value in dollars and cents, and there is remaining uncertainty as to the level of investment that can be anticipated from the City in the form of public benefit projects and amenities. Again, this uncertainty is best managed through fair, good faith negotiations with the parties that have the most mutual interests.

As demonstrated in the differing perspectives from the Evaluation Team, Advisor Panel and CAT Members, each team offers positives and potential risks to successful implementation. This is a decision that cannot be easily quantified. For me, important considerations helpful in distinguishing among very competent proposers included the following:

- Most familiar and invested in community and therefore, likely to hit ground running and stick with the project when difficulties arise (e.g. skin in the game)
- Most potential alignment in values and objectives among EWEB, City and development team
- Most likely to be patient, fair, willing to compromise and to problem-solve to create win/win/win outcomes
- Most capable of managing relationships with multiple stakeholders, facilitating complex development agreements, and maintaining community confidence as development unfolds

As Board members you also may want to consider other factors such as these:

- What are the most important factors? Which team has the most pluses or more minuses for each of these?
- Can these minuses be managed via negotiations with the Master Developer understanding some things can be changed and some are very hard to change? In-other-words, how flexible or rigid are the risks with a given Master Developer and can important factors be negotiated or are they fixed?
- Where are there clear points of long-term alignment of interest? (That will help when things get tough or go south...and they will). How strong is that alignment? Can it easily be lost?
- Where do you see points that are clear points of misalignment of long-term interest?

This leads me to a conclusion that perhaps the most important consideration is to pick a Master Developer that (i) can make a reasonable investment and return while demonstrating that their interest is clearly aligned with our community, (ii) successfully collaborate with us and maybe more importantly with the City and (iii) will move forward on a reasonable pace and be committed to creating a truly great place on the riverfront. While we need to get back to our core utility mission we also cannot "cut-and-run" from the riverfront. The Board has discussed this important balance of time, value and greatness and I think the decision is best made within this framework.

## **Recommendation**

To better help understand Board priorities and expectations, we have discussed tradeoffs between time (speed of process or disposition), quality (is the redevelopment "great" for our community) and value (how much money does EWEB receive for the benefit of our customers and for our community and what other value is created for our community).

While some Commissioners stressed the importance of transferring control of the property to the developer in the least amount of time, others noted that ultimately helping ensure a legacy redevelopment project was most important to our community (and therefore by extension to EWEB too) in the long run. If that outcome took a little more time, or if by participating in a phased development approach created more incremental value to EWEB, most Board members were willing to be engaged a little while longer.

Similarly, selecting the "best" team will also involve tradeoffs and implicate different strategies to manage risk and contingencies. My recommendation is that the Board review and consider the feedback from the Evaluation Team, Advisor Panel and CAT Members that is summarized in this memo as well as public input. I hope you will also review and consider what I called the "Other Important Considerations" in the section above.

I also recommend that the Board deliberate this selection carefully on October 7th. The great news is that I believe we have three qualified and strong proposers. I don't think there is a "bad" decision. Each of the proposers have pluses and minuses. Ultimately, no matter who the Board selects we enter in to a complex set of negotiations with many tough issues that are known and some issues still open and unknown. Unknowns at this point include things like:

- What will our level 1 and 2 environmental investigations find? Early testing results are positive.
- What about the DEQ approval of the MGP site plan?
- What other public investments will be needed and applied to ensure a high quality, legacy redevelopment project that delivers broad public benefits? For example, adaptive reuse of the steam plant, improved connections to the river, and riparian park redevelopment are projects potentially requiring a public-private partnership.
- What final terms and conditions will we be able to negotiate with the Master Developer? Maintenance of unused, but potentially viable assets like Operations Warehouse is one example.

I will be prepared to answer questions, provide my personal view and recommendation at the meeting next week. In my best judgment though we have 3 strong master developers and I think there is a reasonable chance that we could close an agreement and achieve success with any of the

3. The success might be different with each and the road taken and issues along the way might be somewhat different as well.

To summarize the formal input and perhaps "seed" how to think about this decision, I offer the following table for your review and possible use:

<b>Evaluation Team</b> (EWEB and City staff and consultants)	<b>Advisor Panel</b>	<b>CAT Members</b> (5 of the 9)	<b>Other Important Considerations</b>
1. TCC 2. W&D 3. UO-F  Note 1: Results Before references. Consideration of references by 4 team members appears to switch #1 and #2 (but still very close)  Note 2: Individual scores were not 100% uniform	1. UO-F 2. TCC 3. W&D  Note 1: Consistent #1 by entire panel.	1. UO-F 2. TCC 3. W&D  Note 1: Consistent #1 by entire group (with some being tie/slight lean	I recommend that you consider those I offered above and add any of your own and then rank the 3 against those other important considerations.  1. TBD 2. TBD 3. TBD

## **Requested Board Action**

### **Item 1**

Management requests authority for General Manager and team to enter into initial negotiations with the Board's selected Master Developer for a period of up to 6 months to develop an Initial Agreement that may include the following elements and actions:

1. The authorized representatives from each party and define the decision making process
2. Definition of the project that the parties are working towards (consistent with Master Plan)
3. Clear outline of the roles, obligations, commitments of all parties during due diligence, including access to the site and to information (environmental reports, surveys).
4. Timeline for due diligence, negotiation and signing of the Purchase and Sale (Development) Agreement
5. Public engagement expectations
6. Definition of the property being considered for purchase and/or lease and phasing if applicable and agree to a timeline and process for determining purchase price and/or leases.
7. Identification of the various elements that need to be included in the development agreement (price, earnest money deposit, parcels, property ownership, closing date, project construction start date, environmental responsibility, public financial investment elements/infrastructure, public open space commitments, recourse for non-performance, etc.) and begin to draft an outline of terms which would evolve into a definitive development agreement.

### **Item 2**

Management proposes that it brief the Board at the 3 month mark (in executive session) as to the progress (or lack thereof) toward the Initial Agreement. Management recommends that if, at that time, there is clear progress with a high probability of success likely that EWEB and the selected Master Developer continue toward concluding the Initial Agreement. If, however, progress is not being made and it does not appear that basic issues can be resolved, then Management would recommend termination of negotiations and engaging both of the other Master Developers and assessing their continued interest. If only 1 was interested, Management would recommend commencing negotiation with that 1 remaining party. If both remained interested, Management would ask the Board to establish a priority at that time. If neither was interested, then Management would assess the situation and bring a new plan to the Board for consideration.

### Item 3

Management proposes that the Board approve the following guidelines and general negotiation framework for the Initial Agreement with the Master Developer:

1. Allow for sale and/or ground-leases of the EWEB property that has been declared surplus. These expected sales and/or ground-leases will result in a net present value of revenue (or other benefits/considerations of a certain threshold (note: this threshold will be established in a subsequent executive session).
2. EWEB will not play any role as a real estate "developer."
3. The proposed transaction(s) will not materially impact existing environmental liabilities (if any) without clear offsetting benefit such as incremental revenue. (e.g. a parcel with \$0 of environmental liability based on current industrial zoning will not be sold if the sale results in a financial liability based on a new zoning).
4. Allow (but not require) discussion and possible terms and conditions for the sales, sale/lease-back or other transaction involving the EWEB HQ with the general guidance being that terms and conditions would be: (i) subject to EWEB declaration of surplus including City exercising (or not) its rights, (ii) no material adverse impact on EWEB operations, (iii) positive net financial result (i.e. revenues exceed costs), (iv) any other EWEB obligations such as leases are assigned or terminate subject to their terms.
5. EWEB retains all necessary land rights, easements for current and future utility operations and transfers easements provided to third parties to the new site owner(s).
6. The Initial Agreement does not create undue financial, operational or organizational burdens or risk on EWEB.
7. Any other general "sideboards" required by the Board. Specific "sideboards" such as prices should only be discussed in executive session.

Management also proposes that the Board adopt following guidelines and initial parameters for possible negotiation among the City, Master Developer and EWEB:

1. Finalize Park MOU as contemplated in the original City-EWEB MOU with input from Master Developer
2. Support advancement of possible railroad whistle-free zone.
3. Negotiation of final public infrastructure.
4. Appropriate and proper allocation/transfer of system development charge (SDCs) credits.

### **Suggested Board Motions:**

1. The EWEB Board selects \_\_\_\_\_ as the proposed Master Developer of the EWEB Riverfront property declared surplus.
2. The EWEB Board directs the General Manager and negotiation team to enter in to negotiations as articulated in the "Requested Board Action Section Items 1, 2 and 3" of the October 1, 2014 Memo to the Board (*note: specifically delete or add provisions as may be decided by the Board*).
3. The EWEB Board directs the General Manager and negotiation team including counsel to establish specific "sideboards" including revenue/price thresholds for Board comment in an Executive Session to be scheduled as soon as practical.

### **Provide feedback to EWEB Board**

Members of the public are welcome to provide their input and feedback regarding the three redevelopment responses currently being considered for the EWEB riverfront property. Individuals may provide comments during the public comment portion of the Board's meetings August through October, and by [e-mail](#) anytime.

[Riverfront Property Redevelopment presentations](#)