



MEMORANDUM

TO: Missoula Redevelopment Agency Board of Commissioners

FROM: Chris Behan, Assistant Director

DATE: October 10, 2019

SUBJECT: Amendments to Fox Site Collateral Agreements

Recent History:

After several years of negotiations, in February 2017 the City Council approved the “Fox Site Master Development Agreement”. That Agreement formalized the relationship between the City, MRA, and Hotel Fox Partners as selected developers of the Fox Site. The Master Development Agreement required several distinct actions to occur, each essential to completion of the project. It outlines the structure of six collateral agreements to address those actions.

In November 2017, upon recommendation of the MRA Board, the City Council adopted Resolution 8223 entitled “Resolution Relating to the Development of the Fox Site; Approving the Project and the Forms of Certain Collateral Agreements in Connection Therewith; and Authorizing the Execution and Delivery of the Collateral Agreements”. The Resolution approves four of the six collateral agreements that MRA had previously approved:

- Conference Center and Parking Facility Development Agreement
- Conference Center Lease/Management Agreement
- Land Disposition Agreement (Purchase Agreement)
- Parking Facility Lease Agreement

The Resolution also directed the Mayor and senior City staff to negotiate and complete the Condominium Documents (fifth collateral agreement) in two stages. The first stage was completed in December 2017, and the second to be finalized when the design of the structures is complete. The sixth collateral agreement, the “Land Use Agreement”, followed a different procedural path. It was negotiated through the Development Services and Parks and Recreation Departments and approved by the City Council prior to the remainder of the agreements in June 2017. In addition to zoning changes and conditions for vacating portions of West Front and Owen Streets, the Land Use Agreement provides minimum site and architectural design standards for the Hotel/Conference Center and the rest of the development in the Riverfront Triangle. These standards are augmented or superseded by the Design Excellence Standards. The Conference Center and Parking Facility Development Agreement was amended earlier this year to set deadlines for submission of evidence of “sufficient progress towards financing” (November 22, 2019), for submitting plans to the City for “architectural engineering or land use review and written approvals” (May 22, 2020), and application for building permits (November 22, 2020).

The Current Deal: The collateral agreements are complex and intricate legal documents due in large part to the interrelated public and private ownerships within the future structure as well as the community's high expectations for the highly visible riverfront location. Although complex in detail within the various agreements, the basic deal is straightforward and flexible enough to allow for innovative and creative ideas. The deal as structured is:

1. Hotel Fox Partners:

- Hotel Fox Partners purchase the Fox Site from the City and construct a multi-floor, up to a 200-room hotel with associated restaurants, bars, etc. Payment of the purchase price is financed over time by the City.
- Hotel Fox Partners construct a conference center attached to the hotel with approximately 60,000 - 75,000 square feet that includes a large hall able to be divided into smaller rooms and related "back of house" areas for storage, food preparation, etc. Hotel Fox Partners would construct and retain at least 10,000 square feet of breakout meeting rooms to be used in conjunction with the larger conference center.
- Under the hotel and conference center, Hotel Fox Partners construct a two-level, approximately 405-space parking facility that will include some privately owned spaces, spaces leased to the hotel, and general public spaces.
- On top of the hotel, up to three floors of residential condominiums may be constructed.

2. The City:

- Using Tax Increment Financing Revenue Bonds based on the new taxes created by the development, the City purchases the conference center (exclusive of the 10,000 square feet of meeting rooms which remain in hotel ownership).
- Using parking revenue bonds (perhaps augmented with Tax Increment Financing funds), the City purchases the public portions of the parking facility. 48 spaces will be retained by the developer to be used as parking for the residential condominiums.
- A credit toward the purchase price is allowed equivalent to the value of the land assigned to the City-owned conference center and public parking. Another credit may be extended for the value of land under a future parking structure nearby but not on the Fox Site.

3. The City (After Construction):

- The City leases the conference center to Hotel Fox or its assigned manager entity who will manage all facets of the conference center.
 - In addition to management, the lessee assumes all maintenance, repair and replacement responsibilities of conference center furniture, fixtures and equipment as well as the structural systems such as the roof, HVAC system, etc.
- The City enters into a parking management agreement with the Missoula Parking Commission or other third party operator who will be compensated through parking revenue for managing leased and general public parking spaces in the parking facility.

Amended Deal:

Because of the size, scope, and interdependence of the hotel and conference center, Hotel Fox Partners have always been looking for ways to increase use of the main large room of the conference center. That room's focus on meeting and dining space as well as its being dividable into separate functions limits its use for many events such as music and other performances, trade shows, etc. At the same time, Stonefly, LLC (Nick and Robin Checota), owner and operator of the Wilma Theater, Top Hat, and Kettlehouse Amphitheater music and event venues, has been searching for an urban location for an indoor venue to host larger events (but smaller than those that may be located at the Civic Stadium). Discussions between the two entities, MRA, and the Mayor's Office has resulted in an amended deal that seems to be much more financially feasible, viable in the long term, and likely has even more economic impact to downtown and the entire community.

The modification to the basic deal would be that the focus on large conferences would change to other events such as music, lectures, trade shows, other performing arts like traveling Broadway plays, ballet, etc. Changing the main hall to a 60,000 square foot facility (plus other ancillary uses) accommodating an audience of up to 6,000 on the main floor and balconies would be a significant expansion of the variety of possible events that would greatly improve the sustainability of both the center and hotel. Currently, during popular concerts held at the Wilma and the Amphitheater, most hotel rooms in downtown are full. Larger events will spread that success to other area hotels and services. The variety of events that the center will be designed to feature will include types which do not have an adequate venue in Missoula such as traveling Broadway shows and other performing arts which require a large, appropriately equipped stage. Art and trade shows would also be accommodated, filling part of a need identified and promoted by the Missoula Chamber of Commerce for years.

There are very few amendments in the documents necessary to complete the changes. The hotel is scheduled to be about the same number of rooms and include amenities like restaurants and outdoor seating. As in the previous scenario, there will be up to 48 condominium units on top of the structure and the total underground parking numbers are the same. The Lessee will continue to assume all repair and maintenance costs of the City-owned facility. Much of the break-out meeting capability is planned to be relocated and retained within the Hotel.

Summary of Requested Amendments to Existing Agreements:

- The rights under all agreements are assigned by Hotel Fox Partners to Clark Fork Riverfront Properties, LLC.
 - Like Hotel Fox Partners, Clark Fork Riverfront Properties is a sole-purpose ownership and development entity. Its sole member at this time is Stonefly, LLC who will be the manager entity similar to that described in the original deal above. Like the previous deal, this arrangement allows for Clark Fork Riverfront Properties to add development investors without changing the ownership of the event booking and center management entity (Stonefly).
- All references to a conference center are changed to event center.

- The term of the Center lease is extended from potentially 50 years in the initial agreement to a potential of 75 years (50 years plus two 12.5 years extensions). This facilitates financing and equity investment.
- Removes the City's obligation to help identify funding sources for marketing and booking the center.
- The submittal date for final construction documents is extended from May 22, 2020 to July 22, 2020.
- The method of financing the land costs over time with several potential credits will become more straightforward. Like in the previous purchase agreement, there will still be an adjustment, discount, or credit equivalent to the percentage of City ownership in structures (public parking and center). This is detailed in the existing purchase agreement but will be adjusted to fit the simplified payment process.

Through adoption of the Resolution entitled Resolution Relating to the Development of the Fox Site; Approving Modifications to the Project; Authorizing Changes to the Collateral Agreements and Delegating Authority to Approve, Execute and Deliver the Amended Documents (draft attached), the City Council would approve the assignment of the project from Hotel Fox Partners to Clark Fork Riverfront Properties, LLC and approves changes in the overall terms of all the collateral agreements described above and within the Resolution. Furthermore it authorizes the MRA Director, City Chief Administrative Officer, City Attorney, and other City staff to complete amendments to the Collateral Agreements that specifically enact the described terms, and authorizes the Mayor and other necessary City officers or staff to execute the agreements listed above as well as any other directly related documents, certificates, etc. that are required to implement the agreements.

Both MRA and City are signatories to the Conference Center and Parking Facility Development Agreement so MRA Board must approve the assignment of the project from Hotel Fox Partners to Clark Fork Riverfront Properties, LLC as well as the basic amendments described above.

Staff recommends the MRA Board:

- 1. Approve assignment of the Developer's rights and responsibilities within the Conference Center and Parking Facility Development Agreement from Hotel Fox Partners, LLC to Clark Fork Riverfront Properties, LLC and authorize the MRA Chair's to execute the amendment to that Agreement.**
- 2. Approve the related changes to the overall project related to MRA's role in the other Collateral Agreements conditional to the MRA Staff participating with the Mayor's Office and City Attorney in assuring all the Collateral Agreements reflect and enact those changes.**
- 3. Recommend the City Council adopt the Resolution entitled Resolution Relating to the Development of the Fox Site; Approving Modifications to the Project; Authorizing Changes to the Collateral Agreements and Delegating Authority to Approve, Execute and Deliver Amended Collateral Documents in essentially its current form.**