

Council Auditor's Office

2021-673: Kids Kampus Redevelopment Agreement

Project Summary:

- Construction of a Four Seasons Hotel, Class A condominium units, and a Class A Office Building by the Developer, with a minimum private capital investment of \$301,057,548
- At the option of the Developer, construction of Metropolitan Park Marina improvements, a Marina Support Building including an Events Lawn, and Riverwalk Improvements, all totaling \$17,273,100 to be funded by the City with Developer responsible for cost overruns
- Relocation of Fire Museum, Fire Station, and Fire Dock to allow for Development to occur (City budgeted \$8 million in FY 21/22 budget for this project)
- Relocation/replacement of Kids Kampus park required by the Florida Recreation Development Assistance Program (FRDAP)
- Developer to provide completion guaranty for the Hotel and Office Building Improvements; however, Developer can satisfy their obligation under the guaranty by reconveying the property to the City in its original condition
- DIA Board has the authority to permit a downward deviation of no more than 10% from the minimum requirements for the Hotel and Office Building; however, changes cannot result in a lower minimum private capital investment
- Authorizes an Office Building Ground Lease, Cost Disbursement Agreements for the Metropolitan Park Marina, Marina Support Building, and Riverwalk Improvements, Marina Management Agreement, Marina Support Building Lease agreement, and various easements related to the project site

City Incentives:

- \$25,834,887 Completion Grant payable upon substantial completion of the Hotel and Office Building Improvements (to be funded at a later date from the General Fund)
- \$47,683,955 20-year, 75% REV Grant payable on the Hotel and Office Building (to be funded from the Northbank CRA)
- Conveyance of 4.77 acre Hotel Parcel valued at \$12,450,000 to Developer for \$100
- Right of First Offer (ROFO) in favor of the Developer for the lease or purchase of the Future Development Parcel (approx. 4.96 acre parcel immediately west of the project site) to expire 12/31/24 and subject to an annual ROFO fee of \$50,000
- Conveyance of easements valued at \$285,000
- Below market lease on Office Building Parcel
- Loss of value on development property due to relocation/replacement of Kids Kampus park estimated at \$6,219,400

Additional Developer Obligations:

- \$200,000 annual contribution to the City for a term of 20 years to be used for Metropolitan Park maintenance through a Parks Partnership Agreement
- 2% surcharge on the Hotel nightly room rate for a term of 30 years with surcharge proceeds to be used for capital maintenance and capital repairs to Metropolitan Park, the Riverwalk, the Marina, and the Marina Support Building
- \$36,000 annual payment to the City for a 40-year ground lease of the Office Parcel
- Developer to pay off the FRDAP Grant that currently encumbers a portion of the Project Parcel, and FIND Grants that encumber the Marina parcel, if required
- Construction of an access drive from Gator Bowl Boulevard to the Marina at a cost of \$176,200

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Performance Schedule:

- Execution of redevelopment agreement within 30 days of enactment of the ordinance by Council
- Sale of Hotel Parcel and lease of Office Building Parcel to the Developer no later than 6 months after the effective date of the redevelopment agreement
- Obtain final design approvals for the Hotel and Office Building no later than 6 months from the effective date of the redevelopment agreement
- Obtain permitting no later than 6 months after the final design approval by the DDRB
- Commence construction of the horizontal improvements for the Hotel and Office Building no later than 6/1/22
- Complete construction of the Hotel, Office Building, and if elected by the Developer, the Marina Improvements, Marina Support Building Improvements, and Riverwalk Improvements no later than 12/31/25
- If the Developer does not elect to construct the Marina Improvements, Marina Support Building Improvements, and Riverwalk Improvements, the City shall use reasonable efforts to complete construction of those improvements by 12/31/25
- DIA CEO and DIA Board each have the authority to extend the performance schedule by 6 months, but no more than 1-year without Council approval

Clawbacks:

- DIA will be entitled to withhold any undisbursed amount of the Completion Grant and REV Grant if reporting requirements are not met
- If the private capital investment is
 - Less than \$301,057,548 but greater than or equal to \$270,951,793, the REV Grant will be proportionately reduced
 - Less than \$270,951,793 but greater than \$255,898,915, the DIA Board may approve a pro-rata reduction in the maximum amount of the REV Grant
 - Less than \$255,898,915, the REV Grant will be terminated
- If DIA fails to approve the change of flag on the Hotel, the REV Grant will immediately terminate
- If Developer fails to invest or cause a capital investment of at least \$301,057,548 for the Hotel and Office Building Improvements, the Completion Grant shall be reduced on a dollar-for-dollar basis
- Reversion right for Hotel Parcel, which terminates once Developer has commenced construction of the Hotel
- In the event a hotel is not in operation on the Hotel Parcel for at least 20 years, the REV Grant will terminate and the Developer shall make a lump sum payment of the Room Surcharge subject to an increase in ad valorem taxes

ROI:

- DIA values the total outflows of the City at \$114.4 million and the total inflows to the City at \$115.4 million over a 20-year period
- DIA has calculated the ROI as 1.01
- Council Auditor's Office calculated the ROI at 0.99. The difference from DIA is calculating bed tax and room surcharge amounts using the required minimum hotel rooms (170) rather than the intended (176)

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Waivers:

- Waives Public Investment Policy to authorize a Completion Grant that is not authorized under the policy
- Waives zoning requirements and grants deviation to allow for development in the proposed locations
- Waives the Procurement Code (except for the JSEB provisions)
- Waives the provisions of Sec. 122.811(a) to allow the Developer to coordinate the sale of any surplus City property and apply the revenues toward the cost of the Metropolitan Park Marina improvements, Marina Support Building Improvements, and Riverwalk Improvements

NCSPHS Amendments:

1. Make technical changes and scrivener corrections to the bill, agreement, and exhibits as needed to make language and intent consistent throughout
2. Clarify that Public Investment Policy is also being waived to authorize a REV grant for a hotel and office building not contemplated under the policy
3. Include additional language requested by Risk Management
4. Add language clarifying the Marina manager will be responsible for any fee assessed on the Metropolitan Park submerged land lease as a result of a manager operating the Marina
5. Change approval of the discount rate to be used in the Room Surcharge Lump Sum calculation from City auditors to Finance and Administration Department responsibility
6. Clarify that Room Surcharge Lump Sum is calculated based on the present value
7. Add 5% administrative fee for Marina maintenance performed by the City on behalf of the Marina, Manager within the Marina Management Agreement
8. Require certification of guarantor's minimum net worth upon closing on the Hotel Parcel
9. Clarify within Marina Support Building Lease that City is responsible for scheduling of events and making reservations for the use of Events Lawn
10. Revise records retention in Marina Management Agreement to 6 years after expiration of agreement
11. Update Developer's indemnification and environmental liability
12. Permit Developer to perform City's maintenance obligations on Easement 2 should City default
13. Update City's responsibility for restoration of improvements related to Easement 1
14. Clarify City is responsible for all bulkhead maintenance in Riverwalk Easement
15. Revise term of Marina Management Agreement to mirror term of submerged lands lease
16. Add language to redevelopment agreement providing for a clawback on the value of the conveyed land for the Hotel Parcel in the event of a sale or transfer of controlling interest of the hotel within five years of completion (sliding scale of 20% per year)

Auditor Concern/Recommended Amendment:

In the event of a sale or transfer of controlling interest, the Developer could benefit from the City incentives provided. To be consistent with previous economic development agreements, we recommend the following:

1. Add language to redevelopment agreement providing for a clawback on the pro-rata portion of the Completion Grant for the hotel in the event of a sale or transfer of controlling interest of the hotel within five years of completion (sliding scale of 20% per year)