

# ORIGINAL

## CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5156

AN ORDINANCE regarding the Bellevue Convention Center (Meydenbauer Center); authorizing execution of a Real Property Purchase and Sale Agreement in Lieu of Condemnation with Tochterman Investment Company, Inc., doing business as Tochterman Management Group (Tochterman) for purchase of the existing Meydenbauer Center site; authorizing execution with Tochterman of an Option in Lieu of Condemnation for the Meydenbauer Center expansion site; providing for the financing of the expansion of the Center, subject to certain implementation provisions; providing for the reimbursement of preliminary costs from bond proceeds; directing city staff to prepare amendments to the existing agreements between the City and the Bellevue Convention Center Authority (BCCA) and to prepare new agreements, as necessary to reflect City ownership of the Meydenbauer Center site and other expansion-related changes; and directing city staff to prepare a Financing Agreement between the City and the BCCA providing for financing of expansion by the City and construction of the improvements by the BCCA through a Construction Agreement with the developers of adjacent properties; and authorizing the City Manager to expend such funds as are necessary to complete design of the expansion of the Convention Center and to prepare bid documents therefor.

WHEREAS, in December, 1995, the City Council authorized the City Manager and the Bellevue Convention Center Authority (BCCA) to explore the feasibility of expanding the Bellevue Convention Center (Meydenbauer Center); and

WHEREAS, the BCCA Board, with the assistance of a Citizens Advisory Committee appointed by the City Council and the BCCA Board, completed a feasibility study and presented the study findings to the City Council in April and June of 1997; and

WHEREAS, the study concluded that the expansion of Meydenbauer Center could be accomplished in the year 2005, given availability of hotel/motel taxes and supported by a "headquarters" hotel; and

WHEREAS, in June, 1997, the City Council authorized the City and the BCCA to explore whether a joint development with a private developer involving property adjacent to Meydenbauer Center would be the appropriate way to accomplish expansion of the Center; and

WHEREAS, the City Council adopted "Development Principles" on October 13, 1997 to guide negotiations between the City, landowners and the developer; and

WHEREAS, on January 28, 1998, the City, landowners and developer entered into a Joint Use Development Agreement which contemplated: (a) expansion of Meydenbauer Center and acquisition of fee title to the land under the existing Center and the proposed

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expansion, financed by public debt issued by the City or BCCA paid for with lodging excise tax revenue; (b) a private development consisting of a hotel, office building, retail shops, restaurants and multi-screen theaters, all privately financed, and (c) a mixed-use garage serving both public and private development; and

WHEREAS, since that date the City, BCCA, property owners and developers have explored various revised proposals for a joint development; and

WHEREAS, in November, 1998, a revised joint development was proposed which would involve three separate elements: (a) expansion of Meydenbauer Center and acquisition of fee title to the land under the existing Center and the proposed expansion, financed by public debt issued by the City or BCCA paid for with lodging excise tax revenue and other BCCA revenues; (b) a private development consisting of two first class hotels, retail shops, restaurants and multi-screen theaters, all privately financed; and (c) a mixed use garage serving both public and private development; and

WHEREAS, the City and BCCA staff have been involved in discussions with a private developer and the landowner to determine how such a joint development project might be accomplished in a financially prudent manner in accordance with the "Development Principles"; and

WHEREAS, construction of the expansion through a joint development should result in substantial cost savings to the BCCA and will insulate the BCCA from customary and usual risks of construction cost overruns; and

WHEREAS, the proposal for expansion is consistent with the City's commitments and principles to protect the General Fund, as set forth in the Backup Financing Plan and Operating Policies, as the same have been from time to time amended, which commitments and policies the City Council reaffirms; and

WHEREAS, the expansion proposal was submitted for review and comment by the City's Lodging Tax Advisory Committee; and

WHEREAS, a public hearing for the purpose of receiving public comment was held before the City Council on the proposed expansion and joint development on July 12, 1999; and

WHEREAS, a final environmental impact statement on the proposal was issued on July 6, 1999; and

WHEREAS, the expansion of the Center through the proposed joint development will accelerate the availability to the Bellevue community of an expanded Center, enhance revenues from parking garage operations available to the BCCA and reduce the risk and uncertainty of the expansion; and

WHEREAS, it is essential to the plan for expansion of Meydenbauer Center that the City obtain fee ownership of both the land beneath the existing Center and the proposed expansion; and

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WHEREAS, the City is authorized by law to acquire such fee ownership for said use through its powers of eminent domain, has threatened to exercise such powers and acquire such property through condemnation thereof, and would exercise its powers of eminent domain to acquire the property if Tochterman did not agree to exercise the Real Estate Purchase and Sale Agreement in Lieu of Condemnation and the Option in Lieu of Condemnation; and

WHEREAS, Tochterman would not enter into the Real Estate Purchase and Sale Agreement in Lieu of Condemnation or grant the Option in Lieu of Condemnation but for the City's threat to exercise its powers of eminent domain, but in lieu of condemnation of the property by the City, Tochterman has agreed to execute said agreements; and

WHEREAS, it is in the best interest of the City to enter into the Real Estate Purchase and Sale Agreement in Lieu of Condemnation and to obtain the Option in Lieu of Condemnation; and

WHEREAS, the City Council concludes that the relationship among the City, landowners and developer embodied in the requirements set forth in Exhibit D complies with the "Development Principles" adopted by the Council on October 13, 1997; and

WHEREAS, the City Council commits to the purchase of the existing and expansion parcels and the expansion of the Center at this time, subject only to the conditions hereinafter set forth in this Ordinance; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

**Section 1. Purchase and Sale Agreement in Lieu of Condemnation and Option in Lieu of Condemnation.** The City Manager is authorized and directed to execute, on behalf of the City, that certain Real Estate Purchase and Sale Agreement in Lieu of Condemnation for purchase of the existing Meydenbauer Center site and that certain Option in Lieu of Condemnation for the Meydenbauer Center expansion site, copies of which are attached as Exhibits A and B hereto, respectively.

**Section 2. Expansion of Meydenbauer Center.** The expansion of Meydenbauer Center and its financing through the City's pledge of lodging excise tax revenues, as part of a joint development with the BCCA and developer, consistent with the Backup Financing Plan and Operating Policies, as set forth in Exhibit C hereto, is approved, subject to the conditions contained in this ordinance.

**Section 3. Financial Requirements.** Implementation of Section 2 by the City Council is contingent on the City Manager's approval of the then-current Expansion Finance Plan, the City or BCCA obtaining financing for acquisition of the existing site, acquisition of the expansion site, construction of the improvements and payoff of construction financing on terms acceptable to the City Manager, including that adequate lodging excise tax revenues and other BCCA revenues will be available in a timeframe necessary for expansion construction. City staff is directed to prepare for City Council approval specific actions in furtherance of the expansion plan.

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Section 4. **Construction Requirements.** Implementation by the City Council of Section 2 is further contingent on the BCCA entering into a Construction Agreement with a developer which is satisfactory to the City Manager and which meets the requirements set forth in Exhibit D hereto.

Section 5. **Developer Requirements.** Implementation by the City Council of Section 2 is further contingent on the developer meeting the following obligations.

A. Delivery to the City of a preliminary financing commitment for development of the private portion of the project in a form acceptable to the City Manager by September 1, 1999, unless that date is mutually extended by City Manager and developer.

B. Submittal of a complete, revised ADR application for a Mixed Use Project by September 1, 1999, unless that date is mutually extended by City Manager and developer.

C. Execution with the BCCA (and the City, if necessary and appropriate) of a Reciprocal Easement Agreement, including parking covenants, generally consistent with the Joint Use Development Agreement (the JUDA) between the City, the BCCA, Tochterman Investment Company and Eastside Pavilion Partners LLC and specifically including the terms and conditions provided in Exhibit E hereto.

D. Execution by the BCCA and developer of a recordable Parking Revenue Priority Agreement consistent with the JUDA, including the terms and conditions provided in Exhibit F hereto and, specifically, evidencing the BCCA's ownership of net parking revenue from the joint operation of parking in the Convention Center and Mixed Use Development to be undertaken by the developer and its payment to the BCCA on a monthly basis in the specific amounts indicated in Attachment 1 to Exhibit F hereto.

E. Execution and escrow of a binding, recordable instrument(s) effectively conveying to the City the 40,000 square feet of MOPS bonus FAR attributable to the mixed-use project immediately when such FAR is earned upon completion of the mixed-use project.

Section 6. **Reimbursement.** The City and/or BCCA intends to be reimbursed from the proceeds of tax-exempt bonds for expenditures they make to acquire property and construct the expansion to the Meydenbauer Center. The maximum principal amount of the bonds expected to be issue for the project is \$68 million.

Section 7. **Agreements with BCCA.** City staff is directed to prepare amendments to the existing agreements between the City and the BCCA and to prepare new agreements as necessary to reflect City ownership of the Meydenbauer Center site and expansion site, to eliminate obsolete provisions, to add new provisions necessary to the proposed expansion and to release lodging excise tax revenues not necessary for this expansion to support other eligible uses.

Section 8. **Financing Agreement.** City staff is directed to develop a Financing Agreement between the City and BCCA which provides for the City to provide financing for the Meydenbauer Center expansion and the BCCA to construct the improvements through a Construction Agreement with a Developer which meets the requirements of Section 4 hereof.

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Section 9. **Design and Bid Documents.** The City Manager is authorized to expend such funds as are necessary to complete design of the expansion of the Convention Center and to prepare bid documents therefor.

Section 10. This ordinance will take effect and be in force thirty (30) days after passage by the City Council.

Passed by the City Council this 26th day of July, 1999,  
and signed in authentication of its passage this 26th day of July,  
1999.

(SEAL)

  
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Mike Creighton, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

  
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Richard Gidley, Deputy City Attorney

Attest:

  
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Myrna L. Basich, City Clerk

Published July 30, 1999