



COUNCIL AGENDA REPORT

City of Anaheim OFFICE OF THE CITY MANAGER

DATE: NOVEMBER 20, 2018

FROM: OFFICE OF THE CITY MANAGER AND CONVENTION,
SPORTS & ENTERTAINMENT DEPARTMENT

SUBJECT: AMENDED AND RESTATED THIRD AMENDMENT TO THE FACILITY MANAGEMENT AGREEMENT FOR THE HONDA CENTER BETWEEN THE CITY OF ANAHEIM AND ANAHEIM ARENA MANAGEMENT, LLC; THE FACILITY MANAGEMENT AGREEMENT FOR THE ANAHEIM REGIONAL TRANSPORTATION INTERMODAL CENTER BETWEEN ATCM, LLC AND THE CITY OF ANAHEIM, AND LAND AGREEMENTS RELATED TO THE SALE OF HONDA CENTER PARKING AREAS

ATTACHMENT (Y/N): YES

ITEM # 35

RECOMMENDATION:

That the City Council, by Motion, approve in substantially the form attached hereto:

- A. Amended and Restated Third Amendment to Facility Management Agreement (Honda Center) between the City as owner and Anaheim Arena Management, LLC (“AAM”) as manager (the “**HC Amendment**”); and
- B. Facility Management Agreement for the Anaheim Regional Transportation Intermodal Center (ARTIC) between the City as owner and ATCM, LLC (an affiliate of AAM and controlled by H&S Ventures, LLC) (“ATCM”) as manager (the “**ARTIC FMA**”), as guaranteed by AAM pursuant to a Guaranty of Payment and Performance in favor of the City; and
- C. The following agreements relating to sale of the City owned Honda Center parking areas (all, collectively, the “**Land Agreements**”):
 1. Purchase and Sale Agreement (the “**PSA**”) between the City as seller and TS Anaheim, LLC, an affiliate of AAM and controlled by H&S Ventures, LLC, as buyer (“**Buyer**”) for the sale of the portions of Honda Center parking lots 1, 3, 4 and 5 owned by the City (the “**Land**”);

Amended and Restated Third Amendment to the Facility Management Agreement for the Honda Center with Anaheim Arena Management, LLC; The Facility Management Agreement for the Anaheim Regional Transportation Intermodal Center with ATCM, LLC; and Agreements related to the sale of Honda Center parking areas

November 20, 2018

Page 2 of 7

2. Memorandum of Purchase and Sale Agreement between the City and Buyer (the “**Memorandum**”);
3. Grant Deed made by the City as grantor to Buyer as grantee, transferring the Land, and reserving to the City certain utility easements;
4. Parking and Access Easement Agreement between Buyer as grantor and the City as easement holder, encumbering the Land (the “**Parking Easement**”);
5. Loading Dock Easement Agreement between Buyer as grantor and the City as easement holder, encumbering portions of the Land adjacent to Honda Center;
6. Equipment Easement Agreement between Buyer as grantor and the City as easement holder, encumbering portions of the Land adjacent to Honda Center;
7. Quitclaim Bill of Sale made by the City to Buyer as to certain personal property interests relating to the Land; and
8. Termination of Consent, Traffic and Parking and Non-Disturbance and Attornment Agreement among the City, Anaheim Ducks Hockey Club, LLC and AAM, terminating an out-of-date 1993 agreement establishing certain obligations of the City to the Anaheim Ducks and AAM.

DISCUSSION:

On October 23, 2018, Council approved a framework for staff to continue negotiations with AAM with respect to the sale of City-owned property around the Honda Center, ARTIC operations, amendment of the Honda Center Facility Management Agreement, and the long-term retention of the Anaheim Ducks. The negotiations have resulted in the HC Amendment, the ARTIC FMA, and the Land Agreements, as well as an agreement to keep the Anaheim Ducks at the Honda Center through the 2047-2048 season, and possibly beyond.

Staff is recommending City Council action approving (a) the HC Amendment, (b) the ARTIC FMA, and (c) the Land Agreements, all of which, collectively, will serve to keep the Anaheim Ducks in Anaheim through at least 2048, maintain ongoing capital investment in the Honda Center, and remove ARTIC’s annual general fund operating obligation while facilitating AAM’s future development of under-utilized land within the Platinum Triangle.

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November 20, 2018

Page 3 of 7

Background:

Platinum Triangle:

In 2004, the City adopted the Platinum Triangle Master Land Use Plan (PTMLUP) to provide opportunities for well-designed development projects that would combine residential with other uses including office space, retail, and business services in the 820-acre area surrounding and including Angel Stadium of Anaheim and Honda Center, generally north of Interstate 5 and west of the 57 freeway.

Objectives of the PTMLUP included creating a unique integrated, walkable urban environment to encourage pedestrian activity, creating a design where all development would be harmonious, reinforcing transit opportunities around ARTIC, and stimulating market-driven development investment.

The City has completed the environmental review process, pursuant to the California Environmental Quality Act (CEQA) to allow streamlined development processing for up to 17,501 residential units, 4.8 million square feet of commercial development, 9.2 million square feet of office development and 1.5 million square feet of institutional land use (government offices, transportation facilities, public or private colleges and universities, public utilities, hospitals, community centers, etc.).

To date, only 3,358 residential units and 39,369 square feet of commercial development have been constructed in accordance with the PTMLUP. This new development is in addition to the 670,000 square feet of commercial development and 1.9 million square feet of office development that already existed within the Platinum Triangle prior to the adoption of the PTMLUP. Future approved development includes an additional 4,109 residential units, 647,600 square feet of commercial development and 77,000 square feet of office development, which the City has entitled through development agreements. Of these residential units, 1,872 are currently under construction. Remaining development intensity that has not yet been entitled to specific property owners includes more than 10,000 residential units, 3.4 million square feet of commercial development and 11 million square feet of office development.

Honda Center:

Honda Center, a 19,000-seat arena owned by the City of Anaheim, opened on June 19, 1993, under the management of Ogden Facility Management Corporation of Anaheim. The Anaheim Ducks (formerly known as the Mighty Ducks) were the first permanent tenant and one of the National Hockey League's expansion franchises that year.

On December 16, 2003, following the bankruptcy of Ogden, the City entered into a Facility Management Agreement with AAM, a subsidiary of H&S Ventures, LLC and in 2005, H&S Ventures, LLC purchased the Anaheim Ducks. The Ducks then became the first ever California Stanley Cup champions in 2007. The Honda Center sits across Katella Avenue from ARTIC and

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November 20, 2018

Page 4 of 7

adjacent to the 57 freeway, which allows for access to the venue from multiple modes of transportation.

ARTIC:

In December 2014, the City opened ARTIC, a transit hub in the Platinum Triangle, a growing and dynamic mixed use area, and within walking distance of both the Angel Stadium and the Honda Center. ARTIC serves as a transit hub for Orange County and the entire Southern California region with bus and rail services that include: Amtrak Metrolink, Orange County Transportation Authority Anaheim Resort Transportation, Tres Estrellas De Oro bus service to Mexico, Greyhound, Megabus.com, Flixbus, shuttles, taxis, and outdoor bicycle racks and lockers.

Since January 2018, the City and AAM entered into negotiations to secure opportunities to create an entertainment district within the Platinum Triangle, keep the Anaheim Ducks in Anaheim, remove the City's \$2.5 million general fund obligation from operating ARTIC, and create opportunities to create and secure revenue and other economic benefits that could be realized through development of under-utilized city land. The following is a summary of the critical terms of the proposed agreements:

Honda Center Amendment:

- Based management term is extended to June 30, 2048, with five 5-year extension options.
- Anaheim Ducks commit to keep name and play at Honda Center through June 30, 2048, with five 5-year extension options.
- All operating expenses and capital expenditures continue to be the responsibility of AAM for entire term of the Agreement.
- City shares in profits over agreed threshold 50-50 with AAM, after repayment of loans (this will increase the City's opportunity to share in profits at 50% from 25% of current agreement).
- Profit sharing threshold is reduced by 50% (\$12MM to \$6MM), allowing the City to share in profits earlier.
- AAM assumes all obligations to provide 3900 parking spaces for Honda Center, relieving City of this long-term obligation

ARTIC FMA:

- ATCM assumes management of ARTIC through June 30, 2048, with the option to extend its management obligations for five 5-year extension terms.
- ATCM responsible for all operating losses up to \$2.5MM annually.

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November 20, 2018

Page 5 of 7

- AAM/ATCM will advance all expenses of a sign “Spectacular” at ARTIC, with all proceeds applied to operating expenses.
- AAM fully guarantees ATCM performance.
- City and ATCM share in net profits, as defined in the agreement, 60% to City, 40% to ATCM.

Land Agreements:

Since 2004, the City created a vision to develop the Platinum Triangle and as previously described, development has been minimal, especially in and around the city’s sports arenas. City-owned land surrounding the Honda Center is severely encumbered with 3,900 parking spaces for the Honda Center, thereby limiting the City’s ability to develop its land due to the need to satisfy parking requirements before any development could occur. Consideration to sell city-owned land to AAM could create endless opportunities. AAM is better positioned to develop around the Honda Center while finding solutions to mitigate traffic through greater use of the ARTIC station, as they can integrate their operations and transportation planning for the Honda Center, while utilizing its open space to promote greater fan experience.

- Parcels 1, 3, 4, and 5, total of approximately 16 acres. This city-owned land to be sold at fair market value as determined by an MAI appraisal ordered by the City (total of \$10,100,000); the appraisal is based on the value of the land as encumbered by the Parking, Loading Dock and Equipment Easements.
- Value protection covenants for the benefit of City:
 - All Land must be maintained for use as parking areas and related access for Honda Center in perpetuity unless and until parking is relocated to nearby areas under a development plan to be approved by the City.
 - Buyer has no right to sell the Land or transfer it to anyone other than its affiliates until a development plan has been approved by the City and the Land is entitled for development, or for 5 years, whichever occurs first.
 - Buyer is required to submit a development plan within 18 months after the Closing Date, and submit entitlement plans within 12 months after City approval of the development plan, all at Buyer’s expense.
 - If the Land is never developed, the City has the right, but not the obligation, to repurchase it when the Honda Center Facility Management Agreement terminates in 2048; otherwise, it will continue to be used for Honda Center parking in perpetuity.
 - All value protection covenants are incorporated in the recorded Memorandum, and will run with land, binding any future land owner.
- Expected Closing Date: January 31, 2019

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November 20, 2018

Page 6 of 7

- Conditions for City's benefit: Closing of the Land Agreements will not occur unless the HC Amendment and ARTIC FMA are also effective; closing also subject to City's mapping of the Land into legally subdivided lots
- AAM is fully liable for Buyer's obligations under the PSA

The foregoing agreements build upon the City's vision to develop the Platinum Triangle with a desired entertainment district. Under the proposed agreements the city would not only potentially grow its revenue base, but continue to own world class facilities. H&S Ventures, LLC is a partner who has demonstrated their commitment to investing capital and providing great fan experience. Further, H&S Ventures is committed to the community and to Anaheim's growth, and is invested in ensuring that development in and around Honda Center is successful. Their agreement to keep the "Anaheim" Ducks at the Honda Center through 2048, and possibly beyond, demonstrates their commitment to Anaheim and desire to develop a thriving entertainment district.

IMPACT ON BUDGET:

There would be one-time revenue to the general fund associated with the land sale in the amount of \$10,100,000. In addition, approximately \$70M in general fund savings associated with the ARTIC operation over the course of the agreement (through 2048), estimated at the current loss of \$2.5MM, annually and anticipated future developmental revenue at an amount undetermined at this time.

Respectfully submitted,

Respectfully submitted,

Tom Morton
Executive Director
Convention, Sports & Entertainment Department

Linda Andal
City Clerk/City Manager's Office

Attachments:

1. Facility Management Agreement for the Honda Center dated 12-16-2003
2. First Amendment to Facility Management Agreement for the Honda Center dated 6-20-2006
3. Second Amendment to Facility Management Agreement for the Honda Center dated 7-15-2009
4. Third Amendment to Facility Management Agreement for the Honda Center dated 3-1-2011
5. Amended and Restated Third Amendment to the Facility Management Agreement in substantial form

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November 20, 2018

Page 7 of 7

6. Facility Management Agreement for ARTIC in substantial form; list of agreements depicted in Schedule 2 Property Agreements of the Facility Management Agreement for ARTIC
7. Land Agreements related to the sale of the Honda Center parking areas (Land Agreements):
 - a. Purchase and Sale Agreement (the “**PSA**”) between the City as seller and TS Anaheim, LLC, an affiliate of AAM and controlled by H&S Ventures, LLC, as buyer (“**Buyer**”) for the sale of the portions of Honda Center parking lots 1, 3, 4 and 5 owned by the City (the “**Land**”);
 - b. Memorandum of Purchase and Sale Agreement between the City and Buyer (the “**Memorandum**”);
 - c. Grant Deed made by the City as grantor to Buyer as grantee, transferring the Land, and reserving to the City certain utility easements;
 - d. Parking and Access Easement Agreement between Buyer as grantor and the City as easement holder, encumbering the Land (the “**Parking Easement**”);
 - e. Loading Dock Easement Agreement between Buyer as grantor and the City as easement holder, encumbering portions of the Land adjacent to Honda Center;
 - f. Equipment Easement Agreement between Buyer as grantor and the City as easement holder, encumbering portions of the Land adjacent to Honda Center;
 - g. Quitclaim Bill of Sale made by the City to Buyer as to certain personal property interests relating to the Land; and
 - h. Consent, Traffic and Parking and Non-Disturbance and Attornment Agreement dated 2-26-1993
 - i. First Amendment to Consent, Traffic and Parking and Non-Disturbance and Attornment Agreement dated 3-31-1993
 - j. Termination of Consent, Traffic and Parking and Non-Disturbance and Attornment Agreement among the City, Anaheim Ducks Hockey Club, LLC and AAM, terminating an out-of-date 1993 agreement establishing certain obligations of the City to the Anaheim Ducks and AAM
 - k. Guarantee from Anaheim Arena Management, LLC