

RESOLUTION NO. R-2001-102

A RESOLUTION of the City of Yakima, Washington, approving the lease of the Yakima Convention Center to the Yakima Regional Public Facilities District; and approving an agreement between the City and the Yakima Regional Public Facilities District for the purpose of financing, expanding, operating and maintaining the Yakima Convention Center.

WHEREAS, the City of Yakima ("Yakima") currently owns and operates the Yakima Convention Center (the "Convention Center"), providing first-class meeting, ballroom and other event facilities;

WHEREAS, the City of Yakima, together with the Cities of Selah and Union Gap, desire to expand the Convention Center to stimulate economic development by creating jobs; realize additional sales tax and lodging tax revenues; attract commercial business and tourism; and provide facilities for convention, special events and community events including public meetings and performing arts events for, among others in the region, the residents of Yakima (the "Project");

WHEREAS, pursuant to Chap. 35.57 RCW (the "Act") the Cities of Yakima, Selah and Union Gap have approved the creation of the Yakima Regional Public Facilities District (the "District") to assist in completing the Project;

WHEREAS, the District has access to several new revenue sources to complete the Project, including a state sales and use tax credit (the "Sales Tax"), which operates to shift 0.033% of the retail sales and use taxes generated within the District boundaries to the District;

WHEREAS, the Act requires a 33% local match in order for the District to impose the Sales Tax and, accordingly, Yakima desires to transfer a leasehold interest in the Convention Center to the District in satisfaction of this match requirement (the value of the Convention Center and the underlying site is approximately \$11,800,000);

WHEREAS, the value of the leasehold interest is estimated to be significantly more than 33% of the net present value of projected Sales Taxes of the District (approximately \$2.4 million), thereby satisfying the match requirement;

WHEREAS, Yakima intends to issue bonds and apply the net proceeds to finance the Project, in consideration for the District's pledge of all Sales Tax receipts to Yakima to pay debt service on the bonds and other Project costs;

WHEREAS, Yakima also intends to contribute lodging taxes to the District, in an amount, if any, determined annually by the Yakima City Council, to the operation of the Convention Center, and will contribute revenues to the District in the event of a Sales Tax shortfall;

WHEREAS, Yakima will design and construct the Project, and will operate and maintain the Convention Center, as expanded by the Project;

WHEREAS, Yakima desires to enter into an agreement with the District providing for such financing, design, construction, operation and maintenance of the Convention Center, as expanded by the Project;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Yakima, Washington:

Section 1. Approval of Lease Agreement. The City hereby approves the Lease Agreement with the District in substantially the form attached as Appendix A hereto (the "Lease Agreement"), with such changes consistent with the intent of the attached form as the City Manager shall approve.

Section 2. Approval of Development Agreement. The City hereby approves the Design, Development, Construction, Financing and Operating Agreement with the District, in substantially the form attached as Appendix B hereto (the "Development Agreement"), with such changes consistent with the intent of the attached form as the City Manager shall approve. The Development Agreement also constitutes a sublease of the Convention Center property back to the City.

Section 3. Authorization of Documents. The City Manager is hereby authorized to execute the Lease Agreement and the Development Agreement. The City Manager and his designee, and each of the other appropriate officers, agents and representatives of Yakima are each hereby authorized and directed to take such steps, to do such other acts and things, and to execute such instruments as in their judgment may be necessary, appropriate or desirable in order to carry out the terms and provisions of, and complete the transactions contemplated by this resolution.

Section 4. Effective Date. This Resolution shall be in effect from and after its adoption.

ADOPTED at a regular meeting of the Council of the City of Yakima, Washington this
19th day of June, 2001.

ATTEST:

CITY OF YAKIMA, WASHINGTON

Karen S Roberts

City Clerk

By

Mary Place

Mayor

BUSINESS OF THE CITY COUNCIL
YAKIMA, WASHINGTON
AGENDA STATEMENT

Item No. 18

For Meeting Of: June 19, 2001

ITEM TITLE: Public Facilities District (PFD): an ordinance to form a Public Facilities District and a Resolution to adopt Development and Lease Agreements

SUBMITTED BY: Dick Zais, City Manager *DZ*
Rita Anson, Finance Director *RA*

CONTACT PERSON/TELEPHONE: Rita Anson #575-6050
Tim Jensen, Accountant, #575-6050

SUMMARY EXPLANATION: In 1999, the Washington State Legislature passed legislation that allowed Cities to establish a Public Facilities District (PFD) for the purpose of owning and operating a Regional Center. Under this legislation, a Public Facility District is allowed to receive revenue from the state in the form of a sales tax credit, if certain criteria are met. This revenue comes from sales taxes already paid by the buyer of goods within the City; this is not a new nor an increased tax. By establishing a PFD, a portion of the sales taxes currently being collected and going to the state can be directed back to our local area (to the PFD).

For the past several months, the Cities of Yakima, Union Gap and Selah have researched the possibility of forming a three city PFD for the purpose of re-directing these sales tax revenues to the local area and using the funds to finance an expansion to the Yakima Convention Center.

The formation of a PFD requires the parties to pass an ordinance for that purpose; the Interlocal Agreement between the cities is an Attachment to the ordinance and the PFD Charter and Bylaws are included as exhibits to the Interlocal Agreement. These are the documents needed to establish the PFD. With the understanding that the Yakima City Council would consider the formation of a three city PFD at its June 19, 2001 meeting, Union Gap and Selah approved the formation of a joint PFD at their June 11th and 12 Council meetings, respectively. (Note: the, Charter, Bylaws and Interlocal Agreement documents passed by the three cities must be substantially identical. The ordinance needed by Yakima will be somewhat different from that passed by Union Gap and Selah as Yakima has more involvement in the PFD and therefore the Yakima ordinance will cover more elements; however, the ordinances may not be inconsistent.)

Continued on next page ...

Resolution <u>X</u>	Ordinance <u>X</u>	Other (Specify) _____
Contract _____	Mail to (name and address): <u>see special instructions in document</u>	
		Phone: _____
Funding Source <u>PFD (sales tax credit)</u>		
APPROVED FOR SUBMITTAL: <u><i>DZ</i></u>		City Manager _____

STAFF RECOMMENDATION: Pass Ordinance and Adopt Resolution

BOARD/COMMISSION RECOMMENDATION:

COUNCIL ACTION:

In addition to the ordinance and related documents (noted above) that must be passed by all three cities in order to form the PFD; Yakima and the Public Facilities District must also enter into two additional agreements to effect the balance of the agreement under which the PFD and the City would function;

- (1) Lease Agreement; Yakima provides a 25 year lease of the Convention Center to PFD,
- (2) Design, Development, Construction, Financing and Operating Agreement (aka: Development Agreement): performs multiple functions:
 - (a) Assigns responsibility for the Design, Development and Construction of the expansion of the Convention Center to Yakima and establishes the terms thereof;
 - (b) Establishes a sublease of the Convention Center from the PFD to Yakima; and
 - (c) Assigns responsibility for the operation and maintenance of the convention center to Yakima and establishes the terms thereof

Due to the multiple purposes of the Development Agreement, it is a relatively long and complex document. When reading the Development Agreement, it is helpful to keep in mind that the Agreement specifies the authority, responsibilities and restrictions of the PFD and Yakima based on the agreements that Yakima has leased the Convention Center to the PFD and that the PFD has sub-leased the facility back to Yakima. (ie: Yakima and the PFD are each a lessor and a lessee)

A Complete Set of the PFD Legal Documents Include:

- Yakima Ordinance establishing the PFD; enclosed
 - Interlocal Agreement (as an Attachment to the Ordinance); distributed next week
 - Charter (as an Exhibit to the Interlocal Agreement); distributed last week
 - Bylaws (as an Exhibit to the Interlocal Agreement); distributed last week
- Resolution to Adopt the following Contracts;; enclosed
 - Design, Development, Construction, Financing and Operating Agreement; enclosed
 - Lease Agreement; enclosed
- Updated copy of the Ordinance as approved by the cities of Union Gap and Selah, will be distributed to you, for your records, when received

Please Note:

- For your convenience, you may wish to insert the above documents into the three-ring binder provided to you last week.
- The Yakima Ordinance is enclosed
- The Interlocal Agreement had one slight change in wording due to a request by the Selah City Council – it did not change the agreement in any way; however, for consistency with Selah and Union Gap, Council will need to vote on the new version. Union Gap is updating the document and Yakima had not received it prior to going to print; therefore, it is not enclosed. It will be distributed at the Council meeting. Again, the change made by Selah only changed the location of some wording within the document, thus, the copy you received last week is still accurate as to all aspects of the agreement.
- The Charter and Bylaws you received in last week's Council package have not changed, therefore, copies of these documents are not enclosed.
- The Resolution to approve the Development and Lease Agreements and the Agreements themselves are enclosed

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OVERVIEW OF FINAL PFD PROPOSAL :

GENERAL:

- A three City Public Facility District; Selah, Union Gap and Yakima
 - *Yakima will indemnify Union Gap & Selah from legal challenges to the formation of PFD
 - A seven member PFD Board will be appointed as follows:
 - 1 Member - Union Gap City Council Discretion
 - 1 Member - Selah City Council Discretion
 - 1 Member - Yakima City Council Discretion
 - 4 Members - Yakima City Council based on input from community groups
- Note: The City that appoints the board member may also remove the member
- Once PFD Board is appointed, the existing Yakima Valley Visitors & Convention Bureau Advisory Committee previously established by Yakima City Council, will be dissolved
 - District's powers to impose the Voted Sales Tax is subject to the approval of all three Cities prior to placement on the ballot
 - Yakima will have approval authority for PFD's annual budget and must approve any admission and parking fees/taxes, any gambling activities any public display of artwork and the acquisition or transfer of real and personal property valued over \$100,000
 - Yakima is responsible for design and construction of Convention Center expansion

FINANCIAL:

- Yakima will issue 25 yr. bonds and use net proceeds to fund Convention Center expansion
- Yakima will provide a 25 year lease of the Convention Center (Building and Land) to the PFD in satisfaction of the 33% match requirement
- PFD to sub-lease the Convention Center to Yakima to Operate and Maintain
- The Convention Center expansion will cost approx. \$10 million, including debt service
- So long as the bonds are outstanding, only Yakima has the ability to dissolve the PFD
- PFD will impose a .033% sales tax (credit) which will re-direct to the PFD revenues that are currently going to the state (sales tax revenues from sales within the three cities)
- PFD will transfer to Yakima all revenues received; such revenues will be used to pay debt service on bonds, to pay operating and maintenance expenses of the Convention Center and/or other Regional Center purposes
- In the event that the District's sales tax revenues are insufficient to cover the debt service on the bonds, Yakima will have sole responsibility for making up any deficiency; Union Gap and Selah will not be required to contribute. Note: we believe the probability of this occurring to be very low and in the unlikely event of such an occurrence, the amount of any funding requirement from Yakima to be minimal. (For more information, refer to Attachment B - impact of a 5% and a 10% loss in sales tax revenues from all three Cities and Attachment C - five year sales tax revenue history for each of the three cities.)
- Yakima will contribute lodging taxes, in an amount, if any, determined annually by the Yakima City Council, to support debt service payments, operation and maintenance of the Convention Center and/or other Regional Center purposes

* This is a new agreement with the Cities of Union Gap and Selah since the last update to Council. They requested this during the final negotiations prior to their approval of the formation of the PFD

OTHER CONSIDERATIONS:

The enclosed plan for the formation of the Public Facilities District, the financing of the expansion of the Convention Center and the on-going operation and maintenance of the Center is based on weeks of analysis and research including numerous discussions with legal counsel, bond counsel, bond underwriters, the department of Revenue, the State Auditors Office, members of the Yakima Visitors and Convention Bureau its Board and Advisory Committee, staff and Council Members from the Cities of Selah, Union Gap and Yakima, owners and employees of local motels/hotels, consultants and appraisers. Many documents and studies have been prepared as part of this research, including Market/Financial Analysis Study of the Convention Center Expansion, Preliminary Architect Evaluation and an Appraisal of the existing Convention Center.

This proposal is based on the combined results of all of the above research keeping in mind the City's three primary financing objectives; (1) to minimize the impact on the City's general obligation debt capacity, (2) to maximize the funds available for the expansion of the Convention Center and (3) to provide a marketable bond offering to the public. Yakima is establishing a PFD that is different in some significant respects from other PFDs that have been formed to date and our financing proposal is creative and sensitive to market changes. Therefore, please keep in mind:

- No guarantees that the bonds will be marketable
- Changes in the Bond Market may require changes to our financing plan, which could have an impact on the expansion plans
- No guarantees that the Department of Revenue will approve the use of the lease agreement to satisfy the match requirement (which triggers our ability to attain the sales tax credit)
- To make the financing plan work, the Convention Center may have to temporarily reduce operating expenditures and /or non-operating expenditures such as promotional expenses

Discussions with rating agencies and investment bankers indicate that the financing plan is both reasonable and achievable; however, nothing is certain until we actually go to market with the bond issue. In spite of the risks noted above, City staff, legal counsel and bond counsel believe this proposal to be a conservative, legal and, in the case of the bonds, a marketable plan.

NEXT STEPS:

If the Yakima City Council approves the formation of a Public Facilities District (PFD) the next steps include:

- Appointment of Board Members (staff is preparing an outline of a nomination and appointment process for Council's review; this will be distributed in the near future)
- Board to Hold Organizational Meeting Within 30 days of Effective Date of PFD Formation. At this meeting the following needs to occur:
 - Approve the Lease Agreement
 - Approve Development Agreement
 - Impose the State Sales Tax (Credit)
 - Other Organizational Activities
- Submit Request to Department of Revenue to Commence Transfer of Sales Tax Revenue to the Public Facilities District
- Commence Pre-construction Activities for the Convention Center Expansion
- Amend existing management agreement for the operation and maintenance of the Convention Center to be consistent with PFD Development and Lease Agreements

Note: the construction bonds will not be issued before mid year 2002. This is to allow the sales tax revenues to build up and be sufficient to cover the first debt service payment on the bonds (which will occur approximately six months after the issuance of the bonds) and to provide some reserves for future payments.

Attachments: :

- A: Questions from one Council Member and related Answers
- B: Worksheet identifying impact of a 5% and a 10% reduction in sales tax revenues of the Cities of Selah, Union Gap and Yakima
- C Worksheet reflecting the sales tax revenues for each of the three cities for the past five years