

**Differences between contract discussed at 2/18 City Council Meeting and final contract.**  
**3/10/21**

The revisions to the contract address Council Members' concerns of 2 points in the original contract language, **Section 30. CIVIC PLAZA BUILDING**. During the discussion at the February 18 City Council meeting, staff and developer were asked to work on additional language that would provide stronger safeguards, assuming worst case scenarios, given market uncertainties.

1. The first point was that the prior contract only included general language for the building to compliment and activate the plaza. It was previously stated this way:

- A. The Civic Plaza Building shall be an approximately 18,000 square feet three-story building with a fourth-floor outdoor patio.
- B. The Civic Plaza Building will be constructed in material conformance with the design presented by Rob Sharp, a copy of which is attached as Exhibit B.

The new contract is **more specific** in the building **use** with added language requiring the first floor of the civic plaza building to accommodate retail, restaurant or commercial use including at least one business offering food or beverage service **or** in accordance with the Rob Sharps design that is an exhibit to the contract. ***We feel it more strongly emphasizes our interests to activate the space as fully as possible.***

- A. The Civic Plaza Building (A) will be designed so that the ground floor can be operated by one or more tenants whose business offers or accommodates retail, restaurant, or commercial uses and at least one tenant offering food or beverage service which is oriented toward the Civic Plaza or (B) shall be constructed in material conformance with the design presented by Rob Sharp, a copy of which is attached as Exhibit B.

2. The second point was that the prior contract did not include specific language that would give the city recourse if the developer did not construct the building as specified in A. in **a timely** way. Section H (formerly G) was strengthened considerably. It used to read:

- H. The Purchase Price will be waived if the Civic Plaza Building is completed to a "black box" finish no later than two (2) years after the date the City receives a Certificate of Occupancy for the Parking Deck. For purposes hereof, the term "black box" shall mean that the exterior of the Civic Plaza Building will be completely finished with all doors, windows and exterior finishes fully installed, all utilities installed to be accessible to the interior of the building and ready for final installation. Buyer agrees to use its best commercially reasonable efforts to have the Civic Plaza Building occupied and open for business as soon as reasonably practical.

There is now language that provides *incentives to build* the specific Civic Plaza Building *in a timely way* with incrementally increased costs due to the city if the building is not completed by specific dates from the COO of the parking deck. Additionally, *if worst case scenario* prevents Civic Plaza Building from being constructed within a 10 year period from the opening of the deck, the city has the right to acquire the property back at the same costs paid to the city by developer (\$263,000 as specified *in 2. PURCHASE PRICE*). Also, “black box” is defined.

G. Seller will waive and release Buyer from the Purchase Price in full if the Civic Plaza Building is completed to a “black box” finish no later than two (2) years after the date the City receives a Certificate of Occupancy (“COO Date”) for each unit it owns in the Parking Deck. If the Civic Plaza Building is not completed to a black box finish within two years of the COO Date then Seller will waive and release Buyer from the Purchase Price according to the following time periods and amounts:

- i. If the Civic Plaza Building is completed to a black box finish between the second and third annual anniversary of the COO Date, Seller will waive and release Buyer from ninety percent (90%) of the Purchase Price;
- ii. If the Civic Plaza Building is completed to a black box finish between the third and fourth annual anniversary of the COO Date, Seller will waive and release Buyer from eighty percent (80%) of the Purchase Price;
- iii. If the Civic Plaza Building is completed to a black box finish between the fourth and fifth annual anniversary of the COO Date, Seller will waive and release Buyer from seventy percent (70%) of the Purchase Price;
- iv. If the Civic Plaza Building is not completed to a black box finish within five (5) years of the COO Date, then no portion of the Purchase Price will be waived or released and Buyer shall pay Seller the Purchase Price in full no later than the date that is seven years after the COO date.

H. In the event that the Buyer has not constructed the Civic Plaza Building within ten (10) years from the COO Date, the Seller shall have the right to acquire the Property from the Buyer for a purchase price equal to the Purchase Price.

For purposes hereof, the term “black box” shall mean that the exterior of the Civic Plaza Building will be completely finished with all doors, windows and exterior finishes fully installed, all utilities installed to be accessible to the interior of the building and ready for final installation. Buyer agrees to use its best commercially reasonable efforts to have the Civic Plaza Building occupied and open for business as soon as reasonably practical.