

November 13, 2017

MEMORANDUM

To: Members of the Select Committee on Civic Arenas
From: Kirstan Arestad, Director of Central Staff
Subject: CB 119088 KeyArena Redevelopment MOU

On Thursday, November 16, the Select Committee on Civic Arenas (Committee) is scheduled to discuss and vote on [CB 119088](#), authorizing the Mayor to execute a Memorandum of Understanding (proposed MOU) with the Oak View Group, LLC, to redevelop KeyArena at Seattle Center and turn it into a world-class, multi-purpose sports and entertainment arena. The proposed MOU was transmitted to the City Council on September 12 and its content was discussed in Committee on September 18.

This memo provides context for a vote on the proposed MOU by addressing the following topics:

- A. Brief History of KeyArena Redevelopment Deliberations;
- B. Analysis of Project Objectives, Principles and Priorities;
- C. Possible Amendments to Proposed MOU; and
- D. Next Steps.

More information about the redevelopment project, including the RFP, committee schedules, FAQs and timelines, is available at <http://www.seattle.gov/council/committees/civic-arenas>. Councilmembers may also wish to refer to the *KeyArena Redevelopment Proposed MOU, September 2017* binder prepared by Central Staff and distributed prior to Committee's meeting in September.

A. Brief History of KeyArena Redevelopment Deliberations

The most recent major renovation for KeyArena occurred over 20 years ago when the Arena received more than \$100 million in renovations to improve the City's ability to host major sports and entertainment events. Over the last few years, the Council has been engaged in various conversations about the aging Arena. To inform these conversations, the Council commissioned a study in 2014 to evaluate options for future use of the Arena, including as a possible home for an NBA or NHL team. This resulted in the [June 2015 Identification and Evaluation of Options for the Future of KeyArena report](#) (AECOM report). The consulting team

was charged with identifying and evaluating “a range of future use options, keeping in mind Seattle’s goal to maintain the arena site as a financially sustainable facility that will continue to attract visitors and contribute to the vitality of the campus.” The report concluded that for the City to attract a sports franchise, the Arena would need to be modernized.

In 2016, the City of Seattle was approached by several parties who indicated an interest in redeveloping the aging Arena. The City subsequently issued a Request for Proposal (RFP) on January 11, 2017.

The City received two proposals in April 2017, in response to the RFP. OVG was selected as the preferred proposer in June 2017. In order to make the most of the opportunity to bring at least one new national sports franchise to Seattle (not a requirement of the RFP) and to minimize potential impacts to the Seattle Storm, City officials laid out an expedited schedule and process.

Negotiations with the OVG Group proceeded over a four-month period (from June to September). Rather than convening separate Executive and Legislative negotiations, the Executive agreed with Council to have the Council’s voice represented in these discussions, with the understanding that this involvement in no way presumed Council’s final concurrence. The City Attorney’s Office and various outside legal, financial, and sports and entertainment advisers assisted the City with the negotiations.

In observance of the separation of powers principle, the Council retained a financial consultant to provide independent analysis to the Council. (More on the consultant’s financial analysis can be found under Section B.)

B. Project Objectives, Principles and Priorities

The proposed MOU is the document that provides for an agreed-upon framework and set of business points that will eventually be memorialized in the Development Agreement, Lease Agreement, and the Seattle Center Integration Agreement (Transaction Documents). The full details of the KeyArena redevelopment project will be set out in these Transaction Documents. The MOU is not intended to (and cannot practically) address every detail of the project.

The priorities for KeyArena redevelopment have been articulated in various forums. Specifically, the RFP identified redevelopment project objectives; a Community Advisory Group (comprised of community leaders) offered a series of [principles](#) to guide the Arena’s redevelopment; and the Council, in its [June 26, 2017 letter](#) to the Mayor, and via [Resolution 31764](#) adopted on August 14, 2017, articulated many of its highest priorities and its commitment to the City’s timeframe for negotiating the deal.

The common themes of the RFP objectives, the Community Advisory Group principles, and the Council’s priorities generally fall into the following six categories:

- 1) The project must positively integrate with **Seattle Center**;
- 2) **City Tenant impacts** must be addressed;
- 3) **Transportation impacts** must be mitigated;
- 4) Project construction and operations must treat **workers** equitably and consistent with the City’s Race and Social Justice Initiative principles;
- 5) Needs of impacted **neighborhoods** must be addressed; and
- 6) The project must be **fiscally prudent**.

Below is a brief overview of how the categories mentioned above are addressed in the proposed MOU:

1) **Seattle Center Integration**

The proposed MOU “acknowledges that the City and OVG have a mutual interest in ensuring that the design, construction, and operation of the reconstructed Arena integrates into the physical space and operations of the greater Seattle Center campus in a manner that benefits the campus, its anchor tenants, and the public.” These requirements include things like meeting a LEED Gold rating. Other provisions of the MOU address how the design and construction of the Arena Tenant Improvements will integrate with the campus. The key points of this provision shall be incorporated into the Transaction Documents.

Naming Rights. Under the proposed MOU, the naming of the redeveloped Arena would be OVG’s right, which means OVG would select the name and receive any revenues. In doing so, OVG must seek the prior approval of the Seattle Center Director, “which approval will not be unreasonably withheld, conditioned, or delayed.” The Director has indicated to Council that in the spirit of seeking community engagement and Council’s input, he would consult with other Seattle Center tenants before making such approval.

Community events. Community Events are also taken into consideration. OVG will provide the City with 14 rent-free days per calendar year to allow for up to six consecutive days for the annual Bumbershoot festival, and up to eight consecutive days annually for the Seattle/King County Clinic. Other community events could also be scheduled during the 14 rent-free days.

Community Benefits Agreement. The MOU requires OVG to enter into a Community Benefits Agreement (CBA) with community organizations to foster equity and social justice and provide benefits to the communities that will be affected by the Arena, including programs and services for youth, arts, music, and culture. The CBA is to be developed with input from appropriate community organizations, community members and the City. The

MOU states that the “CBA shall also provide the structure for meaningful ongoing community dialog and partnership with OVG once the Arena is operational. Terms of the CBA shall be incorporated into the Development Agreement, and if appropriate, the Lease Agreement.” Although the MOU does not provide a specific timeline for the negotiation of the CBA, such an agreement must have been reached before the Development Agreement could be approved by Council.

Signage Plan. The City and OVG agree to enter into a mutually agreeable comprehensive “initial sign plan” to promote orderly, efficient and harmonious design and placement. Signage and Signage activation is subject to City approval. The plan will be included in the Development Agreement, and the process for updating and revising the sign plan over the term of the lease will be addressed in the Seattle Center Integration Agreement.

2) City Tenant Impacts

The proposed MOU requires the Development Agreement to include a schedule and plan for the relocation of tenants.

Skate Park, public restrooms and other amenities. The proposed MOU has OVG paying \$1.5 million to the City for relocation of these facilities, to be spent at the City’s sole discretion (half paid at development construction commencement date, the other half at the operating term commencement date).

Pottery Northwest. PNW will be relocated to a temporary relocation and subsequent return to the premises will be at OVG’s cost and expense. Details of the return to the premises will be addressed in the Seattle Center Integration Agreement.

Seattle University/Seattle Storm. The relocation plan must address a schedule for notification and coordination between the City and OVG regarding relocation of home games played by Seattle University and the Seattle Storm. The City and OVG have also agreed to “use reasonable efforts to support the Seattle Storm or any successor WNBA team operating in Seattle at the Arena.” OVG will either assume City’s obligations pursuant to the City’s Facility Use Agreement with the Storm or enter into a new lease on terms and conditions to be negotiated between OVG and the Storm.

Other tenants. OVG will pay \$500,000 for “short-term and long-term solutions” for displaced tenants other than Pottery Northwest and the skate park. (Half would be paid within 30 days after approval of the MOU; the other half would be paid within 30 days of the commencement of construction of the Arena.)

3) **Transportation**

Mobility Action Plan Purpose and Goals. The north downtown Mobility Action Plan (MAP) will be developed by OVG and the City. The MAP is a planning and project identification document and which will be included as an exhibit to the Lease Agreement. OVG will pay for a transportation consultant separate from SEPA/EIS to develop and conduct this mobility planning effort at a cost not to exceed \$250,000.

City Transportation Fund. OVG will pay the City \$40 million dollars towards the City Transportation Fund. These funds, to be received in equal amounts over the 39-year lease period will be allocated at the City's sole discretion, including those identified in the Mobility Action Plan to improve network connectivity and improve overall traffic management. The City may also seek other public and private funding partners for advancing these goals. These funds will not be available to fund OVG's mitigation obligations identified as part of the environmental impact analysis required by the project.

4) **Equity for Workers**

Labor Harmony Agreements. The Lease Agreement will require OVG to enter into labor harmony agreements if labor organizations are interested in organizing operation and maintenance workers at the Arena. This requirement will be in effect for the duration of the Lease Agreement.

Prevailing Wage. All contracts for the construction of the Arena shall require the payment of wages at the prevailing rate established by state law.

Priority Hire. OVG and its contractors and subcontractors will either be signatories to the City of Seattle Community Workforce Agreement (CWA) or, if impracticable, a project labor/community workforce agreement with the same terms of the CWA must be implemented. OVG's community workforce agreement shall include priority hiring terms consistent with the City's Priority Hire Ordinance, which the Department of Finance and Administration will monitor for compliance.

Qualified Workers. The proposed MOU requires OVG and the City to develop a plan for the retention of Qualified Workers (employees who are working at KeyArena at the time construction begins and workers employed by contractors and subcontractors providing services at KeyArena). The plan shall specify a method for identifying Qualified Workers. Prior to closing of KeyArena for construction, OVG must offer eligible Qualified Workers an equivalent job at the reconstructed Arena.

Intermittent Workers. Intermittent workers are not addressed in the proposed MOU. These workers refer to the classification of on-call workers employed by the City. They have no guarantee of work hours or specific job assignments. Intermittent staffing is a standard

practice in the event industry as a contingent supplemental workforce to manage unpredictable levels of activity. Work is generally assigned based on seniority, skills, and a “first come, first serve” basis. Under current City policy, intermittent workers receive premium pay in lieu of benefits.

Community outreach. OVG will hire a full-time community liaison who will run day-to-day outreach operations. This individual will coordinate efforts with Tabor 100, the City, and other local community organizations to ensure that OVG’s hiring practices minimize barriers to entry for WNBES and underrepresented communities.

5) Neighborhood impacts

Community organizations. As noted previously, the MOU requires OVG to enter into a community benefits agreement with “community organizations” to foster equity and social justice and provide benefits to the communities that will be affected by the Arena, including without limitation opportunities to support and enhance programs and services for youth, arts, music, and culture.

Affordable Housing. OVG has agreed to comply with the City’s affordable housing impact mitigation requirement under SMC Chapter 23.58B. The City and OVG will agree upon the baseline square footage for calculation purposes.

Affordability and Access. OVG will use commercially reasonable efforts to have seats at a range of price points that are equitably distributed throughout the Arena bowl. OVG will also collaborate with its anchor tenants and community partners to identify opportunities to make reduced-priced tickets available in further of promoting greater access to Arena events.

6) Financial Prudence

The proposed MOU has OVG financing the estimated \$600 million project through a combination of equity partner contributions, federal historic tax credits and private loans. OVG is also required to obtain all permits and approvals at its sole expense. The proposed MOU is clear that should there be any additional costs associated with any construction delays not caused by the City, OVG shall bear 100 percent of those costs. Below is the list highlighting OVG’s main contributions:

- \$600 million project costs plus all cost over runs (construction is estimated at \$350 million).
- \$3.5 million to reimburse the City for consultant and outside counsel costs related to the execution and performance of the MOU and the Transaction Documents.

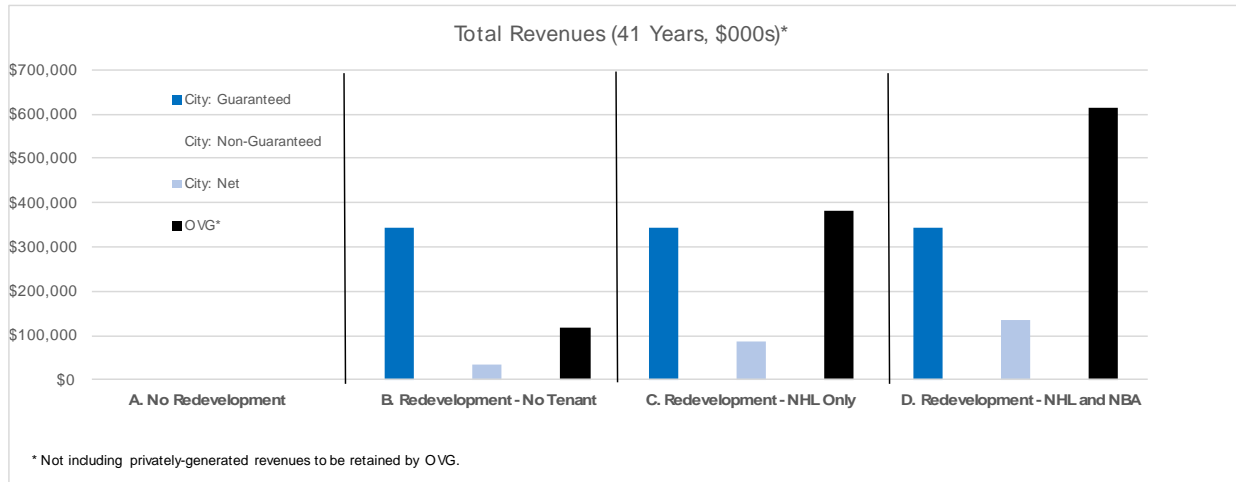
- \$40 million transportation payment over the 39-year lease term (or \$1.026M per year).
- \$250,000 for a transportation consultant.
- (\$TBD) Baseline rent, amount yet to be determined, by an accounting firm based on the four-year trailing historical annual average of arena-related revenues for years 2014 through 2017.
- \$20 million in kind or cash to non-profit organizations (not made directly to the City).
- \$500,000 for tenant relocation (Pottery Northwest addressed separately)
- All costs related to temporary and permanent relocation of Pottery Northwest
- Hire and pay for a Community Liaison
- 14 rent-free days per year.
- Dedicate 1% construction costs to the 1% for the Arts program.

The proposed MOU contains revenue sharing terms that the Council's independent financial consultant has projected will largely guarantee the City's revenue stream under any redevelopment scenario, while incentivizing OVG to add tenants. The agreement is structured so that OVG's incremental tax sharing revenue increases as tenants are added. The most profitable scenario for OVG (in terms of sharing of revenues with the City) is to bring in an NHL and/or an NBA team, in which case OVG's total revenues over the 39-year initial term of the lease are approximately \$614 million. The least profitable scenario for OVG is with no tenant, primarily because it will not generate the admissions tax revenue that would be generated in the tenant scenarios.

Under the four most likely redevelopment scenarios, the City's revenues are mostly guaranteed. As tenants are added, the City anticipates that its incremental tax sharing will rise moderately relative to OVG's share. This reflects the City's overall lack of financial risks under this proposal (a high priority of the City). OVG's incremental tax sharing revenues therefore increase at a greater rate.

The following chart summarizes the City and OVG’s revenues for the four scenarios:

- (A) No Redevelopment,
- (B) Redevelopment with No Tenant (entertainment only),
- (C) Redevelopment with NHL Tenant Only, and
- (D) Redevelopment with NHL and NBA Tenants.



OVG can pursue any of these redevelopment scenarios under the proposed MOU. The amounts shown cover a 41-year period from 2018 to 2057. This assumes two years of construction plus a 39-year lease term. From the City’s perspective, revenues include all guaranteed payments from OVG to the City (e.g., base rent, transportation fund payments, etc.), as well as the City/OVG share of incremental tax revenues (25/75 in first 10 years; 50/50 in remaining years of lease term). OVG’s revenues would include its share of incremental tax revenues only.

Note that the OVG share reflected in the chart does not include revenues generate from “arena operations” (i.e., rent, concessions, sponsorships, etc.) or deductions for any expenses for operations, debt service, and various financial commitments to the City as outlined in the MOU. Consequently, OVG is highly incentivized to add tenants, as its revenue from incremental tax sharing would increase significantly.

In the “no-redevelopment scenario,” it’s assumed that the City’s current revenue levels from arena operations would be maintained in the future. However, the City’s net revenues would effectively zero, as these revenues are dedicated to specific uses. In that significant capital investment from the City would be required, this could then, in all probability, consume most or all assumed revenues for repayment of that investment.

C. Possible Amendments (to MOU, Ordinance, and/or Transaction Documents)

Below are possible amendment topics for Committee discussion.

	Subject	Section	Possible Amendment Topics
1.	Naming Rights	Section 23(a)	Require Seattle Center to consult with tenants at Seattle Center before re-naming the Arena.
2.	Scheduling Agreement	Section 23(b)	Require scheduling coordination between OVG, Seattle Center, and Seattle Center arts and cultural organizations such as the Pacific Northwest Ballet and the Seattle Opera, and require that coordination obligation to be incorporated into the Seattle Center Integration Agreement.
3.	Signage Plan	Section 18	Require the City and OVG to consult with other Seattle Center tenants before entering into a mutually agreeable comprehensive initial signage plan.
4.	Pottery Northwest	Section 21(e)(ii)	Require OVG to reimburse Pottery Northwest for all relocation costs and any other financial loss associated with its temporary relocation.
5.	Transportation Fund Spending	Sections 9(f) and 17(b)	Restrict the use of the City's transportation fund, to which OVG is contributing, to prohibit any payment for capital improvements for the monorail.
6.	Worker Equity	Section 15(k)	Require OVG to pay the City's qualified intermittent workers salary and benefits commensurate with City salary and benefits for those intermittent workers; their retirement savings would be transferrable should workers so choose.
7.	Neighborhoods	Exhibit J	<p>Modify Exhibit language for the following two subsections:</p> <p><i>Place-Making, Not Just a Project:</i> Specify the project will be branded "iconic" and specify that programming will be designed to actively involve surrounding neighborhoods, including Uptown, Belltown, City and Region.</p> <p><i>Partnership for Success:</i> Specify that OVG and Seattle Center will dedicate staff and resources to ongoing collaborative communication,</p>

	Subject	Section	Possible Amendment Topics
			programming and involvement with community organizations including but not limited to Uptown Alliance, Uptown Arts and Culture Coalition, Project Belltown, or their successors.
8.	Rent Payments	Section 9(c)(iii)	Require OVG's baseline rent payment to begin no later than six months beyond the projected 24-month construction period, unless the delay was caused by the City.
9.	Free Use Days	Section 14(c)	Require OVG to increase the number of free Community Event days from 14 to 24 days.
10.	Charitable Contributions	Section 22	Require that the 20-year payment period for OVG's charitable contributions to Youthcare apply to all other charitable recipients as well. At least half of the \$20 million charitable fund contribution shall be in cash overall, with a schedule set forth for the cash vs. in-kind distribution for each year.
11.	LEED Gold Rating	Section 15(d); Exhibit C	Make LEED Gold rating requirement a minimum requirement; and "the project will meet the Sustainable Building Policy, which applies to all City-owned buildings."
12.	Placeholders	Section 8,19,20	Technical. Placeholders not needed. Delete and renumber accordingly.
13.	Tenant Improvements	Section 9(q); Exhibit C	Ensure the proposed MOU's definition of tenant improvements is clear.
14.	First Ave North Parking Garage	Section 10(a)	Ensure the City has a defined process in the event it receives unsolicited offers to purchase the First Ave North Garage.

D. Next Steps

At the November 16 Committee Meeting, the Councilmembers will discuss the possible amendments and other matters related to the proposed MOU. The Committee is expected to provide direction to Central Staff on which of the possible amendments should be pursued for inclusion in the final MOU or the Ordinance. Also, some of these topics may be more appropriate to address in the Transaction Documents.

Note: If follow up is required, the Committee has a placeholder for November 27 at 10:30 am. Council will take final action on December 4.