




**COUNCILMEMBER CHRISTOPHER WARD  
THIRD COUNCIL DISTRICT**

**M E M O R A N D U M**

DATE: March 26, 2019

TO: Honorable Mayor Kevin L. Faulconer  
Honorable City Attorney Mara Elliott

FROM: Councilmember Christopher Ward 

SUBJECT: Fifth Avenue Landing Update

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In June 2018, Council approved a three-party settlement agreement between the City of San Diego, Port of San Diego, and Fifth Avenue Landing (FAL), which was negotiated and presented to Council by the Mayor's office. As presented, the settlement agreement was contingent upon a November 2018 vote on a ballot measure to increase the Transit Occupancy Tax rate to, among other things, fund the expansion of the San Diego Convention Center.

Since no such public vote occurred in the November 2018 election, it is important to clarify the status of this agreement, and of the City's relationship to the FAL lease and parcel.

- First and foremost, given that no vote on such a ballot measure occurred in November 2018, and therefore the City did not certify the election results by the March 15, 2019 deadline established in the agreement, is any part of the settlement agreement still in effect, and if so, what part or parts?
- The City made an initial \$5.3 million payment as part of the agreement. What is the status of that payment? Has it been received by FAL, or is that money currently in escrow? Has any mechanism been identified which may allow the City to claw back all or a portion of this payment?
- The next installment payment in the agreement would be on April 1, 2019 for \$9.4 million. Will the City be making this payment? If not, how does this impact the agreement? How have future payments been reflected in the FY19 mid-year budget adjustments?
- What are the repercussions to the City of a nullified agreement including any monetary or time penalties?
- If the approved settlement agreement is no longer in effect, or is nullified in the future, what requirement exists to promptly docket consideration of an alternative development plan for the FAL site?

- Under what circumstances may the approved settlement agreement be renegotiated, and when would you notify the City Council of any such re-negotiation and/or seek Council approval for a renegotiated agreement? Have any re-negotiation conversations already occurred involving any representative of the City of San Diego?

The Convention Center is not only a huge part of the San Diego economy, but an indispensable part of the diverse travel and tourism industry that makes San Diego such a dynamic place. To continue working toward our shared goal of a major Convention Center expansion which continues to ensure San Diego is a global destination for conventions, it's critical that Council remain up to date on our financial obligations, as well as current and future available land and resources to facilitate an expansion in some form. This timely information will greatly assist the Council in being partners on a responsible path forward, and I look forward to working together based on the responses provided.

cc: Aimee Faucett, Chief of Staff, Mayor Kevin Faulconer  
Gerry Braun, Chief of Staff, City Attorney Mara Elliott  
Felipe Monroig, Deputy Chief of Staff, Mayor Kevin Faulconer  
Jessica Lawrence, Director of Finance Policy and Council Affairs, Mayor Kevin Faulconer