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Sent: 11/18/2015 10:05:21 PM
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Subject: The City Loses

Hotel Architecture/Engineering Firm Gets Paid

The City of Columbia's settlement payment of \$2.4 million to architecture/engineering firm Stevens & Wilkinson was confirmed Monday, November 16, according to The State. The newspaper declared \$4 million was spent in legal fees by the city in attempts to not pay the \$2.4 million.

The confusion began with the Memorandum of Understanding of April 25, 2003. The MOU worked as sort of a pre-contract contract, signed by all the players, including the City of Columbia and its architecture/engineering firm Stevens & Wilkinson. To quote directly from the MOU under its General Conditions:

"This MOU reflects the intent to proceed in good faith to execute definitive written agreements with respect to the business terms and conditions herein contained. Notwithstanding anything herein to the contrary, if the City determines that it is not feasible to proceed with the Hotel project it shall have no liability under this MOU."

And to confuse further, look at the MOU section labeled Pre-Development Funding:

"The Project team will be responsible for the costs incurred prior to closing the financing. These costs include, but are not limited to, design, testing, bid packages, legal, underwriting, travel, etc. If the hotel financing fails to close as a result of the City not meeting its obligations outlined in the Development Agreement, or as a result of an unforeseen catastrophic event not caused by any of the Project Team, the City will reimburse the Project Team for actual, documented costs incurred to that point in time up to an amount to be agreed upon. All studies, tests, plans and the like prepared or obtained by the Project Team will be assigned to and become property of the City."

The problem here for us outsiders is that all the activity and all the communication cannot be made available. In other words, when the City of Columbia voted in December 2003 to pay Stevens & Wilkinson almost \$700,000, the implication came across that the \$700,000 was a partial payment and the remainder of the work product was targeted for completion and payment. Payment in the MOU was 7.25% times the cost of construction.

Stevens & Wilkinson said it could be happy with a total fee of \$2.3 million, a little less than the 7.25%. On the other hand, the Hilton that actually got built at the corner of Park and Senate, the site for Stevens & Wilkinson's planned Hilton, cost less than \$450,000 in complete architectural and engineering fees, everything.

That cost comparison, what Stevens & Wilkinson was to be paid compared with what was actually paid in complete architecture/engineering fees for the built Hilton, a ratio of five to one, never surfaced in the courtroom, reportedly. Also, the campaign contributions paid to city council members by Stevens & Wilkinson in December 2003, all about the same time of the city council vote to pay Stevens & Wilkinson its \$700,000, was not cited in trial.

Money talks, and the law offices of Dick Harpootlian, Stevens & Wilkinson's lawyer in its fight with the city, and Stevens & Wilkinson as a corporation kicked in \$2,000 each to Mayor Bob Coble's political action committee in late August of 2004, about a year before Stevens & Wilkinson filed suit against the city with Harpootlian.