



AGENDA MEMO

CITY COUNCIL MEETING DATE: JULY 2, 2008

DEPARTMENT: BUSINESS DEVELOPMENT

ITEM DESCRIPTION: Discussion and possible action regarding a Disposition and Development Agreement with CIM/LL Manager, LLC for parcels at 4th Street and Stewart Avenue and 333 E. Ogden Avenue and the extension of lease term for the Ogden Garage to CIM/LL Las Vegas, LLC

1. On 7/18/07, Council approved an Exclusive Negotiation Agreement (ENA) to allow the City and CIM/LL Las Vegas, LLC that is owned and managed by CIM/LL Manager, LLC (CIM) to negotiate terms of a Disposition and Development Agreement (DDA) for parcels located at 4th St. and Stewart Ave. (ENA Site) and adjacent properties including the City owned parking garage at 333 E. Ogden Ave. (Ogden Garage).

2. Terms of the DDA include:

a. Conditions to be met by CIM in performing the renovation and re-opening of the now closed Lady Luck Hotel & Casino (Lady Luck) in order to exercise purchase options for the Ogden Garage and ENA Site. Said conditions to be met by CIM include to:

- i. Perform a minimum of \$100 Million in improvements for renovation of the Lady Luck.
- ii. Perform streetscape and building façade improvements on Third St. between Ogden & Stewart Avenues.
- iii. Start construction on renovation on the existing hotel towers and casino by Dec. 31, 2009 and substantially complete construction by Dec. 31, 2011.
- iv. Reopen the Lady Luck with standards comparable to a three star hospitality rating.
- v. Substantially complete modifications and improvements to the pedestrian bridge connecting the east and west Lady Luck towers on Third St. to improve the visual connection of The Las Vegas Museum of Organized Crime and Law Enforcement from Ogden Ave. being built in the historic Federal Building-U.S. Post Office (Museum Site) looking north down Third St.

b. Improvements to be completed by the City, using its best efforts, for the benefit of the general public include:

- i. Completion of construction of improvements to the Museum Site and streetscape improvements to Stewart Ave.
- ii. Streetscape improvements to Ogden Ave. between Fourth St. and Casino Center Blvd. and Third St. between Ogden Ave. and Fremont St. to be completed concurrently with CIM's renovation of the Lady Luck.
- iii. On the ENA Site, a parking garage, plaza and other necessary public infrastructure.

c. The City will also use its best efforts to facilitate the creation of new signage regulations to allow for the placement of supergraphic and tall-wall signs along the walls of buildings within the Signage Area depicted in the DDA that includes the Lady Luck and ENA Conveyance Site. Provided the new signage regulations are put in place, CIM agrees to give the City, for the direct benefit of The Las Vegas Museum of Organized Crime and Law Enforcement, up to \$300,000 of

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the annual signage net income it receives from the licensing of signs owned by CIM within the Signage Area for 10 years from the Effective Date of the DDA up to a cumulative total of \$3 million.

d. An extension of the lease term for the Ogden Garage to CIM/LL Las Vegas, LLC for 50 years from the execution date of the lease amendment.

e. As a condition precedent to CIM's option to purchase the Ogden Garage, CIM will spend at least \$500,000 on improvements to the Ogden Garage to enhance its appearance and functionality that include, but are not limited to, painting, cleaning, landscaping and improving both the lighting and security for the Ogden Garage.

f. CIM's purchase price for the Ogden Garage will be based on the current lease rate at the time the purchase option is exercised capitalized at a rate of 8%. For example, at today's lease rate of \$45,790/Mo. capitalized at 8% the purchase price would be approx \$6.87 million. Two recent appraisals value the Ogden Garage at \$11.4 (\$250/SF) to \$17.8 million (\$390/SF), fee simple.

g. CIM will fund all reasonable legal and design costs for the development of the ENA Site and lead the efforts associated with the following:

- i. Establishment of the Tourism Improvement District (except for those costs associated with independent studies which must be funded by the City).
- ii. Design for the ENA Site (as required for Historic Authorities review and approval as necessary) (Master Plan).
- iii. Geotechnical testing.
- iv. Phase I and Phase II Environmental Site Assessments.
- v. Traffic Studies.

h. CIM will submit to the City its final draft development summary, development plan and preliminary conceptual drawings concurrently with the effective date of the DDA.

i. City and CIM will jointly submit development plans to the National Park Service (NPS) for approval no later than four months after the effective date of the DDA in compliance with covenants of the Grant Deed that conveyed ownership of the Museum Site to the City.

j. The City and CIM will jointly collaborate on the assemblage of the ENA Site through negotiations with the National Park Service (NPS) (to adjust the Museum Site parcel boundaries) and the Nevada Department of Transportation (NDOT) (to acquire portions of its right-of-way to the south side of U.S. 95) to be combined with the City owned parcels thereby determining the area of the ENA Site that the City can convey to CIM (ENA Conveyance Site).

k. Subject to the outcome of the ENA Site assemblage process, if the City can convey to CIM an ENA Conveyance Site with a minimum 200,000 gross square feet, CIM agrees to develop on the at least 100,000 to 200,000 square feet of retail, plus an additional 350,000 to 500,000 square feet, including a hotel, residential, and/or office, including food service, restaurant, bar, tavern, night club, meeting facilities, dancing, lounge and all other uses normally associated with a large-scale vertical mixed-use development. In the event that the ENA Conveyance Site is less than

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200,000 gross square feet, the City and CIM will renegotiate the Master Plan that can be accommodated by the total gross square feet that can be conveyed.

l. CIM's purchase price for the ENA Conveyance Site will be based on \$75 per gross square foot without any gaming use and \$140 per gross square foot with any gaming use on the site. Two recent appraisals value the ENA Site at \$23.7 million (\$99/SF) without any gaming and \$40.6 (\$170/SF) to \$43.0 million (\$180/SF), with gaming, fee simple.

m. An ENA Earnest Money Deposit equal to 5% of the ENA Conveyance Site purchase price can be retained by the City in the event that CIM is in default of any of its representations and warranties as of the closing date for the ENA Conveyance Site (after the expiration of any applicable cure periods); or CIM if fails to close escrow on the ENA Conveyance Site at or prior to the expiration of the term of the DDA due to a CIM event of default.

n. In the event that the City and CIM cannot agree on the boundaries of the ENA Conveyance Site within twenty four (24) months after the Effective Date of the DDA, either party can terminate the DDA. In addition, in the event that the Lady Luck Threshold Renovations have not commenced by Dec. 31, 2009 and/or have not been substantially completed by Dec. 31, 2011, the DDA will terminate.