



AGENDA MEMO

CITY COUNCIL MEETING DATE: FEBRUARY 3, 2010

DEPARTMENT: PLANNING AND DEVELOPMENT

**ITEM DESCRIPTION: DIR-37158 – APPLICANT: THE BOARD OF REGENTS OF
THE NEVADA SYSTEM OF HIGH EDUCATION**

**** CONDITIONS ****

STAFF RECOMMENDATION: APPROVAL

**** STAFF REPORT ****

APPLICATION REQUEST

This is a request for an amendment to an existing Development Agreement for the College of Southern Nevada to allow additional extensions of time in securing a patent for approximately 41.17 acres of land at the northwest corner of Elkhorn Road and Grand Montecito Parkway.

EXECUTIVE SUMMARY

The existing Development Agreement between the city and the College of Southern Nevada (CSN) requires a minor modification to allow additional extensions of time for CSN to acquire a patent for the subject property. The existing language indicates that a single six-month extension of the agreement is permissible; due to delays in obtaining the federal patent, additional time is needed. As the amendment is consistent with Nevada Revised Statutes (NRS), staff recommends approval of the request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc and Property Sales</i>	
02/20/08	DIR-26231 was approved by City Council, establishing a Development Agreement between the city of Las Vegas and the College of Southern Nevada for the development of a college campus at the northwest corner of Elkhorn Road and Grand Montecito Parkway.
09/02/09	The City Council approved DIR-35636, which granted a six-month extension of the Development Agreement between the city of Las Vegas and the College of Southern Nevada.
02/03/10	The City Council is scheduled to hear DIR-37018, which would grant a six-month extension of the Development Agreement between the city of Las Vegas and the College of Southern Nevada until October 20, 2010.

ANALYSIS

Section 2.07 of the Development Agreement established an 18-month deadline from the effective date of the agreement (February 20, 2008) for the college to obtain a federal land patent for the site in question. The document states that the Development Agreement becomes null and void if the college is unable to secure the patent. However, the agreement allows for a single six-month extension of the deadline upon approval of City Council and the college. One extension has already been granted, extending the agreement to February 20, 2010. As the patent process has been delayed, it is necessary to amend the Development Agreement to allow additional extensions of time.

It is proposed that Section 2.07 of the Development Agreement be amended as follows:

- 2.07. Relinquishment of R&PP Act Lease. The College is pursuing legislation in Congress that would grant a federal land patent for the Site to the College, subject to the requirements of this Agreement. In order that the College is able to finance the development of its Northwest Campus in the manner currently envisioned and on a time table which would justify the City to relinquish its Lease on the entire Site, the patent cannot be restricted so as to prevent private entities from leasing portions of the Site or leasing space within buildings for profitable ventures. The Parties agree that this Agreement shall be effective for its Term notwithstanding the grant of the federal land patent for the Site to the College. The College will notify the City in the event the College determines that it is unlikely to obtain the land patent. College shall have 18 months to secure such patent, or this Agreement shall be null and void and the parties shall have no further liability or obligation to each other, except for the obligation to attempt to negotiate a new development agreement as set forth below. Such 18-month period may be extended for ~~an~~ an additional periods of 6 months upon the written approval of the City Council and College. (*Deleted text is indicated by ~~strikeout~~; additive text is underlined.*)

The proposed amendment serves to clarify that additional extensions of time are permissible as necessary for the college to secure a federal patent for the site. Any extensions of time must be mutually agreed upon by the CSN and the City Council.

The process for amending a Development Agreement is listed in Nevada Revised Statutes (NRS) §278.0205, which states that the agreement may be amended by mutual consent, and that the governing body shall approve the amendment. Section 13.04 of the Development Agreement states that any amendments to the document shall be considered solely by the City Council. The amended agreement is required to be filed for recording.

NRS §278.0201 establishes the minimum requirements to be covered by Development Agreements. They are as follows:

- Description of the land that is the subject of the agreement;
- Duration of the agreement;
- Permitted uses of the land;
- Density or intensity of use;
- Maximum height and size of the proposed buildings; and
- Any provisions for the dedication of any portion of the land for public use.

The original version of this Development Agreement was found to be in conformance with the minimum standards listed above. The proposed amendment will not alter the agreement's conformance with NRS.

It should be noted that the Development Agreement would permit the development of a mixed-use campus on the subject site, including residential and commercial uses. If Senate Bill S.940 for the federal patent will only allow educational uses, then the Development Agreement will need to be modified accordingly.

In accordance with Nevada Revised Statutes, a report documenting compliance with the terms of the agreement is required on a biennial basis. The first report is due in February 2010, and will be placed on the following City Council agenda.

<u>NOTICES MAILED</u>	NEWSPAPER ONLY
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<u>APPROVALS</u>	0
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<u>PROTESTS</u>	0
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