

Summary — An ordinance creating the City of Las Vegas, Nevada Tourism Improvement District (Fourth Street and Stewart Avenue) and providing other matters properly related thereto.

BILL NO. 2009-36

ORDINANCE NO. ____

AN ORDINANCE CREATING THE CITY OF LAS VEGAS, NEVADA, TOURISM IMPROVEMENT DISTRICT (FOURTH STREET AND STEWART AVENUE); AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO.

WHEREAS, under Nevada Revised Statutes Chapter 271A, Tourism Improvement District Law (the "Tourism Act"), the City of Las Vegas (the "City") has the power to create a tourism improvement district to be known as the "City of Las Vegas, Nevada Tourism Improvement District (Fourth Street and Stewart Avenue)" (the "District") for the development of property within the jurisdiction of the City; and

WHEREAS, the City Council of the City (the "Council") desires to construct a project (the "Project") to be located in the District as further described in the report entitled "*Proposed Tourism Improvement District, An Analysis of Selected Regulatory Requirements*" prepared by Applied Analysis, dated November 30, 2008, as amended on February 27, 2009, which is on file with the City Clerk of the City (the "Report"); and

WHEREAS, the Tourism Act requires, among other things, that before the District may be created, the Council must make a written finding at a public hearing, based upon reports from independent consultants, as to whether the Project and the financing thereof will have a positive fiscal effect on the provision of local governmental services (the "Fiscal Effect Finding"), after considering:

(a) the amount of proceeds of all taxes and other governmental revenue projected to be received as a result of the properties and businesses expected to be located in the District;

(b) the use of any money proposed to be pledged pursuant to the Tourism Act;

(c) any increase in costs for the provision of local governmental services, including, without limitation, services for education, including operational and capital costs, and services for police protection and fire protection, as a result of the Project and the development of land within the District; and

(d) estimates of any increases in the proceeds from sales and use taxes collected by retailers located outside of the District and of any displacement of the proceeds from sales and use taxes collected by those retailers, as a result of the properties and businesses expected to be located in the District; and

WHEREAS, pursuant to the Tourism Act, at least 45 days before making the Fiscal Effect Finding, the Council provided to the Board of Trustees of the Clark County School District and the Board of County Commissioners of Clark County, written notice of the time and

place of the meeting at which the Council will consider making the Fiscal Effect Finding and each analysis prepared by or for or presented to the Council regarding the fiscal effect of the Project and the use of any money proposed to be pledged pursuant to the Tourism Act on the provision of local governmental services, including education; and

WHEREAS, the City commissioned the Report regarding, among other things, the fiscal effect on the provision of local governmental services and the estimated amount and source of sales and use taxes generated in the District; and

WHEREAS, the Report is the only analysis prepared by or for or presented to the Council regarding the fiscal effect of the Project and the use of any money proposed to be pledged pursuant to the Tourism Act on the provision of local governmental services, including education; and

WHEREAS, the City provided at least 15 days' notice of a public hearing held on May 6, 2009 by publication pursuant to NRS 271A.080(6); and

WHEREAS, the Council held a public hearing on May 6, 2009 and pursuant to a resolution adopted on May 6, 2009 at the public hearing, the Council made written findings pursuant to NRS 271A.080(2), (3) and NRS 271A.080(6), including the Fiscal Effect Finding; and

WHEREAS, the City provided materials to the Nevada Commission on Tourism and the Governor of the State of Nevada pursuant to NRS 271A.080(7) and (8), respectively; and

WHEREAS, pursuant to a resolution adopted on June 16, 2009, the Commission on Tourism made the determination pursuant to NRS 271A.080(7) with respect to the Project and the District; and

WHEREAS, pursuant to letters dated July 6 and July 10, 2009, the Governor of the State of Nevada made the determination with respect to the Project pursuant to NRS 271A.080(8); and

WHEREAS, no portion of any of the Property in the District is also included within any boundaries of any other tourism improvement district or any improvement district for which any money has been pledged pursuant to NRS 271.650; and

WHEREAS, having met all of the prerequisites to creation of the District pursuant to NRS 271A.080, the Council desires to create the District; and

WHEREAS, the City staff has presented to the Council a description and a map of the boundaries of the District; and

WHEREAS, the Council has reviewed the documents submitted for the District; and

WHEREAS, the Council and officers of the City have done all things necessary and preliminary to the creation of the District, and the Council desires now to create the District by this ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES ORDAIN:

Section 1. This Ordinance shall be known as, and may be cited by, the short title “Tourism Improvement District (Fourth Street and Stewart Avenue) Creation Ordinance” (herein the “Ordinance”). All actions, proceedings, matters and things heretofore taken, had and done by the City and the officers of the City (not inconsistent with the provisions of this Ordinance) concerning the District and the Project hereby are, ratified, approved and confirmed.

Section 2. The Council has heretofore determined and does hereby determine:

a. No retailers will have maintained or will be maintaining a fixed place of business within the District on or within 120 days immediately preceding the date of adoption of this Ordinance; and

b. The District is located entirely within the boundaries of the City.

Section 3. There shall be, and hereby is, created in the City the District being a tourism improvement district designated as the “City of Las Vegas, Nevada, Tourism Improvement District (Fourth Street and Stewart Avenue)” for the purpose of acquiring the Project. The boundaries of the District are generally described as the area bounded by Stewart Avenue, Casino Center Drive, US Highway 95 and Fourth Street.

Section 4. Pursuant to NRS 360.855(3) the City Council hereby approves and authorizes the use of money received pursuant to subsection 1 of NRS 360.855 that is not needed to make payments due during a fiscal year of the principal of, interest on, and other payments or security-related costs with respect to, any bonds or notes issued pursuant to NRS 271A.120 and payments due during that fiscal year under any agreements made pursuant to NRS 271A.120 for the purpose of prepaying, defeasing or otherwise retiring all or a portion of any bonds or notes issued pursuant to NRS 271A.120 or of prepaying amounts due under any agreements entered into pursuant to NRS 271A.120, or any combination thereof, with respect to the District.

Section 5. The Project, which is a permitted project under NRS Chapter 271A, is hereby ordered to be acquired, improved, equipped, operated and maintained within the boundaries of the District.

Section 6. For the purposes of carrying out the acquisition, improvement, equipment, operation and maintenance of the Project within the District as more specifically described herein and the financing of the Project, the City hereby determines to pledge and hereby pledges 75% of :

a. An amount equal to the proceeds of the taxes imposed pursuant to NRS 372.105 and 372.185 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the District during a fiscal year, after the deduction of a sum equal to 0.75 percent of the amount of those proceeds; and

b. The amount of the proceeds of the taxes imposed pursuant to NRS 374.110, 374.190 and 377.030 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the District during a fiscal year, after the deduction of 1.75 percent of the amount of those proceeds.

Section 7. Pursuant to NRS 271A.090, the determinations and written findings made by the Council in this Ordinance are conclusive in the absence of fraud or gross abuse of discretion.

Section 8. After adoption of this Ordinance, City staff is hereby authorized to negotiate with the State of Nevada Department of Taxation the terms of an agreement specifying the dates and procedure for distribution to the City of any money pledged pursuant to Section 6 of this Ordinance and to provide such agreement to the Council for its approval.

Section 9. Before the issuance of any bonds to finance the Project in the District, City staff is hereby authorized to obtain a feasibility study, commissioned by the City, which shows that a sufficient amount will be generated from money pledged pursuant to NRS 271A.070 to make timely payment on the bonds, taking into account the revenue from any other revenue-producing projects also pledged for the payment of the bonds, if any.

Section 10. When first proposed, this Ordinance must be read to the Council by title, after which an adequate number of copies of this Ordinance must be deposited with the City Clerk for public examination and distribution. Notice of the deposit must be published once in a newspaper published and having general circulation in the City at least 10 days before the adoption of the Ordinance, such publication to be in substantially the following form:

(Form of Publication of Notice of Deposit of an Ordinance)

BILL NO. _____
ORDINANCE NO. _____

**AN ORDINANCE CREATING THE CITY OF LAS VEGAS,
NEVADA, TOURISM IMPROVEMENT DISTRICT
(FOURTH STREET AND STEWART AVENUE); AND
PROVIDING OTHER MATTERS PROPERLY RELATING
THERE TO.**

PUBLIC NOTICE IS HEREBY GIVEN that an adequate number of typewritten copies of the above-numbered and entitled proposed Ordinance are available for public inspection and distribution at the office of the City Clerk of the City of Las Vegas, at her office in City Hall, 400 Stewart Avenue, Las Vegas, Nevada, and that such Ordinance was proposed August 5, 2009, and will be considered for adoption at the a regular meeting of the City Council of the City of Las Vegas held on September 2, 2009.

/s/ Beverly K. Bridges, CMC
City Clerk

(End of Form of Publication of Notice of Filing of An Ordinance)

Section 11. After this Ordinance is signed by the Mayor and attested and sealed by the City Clerk, this Ordinance shall be published once by its title only, together with the names of the Council members voting for or against its passage, such publication to be made in the Las Vegas Review-Journal, a newspaper published and having a general circulation in the City, such publication to be in substantially the following form:

(FORM OF PUBLICATION OF ADOPTION OF ORDINANCE)

ORDINANCE NO. _____
(of the City of Las Vegas, Nevada)

**AN ORDINANCE CREATING THE CITY OF LAS VEGAS,
NEVADA, TOURISM IMPROVEMENT DISTRICT
(FOURTH STREET AND STEWART AVENUE); AND
PROVIDING OTHER MATTERS PROPERLY RELATING
THERE TO.**

PUBLIC NOTICE IS HEREBY GIVEN that such Ordinance was proposed on August 5, 2009, and was passed at the meeting held on September 2, 2009, by the following vote of the City Council:

Those Voting Aye:

Oscar Goodman
Gary Reese
Steve Wolfson
Lois Tarkanian
Steven D. Ross
Ricki Y. Barlow
Stavros S. Anthony

Those Voting Nay:

Those Absent:

This Ordinance shall be in full force and effect from and after the ____ day of September, 2009, i.e., the day after the publication of such Ordinance by its title only.

IN WITNESS WHEREOF, the City Council of the City of Las Vegas, Nevada, has caused this Ordinance to be published by title only.

DATED this September 2, 2009.

/s/ Oscar Goodman
Mayor

Attest:

/s/ Beverly K. Bridges, CMC
City Clerk

(End of Form of Publication))

Section 12. All ordinances or resolutions, or parts thereof, in conflict with the provisions of this Ordinance, are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

Section 13. If any section, paragraph, clause or other provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or other provision shall not affect any of the remaining provisions of this Ordinance.

PASSED, ADOPTED AND APPROVED THIS SEPTEMBER 2, 2009.

Oscar Goodman, Mayor

(SEAL)

Attest:

Beverly K. Bridges, CMC, City Clerk

Approved as to form:

 7-22-09

Deputy City Attorney

This Ordinance shall be in full force and effect from and after September __, 2009, i.e., the date after the publication of such ordinance by its title.

STATE OF NEVADA)
)
COUNTY OF CLARK :ss
)
CITY OF LAS VEGAS)

I, Beverly K. Bridges, CMC, the duly chosen, qualified and acting City Clerk of Las Vegas (the "City"), in the State of Nevada, do hereby certify:

1. The foregoing pages constitute a true, correct, complete and compared copy of an ordinance which was introduced at the meeting of the Council on August 5, 2009, and finally adopted and approved on September 2, 2009.

2. The following members of the Council were present at the August 5, 2009 Council meeting:

Mayor:	Oscar Goodman
Council members:	Gary Reese
	Steve Wolfson
	Lois Tarkanian
	Steven D. Ross
	Ricki Y. Barlow
	Stavros S. Anthony

Those Absent:

3. The foregoing Ordinance was first proposed and read by title to the City Council on August 5, 2009, and referred to a committee composed of _____ for recommendation; thereafter the said committee reported favorably on said Ordinance on September 2, 2009, which was a regular meeting of said Council; that at said regular meeting, the proposed Ordinance was again read by title to the City Council and adopted. The members of the City Council were present at the September 2, 2009 meeting and voted upon the adoption of the Ordinance as follows:

Those Voting Aye:

Mayor:	Oscar Goodman
Council members:	Gary Reese
	Steve Wolfson
	Lois Tarkanian
	Steven D. Ross
	Ricki Y. Barlow
	Stavros S. Anthony

Those Voting Nay:

Those Absent:

4. The original of the Ordinance has been approved and authenticated by the signatures of the Mayor of the City and myself as the City Clerk, and sealed with the seal of the City, and has been recorded in the journal of the Council kept for that purpose in my office, which record has been duly signed by such officers and properly sealed.

5. All members of the Council were given due and proper notice of the meetings held on August 5, 2009 and September 2, 2009. Pursuant to Section 241.020, Nevada Revised Statutes, written notice of the meetings was given no later than 9:00 a.m. on the third working day before the meetings including in the notice the time, place, location, and agenda of the meeting:

(a) By posting a copy of the notice by 9:00 a.m. at least three working days before the meetings at the principal office of the Council, or if there is no principal office, at the building in which the meeting is to be held, and at least three (3) other separate, prominent places within the jurisdiction of the Council, to wit:

- i. Court Clerk's Office Bulletin Board
City Hall Plaza
Las Vegas, Nevada;
- ii. City Hall Plaza
Special Outside Posting Bulletin Board
Las Vegas, Nevada;
- iii. Las Vegas Library
833 Las Vegas Boulevard North
Las Vegas, Nevada;
- iv. Clark County Government Center
500 S. Grand Central Parkway
Las Vegas, Nevada; and
- v. Grant Sawyer Building
555 E. Washington Avenue
Las Vegas, Nevada.

and

(b) By mailing prior to 9:00 a.m. at least 3 working days before such meeting, to each person, if any, who has requested notices of meetings of the Council in

compliance with NRS 241.020(3)(b) by United States Mail, or if feasible and agreed to by the requestor, by electronic mail.

6. A copy of such notice so given of the meeting of the Council on August 5, 2009 is attached to this certificate as Exhibit A and a copy of the notice so given of the meeting of the Council on September 2, 2009 is attached to this certificate as Exhibit B.

7. A copy of the notice of each meeting was posted on the City's website no later than 9:00 a.m. on the third working day prior to each meeting.

8. A copy of the affidavit of publication of notice of deposit of the Ordinance is attached to this certificate as Exhibit C. A copy of the affidavit of publication of adoption of the Ordinance is attached to this certificate as Exhibit D.

9. Upon request, the Council, at no charge, at least one copy of the agenda for its public meetings, any proposed ordinance or regulation which will be discussed at the public meeting, and any other supporting materials provided to the members of the Council for an item on the agenda, except for certain confidential materials and materials pertaining to the closed meetings, as provided by law.

IN WITNESS WHEREOF, I have hereunto set my hand on this September __ 2009.

Beverly K. Bridges, CMC
City Clerk

(SEAL)

EXHIBIT A

(Attach Copy of Notice of Meeting on August 5, 2009)

EXHIBIT B

(Attach Copy of Notice of September 2, 2009 Meeting)

EXHIBIT C

(Attach Affidavit of Publication of Notice of Filing of Creation Ordinance)

EXHIBIT D

(Attach Affidavit of Publication of Adoption of Creation Ordinance)