



Las Vegas

Agenda Item No.: 47.

AGENDA SUMMARY PAGE
CITY COUNCIL MEETING OF JANUARY 22, 2014

DEPARTMENT: CITY MANAGER
DIRECTOR: ELIZABETH N. FRETWELL

☐ Consent ☒ Discussion

SUBJECT:
ADMINISTRATIVE:

Discussion of possible action regarding the First Amendment to Exclusive Negotiation Agreement by and between City Parkway I, Inc., Office District Parking I, Inc., the City of Las Vegas, Nevada and LV Entertainment Development, LLC, for the exclusive rights to develop parcels located northeast of the intersection of Bonnevile Avenue and Grand Central Parkway, Multiple APNs - Ward 5 (Barlow)

Fiscal Impact

☐ No Impact ☐ Augmentation Required
☐ Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

The First Amendment to Exclusive Negotiation Agreement (Amendment) extends the term of exclusivity for LV Entertainment Development, LLC, (Developer and an affiliate of the Cordish Companies). APNs 139-34-110-007, -008 and a portion of APNs 139-34-110-009, -010 and 139-34-211-002.

RECOMMENDATION:

Approval

BACKUP DOCUMENTATION:

1. Agenda Memo
2. First Amendment to Exclusive Negotiation Agreement
3. Submitted at Meeting PowerPoint Presentation by Staff and the Cordish Company and Amendment Draft to Exclusive Negotiation Agreement by Staff

Motion made by RICKI Y. BARLOW to Approve and adding the following: Any funds left over after payment for consulting reports and consulting services may be used to pay City for Costs of outside legal counsel.

Passed For: 4; Against: 3; Abstain: 0; Did Not Vote: 0; Excused: 0

RICKI Y. BARLOW, LOIS TARKANIAN, CAROLYN G. GOODMAN, STEVEN D. ROSS;
(Against-BOB COFFIN, STAVROS S. ANTHONY, BOB BEERS); (Abstain-None); (Did Not Vote-None); (Excused-None)

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Minutes:

DEPUTY CITY MANAGER SCOTT ADAMS introduced BILL ARENT, Director of Economic and Urban Development, BILL RHODA, President of CSL International, PORT TELLES and DAVE GOLDWATER, the Cordish Company. MR. ADAMS referenced the redline amendments to the agreement, which were all submitted for the record.

MR. ARENT provided a PowerPoint presentation, which included major project milestones and ultimately the Cordish Exclusive Negotiating Agreement (ENA).

MR. RHODA indicated that they did the original study, helped negotiate with REI and have been involved in similar projects around the country. They have put together some comparable market studies and through a PowerPoint presentation, outlined the different projects that were built and those under construction.

DEPUTY CITY MANAGER ADAMS continued with the presentation. Regarding the incremental sales tax on the tickets, MAYOR GOODMAN asked if the City would get something back from the ticket sales. DEPUTY CITY MANAGER ADAMS replied that the arena will generate some of its own revenue.

DEPUTY CITY MANAGER ADAMS disclosed that the City would need to hire and pay for an outside counsel, as recommended by the City Attorney. It would cost at least \$100,000. He suggested taking that out of the planning fund and if elected not to so, the item would have to be considered at a future meeting to request to fund an appropriation for an outside counsel. CITY ATTORNEY BRAD JERBIC explained that the City Attorneys Office does not have the expertise in negotiating arena agreements. He recommended ATTORNEY MATT McCARLEY from Charlotte, North Carolina, as the outside counsel. He is not sure how much it would cost. CITY MANAGER ELIZABETH FRETWELL added that they will bring back the two different contracts. The Cordish Company will be paying CSL and are willing to use up \$100,000 to defray the costs.

DEPUTY CITY MANAGER ADAMS provided a brief introduction of DAVID CORDISH, who participated telephonically. He is a legend in the redevelopment business and is the force behind the Cordish Company. MR. CORDISH stated that his company has a history of finishing what they start and he does not want to break their track record. They have a unique experience in Washington, DC in heading up a successful program in revitalizing and transforming cities. Arenas are transformative when situated downtown. The last 20 arenas in the United States have been built downtown because it works to transform the surrounding areas. Symphony Park is the perfect place for transformation and with this arena the major fact will be that there will be many spinoffs of development versus having to be along the Strip area with the existing mass of traffic. The trademark with the United States Patent Office is the Live Districts and it is a public live entertainment that draws the public, and what better place to have this than Las Vegas.

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Regarding MAYOR GOODMAN'S query about the delay since 2010-2011, MR. CORDISH responded that they had a different site assigned to them and were making progress but the City attracted a world class tenant who wanted to move with Cordish. The project was done but had to change locations; then the market collapsed which made it difficult for the City to financially participate. Cordish was blessed corporately with its liquidity for a private company and did not suffer as much with the economic downturn. Many capable developers in Las Vegas have been trying to build an arena longer than Cordish but nothing materialized.

MR. TELLES referred to photos of existing developments and schematic designs for the Las Vegas arena, depicting and inspiring a sense of comfort. One key aspect is the bold architecture and an opaque roof to provide a sense of being outside and at the same time is warm in cooler evenings; Cordish strives to build world-class projects. An arena can have an impact on the downtown area and it is an exciting aspect of redevelopment. A unique opportunity to connect Symphony Park to the downtown area and create a gateway and this will be achieved by scattering parking around thus forcing people out of the downtown area. Referring to the Parking Access Plan, MR. TELLES indicated that in 2006 the County and the City did a joint study and found that this is the best location for an arena. One reason is access benefitting not only downtown but the entire region. The economic impact of the arena will be great, including jobs, revenue, new annual taxes and visitors coming to the downtown area. Arenas are a community asset and part of that is building a professional sports team. Because of the public nature of arenas and the sharing of the community, it does require public funds. Timing is incredible with low interest rates and the ability to backstop bonds. Cordish is going to make a significant commitment to the arena; \$150 million with no outside resources. MR. TELLES asked for a four-month extension to complete the DDA and for the additional analysis requested by the City. He thanked everyone for the opportunity to present the project.

In response to COUNCILWOMAN TARKANIAN'S query regarding monies for outside counsel and outside consultant, MR. CORDISH responded that there is \$400,000 set aside for the City to utilize for outside consultants and an outside attorney who specializes in these types of negotiations. DEPUTY CITY MANAGER ADAMS added that the City negotiated a payment to Cordish and that total was \$4.5 million; half has already been paid out and the other half has been placed in escrow in a planning fund and would be paid upon termination of the agreement. The negotiated extension would be two caps for services to be done under this extension, and would be subject to \$300,000 cap that would come from that \$1.2 million in the planning fund. In addition, the City has agreed to a \$100,000 cap on the City's procurement of services.

ATTORNEY RUSSELL ROWE appeared on behalf of Boyd Gaming to oppose the request of public funding for the arena. He was stunned how this came about and about the lack of knowledge regarding the proposal. According to the presentation, it seems that discussions have been on-going for several months and Boyd Gaming has not had any opportunity to make

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comments. Boyd Gaming has been in the city for nearly 40 years, paying tax revenues, providing jobs, providing charitable contributions and they want an opportunity to participate. CITY MANAGER ELIZABETH FRETWELL explained that this has been a rapid development as the deadline approached and has taken people off guard. There needs to be restructure in how the City communicates with members of the Downtown Alliance and other related parties. The Cordish Company has made a commitment to have representatives in town and have hired other consultants to help them on their efforts. The City recognized that communication could and should have been better.

MR. CORDISH added that he is very familiar with Boyd Gaming's respected name and it is a long shot that City funds will have to be spent or utilized. He would be surprised if the major beneficiaries were not going to go to the downtown casinos. He will be pleased to meet with Boyd Gaming and give them examples of other communities where an arena located near casinos has caused revenue to increase. No city funds will be expended and the hotels and restaurants will benefit by the arena. ATTORNEY ROWE remarked that Boyd Gaming does not oppose the construction of an arena but pointed out that there is already development on the Strip and others being proposed by private parties. He pointed out that some of the events proposed for this arena are the same events held at the Thomas and Mack Center, which will create a situation of a public funded arena vying against another public funded arena, which is the home of the UNLV basketball program, which is struggling to survive. Cordish can build the arena but without funding from the citizens; the funding should be for more cops. He asked the City Council to deny the request.

RICHARD WORTHINGTON, 100 North City Parkway, was sad to be in an awkward position to criticize the City in this important project because his firm has a great relationship with the City; however, he feels betrayed. He appreciated the City withdrawing the Special Improvement District (SID) component. He feels the stakeholders will not have a seat at the table and only found out about the proposed arena yesterday. He opposed extending the ENA and against any public funds going towards the arena. In light of the recent MGM announcement for its own arena, he does not believe the proposed arena will be feasible. He thinks the City is entering down a path for a project that has a very dangerous competitive landscape. He urged the City to proceed carefully and not to put the City's credit at risk for a project so speculative. The suggestion that it may be in the best interest of the City to move forward without an anchor tenant, is financial suicide. The timing is not right given the number of competitive projects in the marketplace. The City should not be putting taxpayers dollars or bonds or credit rating as a backstop to a project. The Cordish Company should put their \$150 million equity in or find a non-profit to do a 60/20 financing.

MAYOR GOODMAN was disappointed that the question for more cops failed after so much research and efforts to protect the citizens of the entire Las Vegas community.

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COUNCILMAN BEERS pointed out that if the project fails, taxpayers will have to cover the difference. The City will be shoveling the money until the City can no longer pay its employees and have a crisis and then the Department of Taxation will have to come in and manage the City out of the crisis. The traditional work-out concept where the debt is forgiven is not an option for city government.

PAUL MORADKHAN, Chamber of Commerce, appreciated the removal of the proposed amendment removing the Financial Assessment provision that could potentially create new taxes for downtown businesses. While the Chamber has not taken the position on this particular arena project, any project of scope should be done in an open and transparent process. Financial proposals that would impact businesses should be provided and businesses should be engaged in meetings and updates should be provided. A Business Impact Statement process should be conducted and present those findings at a public hearing at a future City Council meeting. This conversation should be about creating economic opportunities, not curtailing them. Additional information, understanding, engagement and transparency will benefit the taxpayers, area businesses, employees and residents.

ANTHONY HODGES, Las Vegas Times, stated that over the years he has seen many projects built and he does not believe the City should go into debt to build an arena. The City is trying to stay afloat and not sink like North Las Vegas. He cautioned the City Council when making this decision; failure is the foundation of progress.

ATTORNEY JOHN LELEU appeared on behalf of World Market Center and expressed their support for downtown development but expressed concern how the arena is financed. The situation feels like déjà vu with the financing scheme proposed at the eleventh hour. Whether or not the financing makes sense or not it is a decision that the City Council has to make. He appreciates staff removing the SID and understands there is now a \$150 million gap that needs to be bridged and his concern is how that gap is bridged. He appreciated CITY MANAGER FRETWELLS extraordinary effort in trying to communicate and to be part of any discussion regarding this item and future development in the downtown area. Partnership requires communication and he emphasized that they will not support the proposed arena unless they are included.

TERRY MURPHY, President of the Downtown Las Vegas Alliance, consider themselves as one of the City's best partners and they put in a lot of time bringing opportunities to the City, but there are many unanswered questions. They have not seen the amendment and with the request to hire an outside counsel, there will be a fiscal impact. It seems this has been in discussion for quite some time and nobody was asked for an opinion or to participate. If this project moves forward, it will have a significant impact on the Business Improvement District they have been working on. She does not believe the four-month extension is sufficient to get all the work done in order for this project to proceed. She appreciated the removal of the SID component, but she asked

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that there be a commitment not to impose taxes. She supports jobs and economic development but she cannot support the proposed arena because there is not enough information to form an opinion. COUNCILWOMAN TARKANIAN verified with MS. MURPHY that she heard about the proposed arena through the newspaper.

ROBERT REEL, REI Las Vegas, 5300 West Sahara Avenue, appeared in support of the four-month extension. He stated that every proposal they received included an arena component. He believes a state-of-the-art arena is necessary to downtown and one that will be successful. The entire 113 parcel assembly gets stand to benefit tremendously, creating a positive impact. He indicated that the president of the NBA will only support an arena located downtown.

COUNCILMAN ANTHONY remarked that discussions about an arena have been going on for a long time, and it would be great to have it built by the Cordish Company. He was hoping for a private company building the arena and taking all the risk, but that is not what is happening in this particular agreement. A big part of the risk is being put on the taxpayers who live in the City of Las Vegas. Residents do not support using taxpayers' money for this project and the City is taking a significant risk and taking a \$50 million bond that possibly will have a tax imposed. He hopes a sports team comes to occupy the arena. The City of Las Vegas is unlike any other City, as other arenas have been proposed in other parts of the Valley, and questioned what that impact would be on the community. He opined that if this was a really good idea, somebody would do it without any public funding. He cannot support the extension and invited anybody to build the arena with their own money.

COUNCILMAN COFFIN stated that he was asked by a reporter how he felt about taxpayers' money going towards an arena. He does not think an arena is needed downtown and he is not biased against taxes to pay for facilities that might be shared by the private entities, but it depends on the timing and the need, and in this case, there is no need or the need for a professional team because that need has been satisfied. There is not enough real estate in downtown Las Vegas for an arena. He was told not to criticize or scrutinize the Cordish Company. He will not support the extension and if there is any reason to engage in any kind of negotiations with any other entity that feels so insecure about criticism, then he will not have any part of it.

MAYOR GOODMAN stated the request is for a four-month extension and she thanked MR. CORDISH for participating telephonically. There are areas that the City has been at fault but when she took office in 2011 she knew about the endeavor of the Cordish Company to work with the City. Two years she met with MR. TELLES and City staff to discuss the arena and was not made aware of any further movement, although, she continuously asked the City Manager about what was happening, until now. She tried to attend the Downtown Alliance meetings, but she assumed in the conversation, there would be information about this project moving forward.

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This is a critical time in the City and the City needs to be innovative and courageous. She agreed there are other arenas, but they are still in conversation. What the City has done with the Smith Center, the Premium Outlet Mall, City Hall, the World Market Center, and the private/public partnership that has existed, makes downtown a place to be. The City of Las Vegas has to be the leader and look forward. There is a four-month timeline where she expects the City be deeply involved in meetings to gather all the information it takes to accomplish this project. Las Vegas needs to remain competitive. She supports the four-month extension for the fact that this has been going on for two years and she is disappointed having to wait until the last deadline to make an effort. How remiss it would be for the City not to move forward and not invigorate downtown. The City has to be creative, especially with on-line gambling. The proposed site is the only place in Southern Nevada that already has the infrastructure and roadways for an arena and the energy that will bring to the surrounding areas.

The Cordish Company has presented a unique proposal but more needs to be done. The Las Vegas community is rich with innovative ideas like the Garden Park. She respects the Boyd family, the Molaskis and all the founders of the Las Vegas community, but it has been too long with nothing and four months more is worth the wait. She asked that the City Manager make sure that all stakeholders are included in the discussion. It is a great opportunity to sell bonds and she believes that it will invigorate the whole hotel, all every restaurant, and it will be an explosion to the entire region. She is disappointed that the final deal is not concluded today and understands those Councilpersons hold their back because of the concerns about taxes. She asked the City Council to approve the four-month extension. CITY MANAGER FRETWELL agreed there was a lack of communication. There was no intent to hide anything but what happened was deadline driven. This is a four-month performance and it will take a lot of dedication from staff, Cordish and the community. If the City Council moves forward with the four-month extension, she committed to create venues on a regular basis to discuss how these negotiations and deal structure move forward. MAYOR GOODMAN assured that the collaboration would be fiscally responsible to the community.

COUNCILMAN ROSS understood the frustration of the stakeholders not being asked to participate. He asked what happens should Cordish go away. CITY MANAGER FRETWELL replied that when they had to move Cordish in order to make way for the Zappos headquarters, staff had to work out an arrangement with a series of land developers who had the potential to develop in that area. If there is no extension, a portion of the assembled site that Cordish currently is planning to develop an arena disassembles, a portion of which used to be the World Jewelry Mart site. Forest City has an opportunity to prepare a development proposal for the use of that land for a City-owned parcel PQ, which is the only gaming entitled site on Symphony Park, and the remaining portion will give an opportunity to Newland to develop the residential. DEPUTY CITY MANAGER ADAMS added that on the City hall agreement with Forest City, they had first right of negotiations of the old jewelry site, and he believes it is six months. The rights go back to them for a significant period of time to allow them an opportunity to negotiate

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with the City for a project on that site.

COUNCILMAN ROSS asked if Newland has approached the City or Forest City to do any significant development in that location, should this deal not materialize. CITY MANAGER FRETWELL responded that the City is in an exclusive arrangement with the Cordish Company for a development of an arena. She knows that Forest City is actively making plans for their holdings in downtown Las Vegas and she is sure they are looking at all their options. However, it is inappropriate to have this conversation while discussing an EIR with Cordish Company. If the City Council chooses not to move forward, staff will be working with the people that follow to ensure that land is activated as quickly as possible.

MAYOR GOODMAN added that nobody has been at the forefront and everybody is waiting to see what will occur on that parcel. COUNCILMAN ROSS discussed with MR. TELLES the importance of communicating with the community and the companies that represent a huge investment in the City. Something big needs to happen. Jobs need to be at the forefront of every Council decision. It is difficult for him to ignore the thousands of jobs this project will create and the Council needs to concentrate on what is significant today. He supports the four-month extension. COUNCILMAN COFFEE does not know what the four month extension would do. He only recently met with the Cordish Company but did not see any spark come from the company. He suggested firing this partner and hiring a new partner.

COUNCILMAN BEERS did not support the extension. The City Council is not contemplating changing a long, master-planned facility and disagrees that there is no harm extending the contract. City of Las Vegas taxpayers are currently paying about a half million dollars a month in interest on the debt the City has borrowed to invest in Symphony Park. After non-performance, last year the City was forced to refinance at a higher rate. All the public sector properties do not pay property taxes and most of the private property owners have had property taxes abated, so, there is no revenue. The proposed revenue projection is unrealistic, as it suggests it will take all of the Thomas and Mack business away. He believes that without that revenue this project will fail and the taxpayers will be responsible for the debt. He believes that Cordish is not able to borrow the money to finance its suggested contribution and four months it is not enough time to put together an executed, adequate sales campaign to satisfy the requirements of who will be Cordish's lender. The proposed arena will do the taxpayers a severe disservice and the four-month delay will be four million dollars, which is half of what is needed to get City employees back on a 40-hour week. The current Cordish proposal and the last second deal are wrong. He suggested listening to new ideas in these new economic times and possibly new ideas proposed by the Cordish Company.

MR. TELLES appreciated COUNCILMAN BEERS' comments and suggested the Councilman reach out to MAYOR KEVIN JOHNSON, City of Sacramento, to talk to him how difficult is to

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build arenas. When talking about a spark, he believes their commitment of \$150 million is a big spark they are investing in the City of Las Vegas community. As it relates to Symphony Park, they have seen financial challenges and there is nothing preventing other developers from going forward with their developments. The fastest way to spur development in Symphony Park is with the development of an arena. They are only asking for four months and agreed to engage all stakeholders. They feel they have a structure and outline for a real deal. Over the next four months he committed to reach out to the community to gather their input. MAYOR GOODMAN asked if the Cordish Company would invest in having more representatives on a daily basis so that the on-going dialogue continues so that the business partners and the private sector can participate. MR. TELLES responded that they already have retained local consultants and he will personally be here as well.

CITY ATTORNEY JERBIC indicated that it was represented that the City would incur outside legal fees for this project. The way the agreement is written, \$300,000 is allotted for consultant reports and \$100,000 allotted for consultant services. He thought he heard that that was a \$400,000 pot that could be used if there was extra money for legal services. MR. TELLES replied that is enough money allotted to cover all expenses. Therefore, CITY ATTORNEY JERBIC read into the record verbiage stating that any funds left over after payment for consulting reports and consulted services may be used to pay City's cost of legal counsel. MR. CORDISH, via telephone, agreed to the verbiage.

COUNCILWOMAN TARKENTON was disappointed of what transpired over the years with the Cordish Company. She is not in favor of using public funds, but agrees the four months will give Cordish time to get all the information. She strongly believes in second chances and in favor of the extension but it does not mean she will be in favor of the project. Cordish should have done a better job in reaching out to the community, the residents and business owners and this could be worked out to satisfy everybody involved.

COUNCILMAN BARLOW thanked City staff and business leaders. This is a complex item and he communicates with his constituents on how they feel about this project coming in their community. He does not believe City management adequately disseminated information to the constituents and the business community. All must be part of the conversation, especially when it pertains to downtown. He directed City staff to look into how the miscommunication happened because many relationships could be severed due to distrust. The opportunity to create economic opportunities exists. He visited the arenas in Phoenix and Minnesota and saw how economic development magnified around the stadiums. He does not have answers to the concerns raised, such as the structure of the deal and the failure of the ballot question to add more police officers. This deal could be positive or negative and the Mayor and City Council took a chance in building successful projects such as the new City Hall, the Smith Center and the Lou Ruvo Brain Institute. This is democracy in progress, trying to figure out what is the best move for the overall impact to the community and whether this project will increase employment

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opportunities in the City and the State. Some feel the four-month extension is not necessary and others feel there is a need to move forward. The question is playing the development game of build it and they will come. He believes that many people are looking at Las Vegas if the structure of the deal is real. Therefore, he moved to provide the Cordish Company the four-month extension in order to have those questions answered and further, he directed the City Manager send out surveys to constituents asking if they will support such a project.

COUNCILMAN BEERS asked COUNCILMAN BARLOW if he would be willing to amend the language that CITY ATTORNEY JERBIC read and agreed upon by MR. CORDISH. COUNCILMAN BARLOW amended his motion to reflect CITY ATTORNEY JERBIC'S verbiage to add at the end of 3C, under Negotiations of DDA to read as follows: Any funds left over after payment for consulting reports and consulting services may be used to pay City for costs of outside legal counsel. COUNCILMAN BEERS further asked that COUNCILMAN BARLOW consider adding language expressing the City Council's apparent agreement on a desire to see less public money in the project. COUNCILMAN BARLOW respectfully passed on the request.

